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Executive Orders

EXECUTIVE ORDER JBE 16-74

Executive Branch Expenditure Reduction

WHEREAS, pursuant to R.S. 39:75(A)(1), the Division of Administration is directed to submit a monthly budget status report to the Joint Legislative Committee on the Budget (hereafter "the Committee") indicating the balance of the budget for the State General Fund and dedicated funds by comparing the official forecast for these funds to the total authorized appropriations from each fund; once approved by the Committee, the most recent budget status report becomes the official budget status of the State;

WHEREAS, if the most recently approved budget status report indicates that the total appropriation from any fund will exceed the official forecast for that fund, R.S. 39:75(B) requires the Committee to immediately notify the Governor that a projected deficit exists for that fund;

WHEREAS, on November 18, 2016, the Committee notified the Governor that it approved a budget status report at its November 18, 2016, meeting, indicating that a projected deficit of \$312,665,008 exists in the State General Fund for Fiscal Year 2016-2017 based on estimated actual revenues being less than estimated actual expenditures for Fiscal Year 2015-2016;

WHEREAS, once notified that a projected deficit exists, pursuant to Article VII, Section 10, of the Constitution of Louisiana and R.S. 39:75(C)(1)(a), the Governor has interim budget balancing powers to adjust the budget, including the authority to reduce appropriations for the executive branch of government for any program that is appropriated from a fund that is in a deficit posture, not exceeding three percent (3%) in the aggregate of the total appropriations for each budget unit for the fiscal year up to 5% of the State General Fund allocations or appropriations, or \$482,102,987, and if the Governor does not make necessary adjustments in the appropriations to eliminate the projected deficit within thirty (30) days of the determination of the projected deficit in a fund, R.S. 39:75(D) mandates that the Governor call a special session of the Louisiana Legislature for that purpose;

WHEREAS, as authorized by Article VII, Section 10, of the Constitution of Louisiana, and R.S. 39:75(C)(1)(a), I am exercising my unilateral interim budget balancing powers to reduce the projected deficit by \$276,780,853;

WHEREAS, after utilizing my authority, \$35,884,155 remains of the projected deficit which must be eliminated, therefore I directed the Commissioner of Administration to present to the Committee for its approval a plan to further reduce the projected deficit pursuant to R. S. 39:75(C); and

WHEREAS, this Executive Order and the plan to be submitted to the Committee and the Legislature may utilize all or a portion of the General Fund dollar savings objective specified in Executive Order JBE 2016-03.

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

SECTION 1: The following departments, agencies, and/or budget units (hereafter "Unit" and/or "Units") of the executive branch of the State of Louisiana, as described in and/or funded by appropriations through Acts 17 and 47 of the 2016 Regular Session of the Louisiana Legislature and Acts 14 and 16 of the 2016 Second Extraordinary Session of the Louisiana Legislature (hereafter "the Acts"), shall reduce expenditure of funds appropriated to the Unit from the State General Fund by the Acts, and associated positions, in the amounts shown below:

Schedule 01-Executive Department	State General Fund
01-100 Executive Office	\$ 200,000
01-103 Mental Health Advocacy Service	\$ 50,000
01-106 Louisiana Tax Commission	\$ 50,000
01-107 Division of Administration	\$ 1,500,000
Schedule 03-Veterans Affairs	
03-130 Department of Veterans Affairs	\$ 275,088
Schedule 08B-Public Safety and Corrections—Public Safety Services	
08-419 Office of State Police	\$ 5,106,503
Schedule 09-Health and Hospitals	
09-300 Jefferson Parish Human Services Authority	\$ 167,319
09-301 Florida Parishes Human Services Authority	\$ 115,000
09-302 Capital Area Human Services District	\$ 700,000
09-304 Metropolitan Human Services District	\$ 787,063
09-305 Medical Vendor Administration	\$ 6,846,277
09-306 Medical Vendor Payments	\$237,963,003
09-307 Office of the Secretary	\$ 902,893
09-309 South Central Louisiana Human Services Authority	\$ 201,862
09-310 Northeast Delta Human Services Authority	\$ 50,000
09-320 Office of Aging and Adult Services	\$ 620,275
09-325 Acadiana Area Human Services District	\$ 264,325
09-326 Office of Public Health	\$ 1,108,005
09-330 Office of Behavioral Health	\$ 1,559,019
09-340 Office of Citizens with Developmental Disabilities	\$ 34,363
09-375 Imperial Calcasieu Human Services Authority	\$ 31,730
09-376 Central Louisiana Human Services District	\$ 50,000
09-377 Northwest Louisiana Human Services District	\$ 57,037
Schedule 10-Department of Children and Family Services	
10-360 Office of Children and Family Services	\$ 798,597
Schedule 12-Revenue	
12-40 Office of Revenue	\$ 2,996,640
Schedule 17-Civil Service	
17-562 Ethics Administration	\$ 134,312

EXECUTIVE ORDER JBE 16-75

Rules and Policies on Leave for Unclassified Service—Amended December 19, 2016

Schedule 19A-Higher Education	
19A-671 Board of Regents	\$ 368,124
19A-600 Louisiana State University System	\$ 5,577,489
19A-615 Southern University System	\$ 699,715
19A-620 University of Louisiana System	\$ 3,411,230
19A-649 LA Community and Technical Colleges System	\$ 1,853,079
Schedule 19D-Department of Education	
19D-681 Subgrantee Assistance	\$ 1,000,000
19D-699 Special School District	\$ 335,219
Schedule 20-Other Requirements	
20-906 District Attorneys and Assistant District Attorneys	\$ 966,686

SECTION 2:

A. No later than December 20, 2016, the head of each Unit listed in Section 1 of this Order shall submit to the Commissioner of Administration (hereafter "Commissioner") a mid-year budget reduction plan, on the BA-7 form and questionnaire, which reflects the Unit's proposed allocation of the expenditure reduction ordered in Section 1 of this Order (hereafter "mid-year budget reduction plan"), and a description of the methodology used to formulate the mid-year budget reduction plan.

B. In the event that positions of employment will be affected by the mid-year budget reduction, these positions should be included in your mid-year budget reduction plan.

C. No Unit shall implement the expenditure reduction mandated by Section 1 of this Order without the Commissioner's prior written approval of the Unit's mid-year budget reduction plan.

D. After the Commissioner has given approval of a Unit's mid-year budget reduction plan, any change to the mid-year budget reduction plan requires prior written approval from the commissioner.

SECTION 3: The Commissioner is authorized to develop additional guidelines as necessary to facilitate the administration of this Order.

SECTION 4: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 5: This Order is effective upon signature and shall remain in effect through June 30, 2016, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 15th day of December, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1701#010

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

NOW THEREFORE, I, JOHN BEL EDWARDS, 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: Applicability

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

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

SECTION 2: Definitions

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

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

B. "Appointing authority" means the agency, department, board, or commission, or the employees thereof, authorized by statute or lawfully delegated authority to make appointments to positions in state service. For purposes of this Order, use of the term "appointing authority" applies also to the appointing authority's designee.

C. "Compensatory leave" means leave earned in lieu of wages at the straight-time or time and one-half rate as compensation for overtime hours worked. Crediting of such leave is based upon a determination of the employee's status as exempt or non-exempt as defined by the FLSA, and also upon the number of hours actually worked throughout the scheduled work period.

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

E. "Educational leave" means paid or unpaid leave that may be granted by an appointing authority to an unclassified employee or appointee for the purpose of attending an accredited educational institution to receive

formalized training which will materially assist the unclassified employee or appointee in performing the type of work performed by his department or agency.

F. "Governor's Executive Office" means the budget unit 01-100 as listed in Schedule 01 of the General Appropriations Act

G. "Intermittent employee" means a person employed in state service that is not hired to work on a regularly scheduled basis.

H. "Leave without pay" and "leave of absence without pay" mean a period of leave or time off from work granted or imposed by the appointing authority for which the unclassified employee or appointee receives no pay.

I. "Overtime hour" means an hour worked at the discretion and direction of the appointing authority by an unclassified employee who is serving in a position which earns compensatory leave:

1. On a day observed as a holiday (statutory, proclaimed or designated);
2. In excess of the regularly scheduled workday;
3. In excess of the regularly scheduled work period; or
4. On a day in which a department or certain locations thereof are declared closed due to a natural disaster or emergency.

J. "Regular work schedule" means the designated work hours and days an unclassified employee is required to work.

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

L. "Sick leave" means leave with pay granted to an unclassified employee or appointee who is unable to perform his or her usual duties and responsibilities due to illness, injury, or disability, or when he or she requires medical, dental, or optical consultation or treatment.

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

N. "Temporary employee" means an employee who is continuously employed in the unclassified service of the executive branch for a period which does not exceed and is not reasonably expected to exceed twelve (12) consecutive calendar months.

O. "Unclassified appointee" means a person serving in the unclassified service of the executive branch appointed by:

1. The governor to serve:
 - a) On the governor's executive staff;
 - b) On the governor's cabinet;
 - c) On the executive staff of the governor's cabinet; or
 - d) As head of a particular agency;

2. A cabinet member to serve on the cabinet member's executive staff;

3. The superintendent of the Department of Education to serve on the superintendent's executive staff;

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

5. The secretary of the Department of Economic Development to serve in the unclassified service in the Office of Business Development.

The governor, cabinet members and agency heads are required to identify, in accordance with the definition set forth above, their executive staff who are designated as unclassified appointees and, as described in Section 13, are ineligible to receive compensation of any nature for overtime hours worked. By February 1 of each year, a listing of such persons shall be provided and will be subject to review by the commissioner of administration. Appointing authorities are required to ensure that unclassified appointees do not receive overtime compensation.

An unclassified appointee shall be on duty and available to serve and in contact with his appointing authority throughout the term of his appointment except when on leave.

P. "Unclassified employee" means an officer or employee who serves at the pleasure of his appointing authority and whose position is designated as such by Civil Service Rule 4.1, Sections (c)-(e), and Louisiana Constitution Article X, Section 2.

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

SECTION 3: Full-time Employees

For each full-time employee, the appointing authority shall establish a work week of not less than forty (40) hours or work period of not less than eighty (80) hours.

SECTION 4: Granting Leave

Leave must be requested and approved prior to use, and such approval is at the discretion of the unclassified employee's appointing authority or designee.

SECTION 5: Earning of Annual and Sick Leave

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

1. Members of boards, commissions, or authorities;
2. Student employees, as defined by Civil Service Rules;
3. Temporary, intermittent, or seasonal employees; and
4. Part-time employees of the Governor's Executive Office.

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

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

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

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

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

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

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

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

1. For any overtime hour;

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

3. For any hour of on-call status outside the employee's regular duty hours;

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

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

SECTION 6: Carrying Annual and Sick Leave Forward

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

SECTION 7: Use of Annual Leave

A. Annual leave must be requested prior to use, and such approval is at the discretion of the unclassified employee's appointing authority.

B. Annual leave shall not be charged for non-work days nor for hours beyond the unclassified employee's regular work schedule.

C. When engaged in political activities during regular work hours, unclassified employees shall apply for and use accrued annual leave, compensatory leave or leave without pay.

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

E. Annual leave shall only be approved for use after it has been accrued by an unclassified employee or appointee. Annual leave shall not be advanced.

F. An appointing authority may require an unclassified employee to use accrued annual leave whenever doing so is determined to be in the best interest of the department. When such occurs, no unclassified employee shall be required to reduce his accrued annual leave balance to less than two hundred forty (240) hours except:

1. Prior to being granted leave without pay, but subject to the military leave provisions of Section 17 of this Order; or

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

SECTION 8: Use of Sick Leave

A. Sick leave must be requested prior to use when possible, and approval is at the discretion of the unclassified employee's appointing authority.

B. Accrued sick leave shall be used by an unclassified employee when an illness, injury or disability prevents him from reporting for duty or for medical, dental or optical consultation or treatment.

C. Accrued sick leave shall be used by an unclassified appointee when he is mentally or physically unable to serve his appointing authority due to illness, injury or disability.

D. An appointing authority has the right, at any time, to require that an unclassified employee produce a statement from a qualified healthcare provider certifying that the employee was ill and unable to report to work for the duration of an absence.

E. Sick leave shall not be charged for non-work days nor for hours beyond the unclassified employee's regular work schedule.

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

G. Sick leave shall only be approved for use after it has been accrued by an unclassified employee or appointee. Sick leave shall not be advanced.

H. An appointing authority has discretion to place an unclassified employee on sick leave after the employee asserts the need to be absent from work or when it is apparent that the employee is unfit for duty due to an illness, injury or disability.

SECTION 9: Transfer of Annual and Sick Leave

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

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

SECTION 10: Disbursement of Accrued Annual Leave Upon Separation

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

1. When the unclassified employee or appointee is paid on an hourly basis, the regular hourly rate that he received at the time of separation from state service shall be

multiplied by the number of hours of accrued annual leave, which number is not to exceed three hundred (300) hours; or

2. When the unclassified employee or appointee is paid on other than an hourly basis, his hourly rate shall be determined by converting the salary he received at the time of separation from service into an hourly rate. The converted hourly rate shall be multiplied by the number of hours of accrued annual leave, which number is not to exceed three hundred (300) hours.

B. An unclassified employee or appointee who is paid for accrued annual leave upon separation from service and who is subsequently reemployed in a leave earning classified or unclassified position shall reimburse the state, through the new employing agency, for the number of hours he was paid which exceeded the number of work hours that transpired during his break from state service. In turn, the unclassified employee or appointee shall receive a credit for the number of hours of annual leave for which he made reimbursement to the state.

C. The provisions of this Section shall not extend to any unclassified employee or appointee who is dismissed for theft of state funds or property.

SECTION 11: Disbursement of Accrued Sick Leave Upon Separation

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

SECTION 12: Restoration of Annual and Sick Leave

An unclassified employee or appointee shall receive credit for all accrued and unpaid annual leave and all accrued unused sick leave upon reemployment by the state in the classified or unclassified service within a period of five (5) years from the date of separation from state service.

SECTION 13: Compensatory Leave

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

1. Unclassified appointees;
2. Student employees;
3. Temporary, intermittent or seasonal employees;
4. Members of boards, commissions or authorities;
5. The executive director or equivalent chief administrative officer of all boards, commissions, and authorities operating within the executive branch who are appointed by a board, commission or authority;
6. Other officers of the state who are appointed by the governor, including members of boards, commissions and/or authorities; and
7. Part-time employees of the Governor's Executive Office.

B. Compensatory leave shall be earned and credited in accordance with the FLSA when an appointing authority requires or authorizes a non-exempt unclassified employee serving in a compensatory leave earning position to work overtime. That is, the rate of compensatory leave credited (at the straight-time or time and one-half rate) shall be based upon whether such non-exempt unclassified employee worked less than or greater than forty (40) hours in the scheduled work period.

C. Compensatory leave may be earned and credited when an appointing authority requires or authorizes an exempt unclassified employee serving in a compensatory leave earning position to work overtime. If credited, the compensatory leave earned shall be equal to and not in excess of the number of overtime hours actually worked (i.e., such compensatory leave shall be calculated at the straight-time rate).

D. When earned, compensatory leave shall be claimed by and credited to the unclassified employee during the pay period in which the overtime is worked and, upon approval of the appointing authority, may be used by the unclassified employee at a future date.

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

A. Notwithstanding any provision herein to the contrary, a non-exempt unclassified employee shall be paid in wages at the time and one-half rate for any overtime hour worked in excess of the maximum amount allowed to be accrued by the FLSA.

B. Compensatory leave earned at the straight-time rate may be accrued without limitation. For most employees, not more than a total of three hundred sixty (360) such hours may be carried forward from one fiscal year to the next. For employees engaged in qualifying law enforcement and health care activities, not more than a total of five hundred forty (540) such hours can be carried forward from one fiscal year to the next. These caps apply to both exempt and non-exempt employees.

C. Compensatory leave earned at the straight-time rate in excess of the authorized cap shall be handled as followed:

1. For non-exempt employees, payment for the excess compensatory leave shall be made within ninety (90) days of the beginning of the fiscal year; and

2. For exempt employees, payment for the excess compensatory leave may be made within ninety (90) days of the beginning of the fiscal year. Any such payment shall be at the sole discretion and direction of the appointing authority, and subject to the availability of funding. All straight-time compensatory leave above the applicable cap, if not paid, shall be canceled within ninety (90) days of the beginning of the fiscal year.

E. An appointing authority may require an unclassified employee to work overtime at any time, including during emergency situations and office closures, as necessary to accomplish job assignments and serve the public's needs. Employees can be disciplined, up to and including termination, for failing or refusing to work overtime as directed.

E. An unclassified employee may be required by an appointing authority to use all or part of his accrued compensatory leave at any time. Compensatory leave earned at the time and one-half rate shall be taken before compensatory leave earned at the straight-time rate.

F. Subject to approval of the commissioner of administration, an appointing authority may authorize the payment of wages for accrued compensatory leave previously earned by an unclassified employee.

SECTION 15: Payment of Compensatory Leave Upon Separation or Transfer

A. All unused compensatory leave earned at the time and one-half rate shall be paid upon transfer from one state agency to another or upon separation from state service.

B. All unused compensatory leave earned at the straight-time rate by non-exempt employees shall be paid by the employing agency upon the unclassified employee's transfer from one state agency to another or upon separation from state service.

C. All or a portion of unused compensatory leave earned at the straight-time rate by exempt unclassified employees may be paid by the employing agency upon the unclassified employee's transfer from one state agency to another or upon separation from state service. Any such payment shall be at the sole direction and discretion of the appointing authority, and subject to the availability of funding. If not paid, such unused compensatory leave shall be canceled and not re-credited upon reemployment in state service.

D. Any compensatory leave paid upon separation or transfer shall be calculated using the employee's final regular rate of pay.

SECTION 16: Special Provision—Natural Disasters and Emergency Situations

A. Notwithstanding any provision herein to the contrary, an unclassified employee eligible to be credited with compensatory leave may be compensated via the payment of wages in accordance with the FLSA (at the straight-time or time and one-half rate) for authorized hours actually worked at designated locations during official office closures due to and directly related to a natural disaster or emergency situation.

B. Notwithstanding any provision herein to the contrary, an unclassified employee eligible to be credited with compensatory leave may be compensated via the payment of wages in accordance with the FLSA (at the straight-time or time and one-half rate) for authorized hours actually worked at designated locations beyond an employee's regular work schedule due to and directly related to a natural disaster or emergency situation. This authorization extends to overtime hours worked in preparation for, response and/or recovery from such a disaster or emergency.

SECTION 17: Special Leave

A. An unclassified employee or appointee serving in a leave earning position shall be given time off, without loss of pay, annual or sick leave when:

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

2. Appearing as a summoned witness before a court, grand jury or other public body or commission, provided that for purposes of this subsection, a plaintiff or defendant shall not be considered a witness, nor shall this subsection apply to an employee summoned as a witness as a result of employment other than state employment;

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

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

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

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

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

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

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

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

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

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

12. The Adjutant General performs active duty under Title 32 of the United States Code relating to his duties for the State of Louisiana under La. R.S. 29:11, not including periods of annual training under 32 U.S.C. 502(a)(2).

B. Any unclassified employee serving in a non-leave earning position, but who is regularly employed by the state, who is called to serve on a state or federal grand or petit jury during regular work hours shall be granted a leave of absence without loss of pay for the duration of the jury service.

SECTION 18: Military Leave

A. Military Leave With Pay

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

2. An unclassified employee or appointee who is a member of a reserve component of the armed forces of the

United States or a National Guard unit, ordered and/or called to duty for military purposes, shall give prompt notice of the duty to his appointing authority. Advance notice is not required when precluded by military necessity, or otherwise impossible or unreasonable.

B. The provisions of this Subsection apply to unclassified employees and appointees who are called to active duty and are on leave without pay by choice or because all annual and/or compensatory leave have been exhausted. The provisions of this Section shall not apply to employees and appointees on inactive duty for training (weekend drills).

1. When military leave with pay has been exhausted, an unclassified employee or appointee whose military base pay is less than his state base pay shall be paid the difference between his military base pay and his state base pay in his regular position. Such payment shall be made on the same frequency and manner as the unclassified employee's or appointee's regular state pay. Unclassified employees and appointees receiving pay differential shall provide to agency officials any documentation appropriate and necessary to ensure the payment amount is calculated correctly. Unclassified employees and appointees who choose to use accrued annual and/or compensatory leave during their period of military absence shall not be eligible to receive pay differential.

2. Unclassified employees and appointees shall continue to accrue sick and annual leave for the entire period of absence while in military service. Leave shall be accrued on the same basis as though the unclassified employee or appointee had not been activated. Such leave earned shall be credited to the unclassified employee or appointee upon his return from active duty.

3. Unclassified employees and appointees who are on leave without pay shall receive, each calendar year, the full 15 days of military leave with pay provided for in Subsection A. The pay differential allowed shall be suspended until the 15 day military leave with pay period is exhausted and the unclassified employee or appointee returns to leave without pay status.

4. Leave without pay for military purposes shall not exceed six (6) years, after which the unclassified employee or appointee shall be separated from state service.

SECTION 19: Other Leave

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

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

B. Law Enforcement Disability Leave: When an unclassified employee or appointee serving in a law enforcement capacity becomes disabled while in the performance of duty of a hazardous nature which results in his being unable to perform his usual or normal duties, the appointing authority may, with the approval of the Commissioner of Administration, grant the disabled employee or appointee a leave of absence with full pay

during the period of such disability without charge against accrued sick or annual leave, provided the employee or appointee pays to the employing department all amounts of weekly worker's compensation benefits received during that period of leave with full pay. Such disability leave shall continue for a period of up to six (6) months unless extended with the approval of the Commissioner of Administration.

C. Funeral Leave: An unclassified employee or appointee may, at the discretion of the appointing authority, be granted leave without loss of pay or use of accrued leave to attend the funeral, burial, or last rites of a spouse, parent, step-parent, child, step-child, brother, step-brother, sister, step-sister, mother-in-law, father-in-law, grandparent or grandchild, provided such leave shall not exceed two (2) days for any single occurrence.

D. Educational Leave: An unclassified employee or appointee, at the discretion of the appointing authority, may be granted leave without loss of pay or use of accrued leave to attend an accredited institution to complete coursework that will materially assist the employee/appointee in performing customary job duties. Personal benefit to the employee is not the standard; rather, the coursework must be job-related and further the business operations and mission of the department or agency.

Educational leave with pay may be granted for a maximum period of thirty (30) days (240 hours) during one (1) calendar year. However, if the appointing authority requires an unclassified employee/appointee to complete coursework which will materially assist him in performing the type of work performed by his department or agency, educational leave with pay may extend for a maximum period of ninety (90) days (272 hours) during one (1) calendar year.

SECTION 20: Leave of Absence without Pay

A. An appointing authority may approve a leave of absence without pay for an unclassified employee for a reasonable period of time not to exceed ninety (90) calendar days. Such leave may be rescinded provided proper notice is furnished to the unclassified employee and such rescission is in the best interest of the state service. If an unclassified employee is unable to or fails to report for duty on the first working day following the expiration of an authorized leave of absence, the employee shall be considered as having abandoned his position of employment.

B. An appointing authority may impose leave without pay of reasonable duration as disciplinary action to address an unclassified employee's performance or behavioral deficiencies.

C. In addition to disciplinary action, an appointing authority may place an unclassified employee in leave without pay status for the duration of an unapproved absence.

SECTION 21: Holidays

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

B. A non-exempt unclassified employee serving in a compensatory leave earning position shall be credited with compensatory leave at the appropriate rate under the FLSA when required to work on an observed holiday. An exempt unclassified employee serving in a compensatory leave earning position may, at the discretion of his appointing authority, be credited with compensatory leave at the

straight-time rate when required to work on an observed holiday.

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

SECTION 22: Record Keeping

A. Leave records shall be maintained for all unclassified appointees. Daily attendance and leave records shall be maintained for all unclassified employees.

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

SECTION 23: Compliance

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

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

SECTION 24: Effective Dates

After signature by the governor and commencing January 1, 2017, the provisions of this Executive Order shall be applicable to all current and future unclassified employees and appointees. Leave benefits accrued prior to the effective date hereof in compliance with a prior Executive Order shall not be adversely affected.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 19th day of December, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1701#011

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Advisory Commission on Pesticides

Certification of Commercial Applicators (LAC 7:XXIII.711)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), the commissioner of agriculture and forestry declares an emergency to exist and adopts by emergency process the attached regulation requiring proficiency testing for all commercial applicators in 2017. R.S. 3:3203(A) provides that the “commissioner shall adopt such rules and regulations as are necessary to implement the provisions of this Chapter, including but not limited to rules and regulations governing the registration, distribution, sale, offering for sale, and application of pesticides...”. Additionally, R.S. 3:3242 provides that the “commissioner by rule shall provide for the issuance of annual certification cards.” In order to be in compliance with state and federal laws regarding testing and licensure, the commissioner believes proficiency testing in 2017 is necessary to protect the health and safety of the public.

This Emergency Rule shall become effective January 5, 2017, and shall remain in effect for 120 days, unless renewed or until the permanent rules and regulations become effective.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 7. Examinations, Certification and Licensing

Subchapter B. Certification

§711. Certification of Commercial Applicators

A. - E. ...

F. The commissioner shall issue a certification card to each commercial applicator showing the categories or subcategories in which the applicator is certified. This certification card shall expire on December 31 of each year. Each person wishing to renew a certification card shall do so by submitting an application form prescribed by the commissioner and by submitting the proper fee.

1. In order to renew a certification card that expires on December 31, 2017, a commercial applicator shall take and pass a proficiency test.

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3242 and R.S. 3:324.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:179 (April 1983), amended LR 10:193 (March 1984), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, LR 18:953 (September 1992), LR 19:735 (June 1993), LR 20:641 (June 1994), LR 21:928 (September 1995), amended by the Department of Agriculture and Forestry, Office of Agriculture and Environmental Sciences, Advisory Commission on

Pesticides, LR 23:193 (February 1997), LR 24:280 (February 1998), LR 28:39 (January 2002), LR 32:794 (May 2006), repromulgated LR 32:1011 (June 2006), amended LR 35:627 (April 2009), amended by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 37:3471 (December 2011), LR 43:

Mike Strain DVM
Commissioner

1701#015

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Structural Pest Control Commission

Registration of Employees; Duties of Licensee and Registered Employee with Respect to Registration; Obligations of the Licensee/Permittee (LAC 7:XXV.113 and 117)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), the commissioner of agriculture and forestry and Louisiana Structural Pest Control Commission declare an emergency to exist and hereby adopt by emergency process the attached regulation requiring proficiency testing for all structural licensees and registered technicians and in 2017. R.S. 3:3366 grants the Structural Pest Control Commission the authority to adopt rules and regulations “to protect the interests, health, safety, and welfare of the public.” In order to be in compliance with state and federal laws regarding testing and licensure, the commissioner believes proficiency testing in 2017 is necessary to protect the health and safety of the public.

This Emergency Rule shall become effective January 5, 2017, and shall remain in effect for 120 days, unless renewed or until the permanent rules and regulations become effective.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§113. Registration of Employees; Duties of Licensee and Registered Employee with Respect to Registration

A. - O. ...

P. Each registered technician shall participate in an entire continuing education program as a condition of maintaining his or her status as a registered technician at least once annually (July 1 to June 30).

1. Each continuing education program, minimum of four hours of technical training, shall be approved in advance by the department.

2. Each continuing education program shall be a minimum of one hour in length per phase.

3. Documentation of the technician attendance and participation shall be forwarded to the department and a copy retained at the technician's place of employment.

4. Each continuing education program offered in 2017 shall include a proficiency test which shall be taken and passed in order to maintain one's status as a registered technician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366, 3368 and 3369.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 32:797 (May 2006), repromulgated LR 32:1016 (June 2006), amended LR 35:207 (February 2009), LR 37:279 (January 2011), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 39:301 (February 2013), LR 42:213 (February 2016), LR 43:

§117. Obligations of the Licensee\Permittee

A. - D. ...

E. Maintenance of a Commercial Applicator Certification by a Licensee

1. A licensee shall maintain his commercial applicator certification in current status by:

a. attending a continuing educational program for recertification approved by the department;

b. recertification at least once every three years; such recertification shall be completed by December 31 of the year preceding the third anniversary of either the original certification or the most recent recertification;

c. a minimum of six hours of technical training which shall include but not limited to the phases of general pest control, termite control and commercial vertebrate control;

d. a minimum of six hours of technical training for the phase of fumigation;

e. in order to renew a commercial certification card that expires on December 31, 2017, a licensee shall take and pass a proficiency test.

2. A licensee attending an approved recertification seminar shall attend the entire approved program; otherwise the licensee shall not be recertified at this approved seminar.

3. Time and location for each licensee recertification can be obtained by calling or writing to the department.

F. - Q. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366 and 3:3368.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000), LR 29:1062 (July 2003), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 30:196 (February 2004), LR 31:2761 (November 2005), LR 35:1468 (August 2009), LR 37:280 (January 2011), LR 39:301 (February 2013), LR 42:214 (February 2016), LR 43:

Mike Strain DVM
Commissioner

1701#016

DECLARATION OF EMERGENCY

**Board of Regents
Office of Student Financial Assistance**

Scholarship/Grant Programs—TOPS Core Curriculum Equivalents: Human Anatomy and Physiology and Pre-Calculus (LAC 28:IV.703)

The Board of Regents, Office of Student Financial Assistance is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:950 et seq., to amend and re-promulgate the rules of the Scholarship/Grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1.1-3042.8, R.S. 17:5001 et seq., and R.S. 56:797.D(2)].

This rulemaking adds Human Anatomy and Physiology as an equivalent to Biology in the TOPS core curriculum, adds Human Anatomy and Physiology as a dual enrollment course that may be graded on a 5.0 scale for graduates of 2018 and later, and adds Pre-Calculus as a gifted course that may be graded on a 5.0 scale for graduates of 2018 and later.

This Emergency Rule is necessary to implement changes to the Scholarship/Grant programs to allow the Louisiana Office of Student Financial Assistance and state educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the eligible students and the financial condition of their families. LASFAC has determined that this Emergency Rule is necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective December 7, 2016, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG17176E)

Title 28

EDUCATION

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

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

A. - A.5.a.ii.(d).(iii). ...

* * *

(e). For students graduating in academic year (high school) 2017-2018 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III
Art	Media Arts I-IV; Photography I, Photography II, and Digital Photography

Core Curriculum Course(s)	Equivalent (Substitute) Course
Algebra III; Advanced Math- Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL	AP Computer Science A
Biology II	Human Anatomy and Physiology
Any listed core course or its equivalent.	Any core curriculum course taken by a student who has been deemed to be gifted and talented pursuant to R.S. 17:1941 et. seq. as implemented in State Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted and talented course and shall fulfill the core curriculum requirement in its given subject area.

(f). For students graduating in academic year (high school) 2017-2018 and after, the courses listed in the tables below have been approved by the Board of Regents and the state Board of Elementary and Secondary Education to be converted to a 5.00 scale when used to complete the core curriculum, and shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a.

(i). Advanced Placement Courses

TOPS Core Course	Advanced Placement
Art	AP Art History AP Studio Art: 2-D Design AP Studio Art: 3-D Design AP Studio Art: Drawing
Biology II	AP Biology
Calculus	AP Calculus AB AP Calculus BC
Chemistry II	AP Chemistry
Chinese	AP Chinese Language and Culture
Economics	AP Macroeconomics AP Microeconomics
English III	AP English Language and Composition
English IV	AP English Literature and Composition
Environmental Science	AP Environmental Science
European History	AP European History
Fine Arts Survey	AP Music Theory
French	AP French Language and Culture
German	AP German Language and Culture
Italian	AP Italian Language and Culture
Japanese	AP Japanese Language and Culture
Latin	AP Latin
Physics I	AP Physics I: Algebra Based AP Physics II: Algebra Based AP Physics C: Electricity and Magnetism AP Physics C: Mechanics
Probability and Statistics	AP Statistics
Spanish	AP Spanish Language and Culture
US Government or Civics	AP U.S. Government and Politics: Comparative AP U.S. Government and Politics: United States

TOPS Core Course	Advanced Placement
US History	AP U.S. History
World Geography	AP Human Geography
World History	AP World History

(ii). International Baccalaureate® Courses

TOPS Core Course	International Baccalaureate
Advanced Math–Pre Calculus	IB Math Studies (Math Methods)
Arabic	IB Language ab initio: Arabic IB Language B: Arabic
Art	IB Visual Arts
Biology II	IB Biology I IB Biology II
Calculus	IB Mathematics SL IB Mathematics HL
Chemistry II	IB Chemistry I IB Chemistry II
Chinese	IB Language ab initio: Chinese IB Language B: Chinese
Economics	IB Economics
English III	IB Literature IB Language and Literature IB Literature and Performance
English IV	IB Literature IB Language and Literature IB Literature and Performance
Environmental Science	IB Environmental Systems
French	IB Language ab initio: French IB Language B: French
German	IB Language ab initio: German IB Language B: German
Italian	IB Language ab initio: Italian IB Language B: Italian
Japanese	IB Language ab initio: Japanese IB Language B: Japanese
Latin	IB Classical Language
Music (Performance)	IB Music
Physics I	IB Physics I IB Physics II
Pre-Calculus	IB Math Studies (Math Methods)
Spanish	IB Language ab initio: Spanish IB Language B: Spanish
Theatre (Performance)	IB Film Study IB Theatre IB Dance
US History	IB History of the Americas I
World Geography	IB Geography
World History	IB History of the Americas II

(iii). Gifted and Talented Courses

TOPS Core Course	Gifted and Talented
Art	Art History Talented Visual Arts I Talented Visual Arts II Talented Visual Arts III Talented Visual Arts IV
Biology II	Biology II
Calculus	Calculus I Calculus II
Chemistry I	Chemistry I
Chemistry II	Chemistry II
Chinese	Chinese III Chinese IV
Economics	Economics
English III	English III
English IV	English IV
Environmental Science	Environmental Science

TOPS Core Course	Gifted and Talented
European History	European History
French	French III French IV
German	German III German IV
Italian	Italian III Italian IV
Japanese	Japanese III Japanese IV
Latin	Latin III Latin IV
Music (Performance)	Talented Music I, II, III, IV Small Voice Ensemble II Choir: Intermediate Choir: Advanced Orchestra: Intermediate Orchestra: Advanced
Physics I	Physics
Pre-Calculus	Pre-Calculus
Spanish	Spanish III Spanish IV
Theatre (Performance)	Introduction to Film Studies Talented Theater I, II, III, IV
US Government or Civics	Government
US History	U.S. History
World Geography	World/Human Geography

(iv). Dual Enrollment Courses

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Advanced Math–Pre Calculus	Trigonometry	CMAT 1223
Advanced Math-Functions and Statistics	Introductory Statistics	CMAT 1303
Algebra III	College Algebra	CMAT 1213
Arabic	Elementary Arabic I Elementary Arabic II	CARB 1013/1014 CARB 1023/1024
Art	Art History I or II Art Structure/2-D Design Beginning Drawing	CART 2103/2113 CART 1113 CART 2203
Biology I	General Biology I General Biology I (Science Majors)	CBIO 1013 CBIO 1033
Biology II	General Biology I General Biology I (Science Majors) General Biology II General Biology II (Science Majors) Human Anatomy & Physiology I Human Anatomy & Physiology I (Lec/Lab) Human Anatomy & Physiology II Human Anatomy & Physiology II (Lec/Lab)	CBIO 1013 CBIO 1033 CBIO 1023 CBIO 1043 CBIO 2213 CBIO 2214 CBIO 2223 CBIO 2224
Calculus	Applied Calculus Calculus I Calculus II	CMAT 2103 CMAT 2113-5 CMAT 2123-5
Chemistry I	General Chemistry Survey I Chemistry I Chemistry I (Science Majors)	CCEM 1013 CCEM 1103 CCEM 1123
Chemistry II	General, Organic and Biochemistry General Chemistry Survey I Chemistry I Chemistry I (Science Majors) Chemistry II Chemistry II (Science Majors)	CCEM 1003 CCEM 1013 CCEM 1103 CCEM 1123 CCEM 1113 CCEM 1133

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Earth Science	Physical Geology Historical Geology	CGEO 1103 CGEO 1113
Economics	Economic Principles Macroeconomics Microeconomics	CECN 2113 CECN 2213 CECN 2223
English III	English Composition I English Composition II American Literature I American Literature II Major American Writers	CENL 1013 CENL 1023 CENL 2153 CENL 2163 CENL 2173
English IV	English Composition I English Composition II British Literature I British Literature II Major British Writers World Literature I World Literature II Major World Writers Introduction to Fiction Introduction to Literature Introduction to Poetry and/or Drama	CENL 1013 CENL 1023 CENL 2103 CENL 2113 CENL 2123 CENL 2203 CENL 2213 CENL 2223 CENL 2303 CENL 2323 CENL 2313
Environmental Science	Environmental Science	CEVS 1103
Fine Arts Survey	Exploring the Arts Introduction to Visual Arts Dance Appreciation Music Appreciation	CART 1013 CART 1023 CDNC 1013 CMUS 1013
French	Elementary French I Elementary French II Intermediate French I Intermediate French II	CFRN 1013/1014 CFRN 1023/1024 CFRN 2013/2014 CFRN 2023
German	Elementary German I Elementary German II Intermediate German I Intermediate German II	CGRM 1013/1014 CGRM 1023/1024 CGRM 2013 CGRM 2023
History Of Religion	World Religions	CPHL 2213
Latin	Elementary Latin I Elementary Latin II Intermediate Latin I Intermediate Latin II	CLTN 1013/1014 CLTN 1023/1024 CLTN 2013 CLTN 2023
Physical Science	Physical Science I	CPHY 1023
Physics I	Physics I (Algebra/Trigonometry Based) Physics I (Lecture and Lab) Physics I (Calculus Based)	CPHY 2113 CPHY 2114 CPHY 2133
Pre-Calculus	Algebra and Trigonometry	CMAT 1233
Probability and Statistics	Introductory Statistics	CMAT 1303
Spanish	Elementary Spanish I Elementary Spanish II Intermediate Spanish I Intermediate Spanish II	CSPN 1013/1014 CSPN 1023/1024 CSPN 2013/2014 CSPN 2023
Theatre (Performance)	Acting I or II Introduction to Theatre	CTHE 2103/2113 CTHE 1013
US Government or Civics	Introduction to American Government Introduction to State and Local Government Introduction to Comparative Government	CPOL 2013 CPOL 2113 CPOL 2213
US History	American History I or II	CHIS 2013/2023
Western Civilization	Western Civilization I or II	CHIS 1013/1023
World Geography	World Regional Geography	CGRG 2113
World History	World Civilization I or II	CHIS 1113/1123

A.5.a.iii.(a). - J.4.b.ii. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:657, 664 (April 2015), LR 41:2596, 2599 (Dec. 2015), LR 43:

Robyn Rhea Lively
Senior Attorney

1701#004

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Louisiana Low-Income Academic Hospitals
(LAC 50:V.2501 and Chapter 31)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.2501 and adopts LAC 50:V. Chapter 31 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 Emergency Rules which amended the provisions governing disproportionate share hospital (DSH) payments to hospitals participating in public-private partnerships in the south and north Louisiana areas (*Louisiana Register*, Volume 39, Numbers 7 and 10). As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' (CMS) disapproval of the corresponding state plan amendments, the department determined that it was necessary to repeal the provisions of the July 6, 2013 and October 1, 2013 Emergency Rules governing DSH payments to the hospitals participating in the south and north Louisiana area public-private partnerships.

The department promulgated an Emergency Rule which amended the provisions governing DSH payments in order

to establish payments to Louisiana low-income academic hospitals (*Louisiana Register*, Volume 40, Number 6). The department subsequently amended the provisions of the May 24, 2014 Emergency Rule to clarify the provisions governing the payment methodology to Louisiana low-income academic hospitals (*Louisiana Register*, Volume 40, Number 9). The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the September 20, 2014 Emergency Rule in order to clarify qualifying criteria for Louisiana low-income academic hospitals and revise the reimbursement and DSH payment methodology (*Louisiana Register*, Volume 42, Number 6).

The department subsequently promulgated an Emergency Rule which amended the provisions of the June 20, 2016 Emergency Rule in order to revise the reimbursement schedule for the payments (*Louisiana Register*, Volume 42, Number 10). The department promulgated an Emergency Rule which amended the provisions of the October 1, 2016 Emergency Rule in order to return to the reimbursement schedule in effect on June 20, 2016 (*Louisiana Register*, Volume Number 42, Number 10).

In order to comply with CMS requirements, the department now proposes to amend the provisions of the October 20, 2016 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 January 20, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions of the October 20, 2016 Emergency Rule governing DSH payments to low-income academic hospitals and the DSH payment methodology.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments Chapter 25. Disproportionate Share Hospital Payment Methodologies

§2501. General Provisions

A. - C. ...

D. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:65 (January 2010), amended LR 36:512 (March 2010), LR 40:790 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 31. Louisiana Low-Income Academic Hospitals

§3101. Qualifying Criteria

A. Hospitals Located Outside of the Baton Rouge and New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located outside of the Baton Rouge and New Orleans metropolitan statistical area (MSA) which:

i. entered into a cooperative endeavor agreement with the state of Louisiana to increase its provision of

inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership change to non-state privately owned and operated prior to July 1, 2014;

b. has Medicaid inpatient days utilization greater than 18.9 percent. Qualification shall be calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during state fiscal year 2015 received by April 30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days; and

c. has a ratio of intern and resident full time equivalents(FTEs) to total inpatient beds that is greater than .08. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during state fiscal year 2015. The ratio of interns and resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

B. Hospitals Located In the New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located in the New Orleans MSA which:

i. entered into a cooperative endeavor agreement with the State of Louisiana to increase its provision of inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership changed to non-state privately owned and operated prior to July 1, 2014;

b. has Medicaid inpatient days utilization greater than 45 percent. Qualification shall be calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during state fiscal year 2015 received by April 30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days; and

c. has a ratio of intern and resident FTEs to total inpatient beds that is greater than 1.25. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during state fiscal year 2015. The ratio of interns and resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

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, Bureau of Health Services Financing, LR 43:

§3103. Payment Methodology

A. Each qualifying hospital shall be paid DSH adjustment payments equal to 100 percent of allowable hospital specific uncompensated care costs.

1. Costs, patient specific data and documentation that qualifying criteria is met shall be submitted in a format specified by the department.

2. Costs and lengths of stay shall be reviewed by the department for reasonableness before payments are made.

B. Payment Calculation

1. For the initial year's payment calculation, each qualifying hospital shall submit interim actual cost data calculated utilizing Medicaid allowable cost report principles, along with actual Medicaid and uninsured patient charge data. Annual Medicaid costs shortfalls and unreimbursed uninsured patient costs are determined based on review and analysis of these submissions.

2. For subsequent year's payment calculations, the most recent Medicaid filed cost report along with actual Medicaid and uninsured patient charge data annualized from the most recent calendar year completed quarter is utilized to calculate hospital specific uncompensated care costs.

C. The department shall review cost data, charge data, lengths of stay and Medicaid claims data per the Medicaid Management and Information Systems (MMIS) for reasonableness before payments are made.

D. The first payment of each fiscal year will be made by October 15 and will be 80 percent of the annual calculated uncompensated care costs. The remainder of the payment will be made by June 30 of each year

1. Reconciliation of these payments to actual hospital specific uncompensated care costs will be made when the cost report(s) covering the actual dates of service from the state fiscal year are filed and reviewed.

2. Additional payments or recoupments, as needed, shall be made after the finalization of the Centers for Medicare and Medicaid Services (CMS) mandated DSH audit for the state fiscal year.

E. No payment under this Section is dependent on any agreement or arrangement for providers or related entities to donate money or services to a governmental entity.

1. A pro rata decrease necessitated by conditions specified in §2501.B.1 above for hospitals described in this section will be calculated based on the ratio determined by dividing the hospital's uncompensated costs by the uncompensated costs for all qualifying hospitals in this section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment. Additional payments shall only be made after finalization of the CMS mandated DSH audit for the state fiscal year. Payments shall be limited to the aggregate amount recouped from the qualifying hospitals in this section based on these reported audit results. If the hospitals' aggregate amount of underpayments reported per the audit results exceeds the aggregate amount overpaid, the payment redistribution to underpaid shall be paid on a pro rata basis calculated using each hospital's amount underpaid divided by the sum of underpayments for all hospitals in this Section.

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, Bureau of Health Services Financing, LR 43:

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1701#049

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services
Children's Specialty Hospitals
Supplemental Payments for New Orleans Area Hospitals
(LAC 50:V.969)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.969 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the state plan amendment for the financing of the transition of the management and operation of certain children's specialty hospitals from state-owned and operated to private partners, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted a supplemental payment methodology for inpatient hospital services rendered by children's specialty hospitals in the New Orleans area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 12, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services through the maximization of federal dollars.

Effective February 7, 2017, the Department of Health, Bureau of Health Services Financing adopts provisions governing supplemental payments for inpatient hospital services rendered by children's specialty hospitals in the New Orleans area.

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

§969. Supplemental Payments to Children's Specialty Hospitals in the New Orleans Area

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for inpatient hospital services rendered in a hospital in the New Orleans area that meets the following qualifying criteria per the as filed cost report ending in state fiscal year 2014:

1. classified by Medicare as a specialty children's hospital;
2. has a least 100 full-time equivalent interns and residents;
3. has least 70 percent Medicaid inpatient days' utilization rate;
4. has at least 25,000 Medicaid inpatient days; and
5. has a distinct part psychiatric unit.

B. Supplemental payments for inpatient hospital services will be paid quarterly up to the hospital specific upper payment limit (the difference between Medicaid inpatient charges and Medicaid inpatient payments). The payments to the qualifying hospital(s) shall not exceed:

1. the annual Medicaid hospital specific inpatient charges per 42 CFR 447.271;
2. the annual aggregate inpatient hospital upper payment limit for the classification of hospitals per 42 CFR 442.272; and
3. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

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, Bureau of Health Services Financing, LR 43:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1701#050

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Public Hospitals Supplemental Payments
(LAC 50:V.963)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.963 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 inpatient hospital services to provide supplemental Medicaid payments to qualifying non-rural, non-state public hospitals (*Louisiana Register*, Volume 39, Number 6). The department promulgated an Emergency Rule which amended the reimbursement methodology governing inpatient hospital services in order to amend the provisions governing supplemental Medicaid payments to qualifying non-rural, non-state public hospitals (*Louisiana Register*, Volume 41, Number 10). This Emergency Rule is being promulgated in order to continue the provisions of the October 1, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services through the maximization of federal dollars.

Effective January 27, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state public hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§963. Public Hospitals

A. - B.1. ...

a. be designated as a major teaching hospital by the department as of July 1, 2015 and have at least 300 licensed acute hospital beds; or

B.1.b. - 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 38:2772 (November 2012), amended LR 38:3181 (December 2012), repromulgated LR 39:95 (January 2013), amended LR 39:1471 (June 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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

91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1701#051

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Supplemental Payments for Baton Rouge Area Hospitals
(LAC 50:V.973)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.973 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the state plan amendment for the financing of the transition of the management and operation of certain hospitals from state-owned and operated to private partners, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services rendered by non-rural, non-state hospitals in order to adopt a supplemental payment methodology for services provided by hospitals located in the Baton Rouge area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 12, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services through the maximization of federal dollars.

Effective February 7, 2017, the Department of Health, Bureau of Health Services Financing adopts provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals in the Baton Rouge area.

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

§973. Supplemental Payments to Baton Rouge Area Hospitals

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for

inpatient hospital services rendered in a hospital in the Baton Rouge area that meets the following qualifying criteria per the as filed cost report ending in state fiscal year 2014:

1. classified as a major teaching hospital;
2. has at least 3,000 Medicaid deliveries, as verified per the Medicaid data warehouse; and
3. has at least 45 percent Medicaid inpatient days utilization rate.

B. Supplemental payments for inpatient hospital services will be paid quarterly up to the hospital specific upper payment limit (the difference between Medicaid inpatient charges and Medicaid inpatient payments). The payments to the qualifying hospital(s) shall not exceed:

1. the annual Medicaid hospital specific inpatient charges per 42 CFR 447.271;
2. the annual aggregate inpatient hospital upper payment limit for the classification of hospitals per 42 CFR 442.272; and
3. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

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, Bureau of Health Services Financing, LR 43:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1701#052

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Supplemental Payments for Monroe Area Hospitals
(LAC 50:V.971)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.971 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the state plan amendment for the financing of the transition of the management and operation of certain hospitals from state-owned and operated to private partners, the Department of Health and Hospitals (DHH), Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals in order to adopt a supplemental payment methodology for services provided by hospitals located in LDH Administrative Region 8 in the Monroe area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated in order to continue the provisions of the February 12, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services through the maximization of federal dollars.

Effective February 7, 2017, the Department of Health, Bureau of Health Services Financing adopts provisions governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals in the Monroe area.

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

§971. Supplemental Payments to Monroe Area Hospitals

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for inpatient hospital services rendered by a hospital in the Monroe area that meets the following qualifying criteria:

1. inpatient acute hospital classified as a major teaching hospital;
2. located in LDH Administrative Region 8 (lowest per capita income of any region per the 2010 U.S. Census Bureau records); and
3. per the as filed fiscal year ending June 30, 2013 cost report has:
 - a. greater than 25 full-time equivalent interns and residents;
 - b. at least 40 percent Medicaid inpatient days utilization; and
 - c. a distinct part psychiatric unit.

B. Supplemental payments for inpatient hospital services will be paid quarterly up to the hospital specific upper payment limit (the difference between Medicaid inpatient charges and Medicaid inpatient payments). The payments to the qualifying hospital(s) shall not exceed:

1. the annual Medicaid hospital specific inpatient charges per 42 CFR 447.271;
2. the annual aggregate inpatient hospital upper payment limit for the classification of hospitals per 42 CFR 442.272; and

3. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

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, Bureau of Health Services Financing, LR 43:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1701#053

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for
Persons with Intellectual Disabilities
Evacuation and Temporary Sheltering Costs
(LAC 50:VII.33103 and 33105)

The Department of Health, Bureau of Health Services Financing amends LAC 50:VII.33103 and adopts §33105 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 intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to establish reimbursement for complex care services provided to Medicaid recipients residing in non-state ICFs/ID (*Louisiana Register*, Volume 42, Number 2).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID to establish provisions governing evacuation and temporary sheltering costs incurred during a declared disaster or emergency event to ensure evacuating ICFs/ID continue to receive vendor payments while providing essential care and services to residents at a host site when they are displaced (*Louisiana Register*, Volume 42, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 13, 2016 Emergency Rule. This action is being taken to avoid imminent peril to the

public health, safety or welfare of ICF/ID residents by ensuring continued access to services during declared disasters.

Effective February 11, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing intermediate care facilities for persons with intellectual disabilities to establish provisions governing evacuation and temporary sheltering costs during a declared disaster or emergency event.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long-Term Care Services

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 331. Vendor Payments

§33103. Payment Limitations

A. Temporary Absence of the Client. A client's temporary absence from an ICF/ID will not interrupt the monthly vendor payment to the ICF/ID, provided the following conditions are met:

1. the ICF/ID keeps a bed available for the client's return; and

2. the absence is for one of the following reasons:

a. ...

b. leave of absence. A temporary stay outside the ICF/ID provided for in the client's written individual habilitation plan. A leave of absence will not exceed 45 days per fiscal year (July 1 through June 30) and will not exceed 30 consecutive days in any single occurrence. Certain leaves of absence will be excluded from the annual 45-day limit as long as the leave does not exceed the 30-consecutive day limit and is included in the written individual habilitation plan. These exceptions are as follows:

i. - v. ...

NOTE: Elopements and unauthorized absences under the individual habilitation plan count against allowable leave days. However, title XIX eligibility is not affected if the absence does not exceed 30 consecutive days and if the ICF/ID has not discharged the client.

3. ...

4. a period of 24 continuous hours or more shall be considered an absence. Likewise, a temporary leave of absence for hospitalization or a home visit is broken only if the client returns to the ICF/ID for 24 hours or longer;

5. upon admission, a client must remain in the ICF/ID at least 24 continuous hours in order for the ICF/ID to submit a payment claim for a day of service or reserve a bed;

EXAMPLE: A client admitted to an ICF/ID in the morning and transferred to the hospital that afternoon would not be eligible for any vendor payment for ICF/ID services.

6. ...

7. the ICF/ID shall promptly notify DHH of absences beyond the applicable 30- or 7-day limitations. Payment to the ICF/MR shall be terminated from the thirty-first or eighth day, depending upon the leave of absence. Payment will commence after the individual has been determined eligible for title XIX benefits and has remained in the ICF/ID for 30 consecutive days;

8. the limit on title XIX payment for leave days does not mean that further leave days are prohibited when provided for in the individual habilitation plan. After the title XIX payment limit is met, further leave days may be arranged between the ICF/ID and the client, family or

responsible party. Such arrangements may include the following options.

a. The ICF/ID may charge the client, family or responsible party an amount not to exceed the title XIX daily rate.

b. The ICF/ID may charge the client, family or responsible party a portion of the title XIX daily rate.

c. The ICF/ID may absorb the cost into its operation costs.

B. Temporary Absence of the Client Due to Evacuations. When local conditions require evacuation of ICF/ID residents, the following procedures apply.

1. When clients are evacuated to a family's or friend's home at the ICF/ID's request, the ICF/MR shall not submit a claim for a day of service or leave day, and the client's liability shall not be collected.

2. When clients go home at the family's request or on their own initiative, a leave day shall be charged.

3. When clients are admitted to the hospital for the purpose of evacuation of the ICF/ID, Medicaid payment shall not be made for hospital charges.

4. - 5. Repealed.

C. Payment Policy in regard to Date of Admission, Discharge, or Death

1. Medicaid (title XIX) payments shall be made effective as of the admission date to the ICF/ID. If the client is medically certified as of that date and if either of the following conditions is met:

a. the client is eligible for Medicaid benefits in the ICF/ID (excluding the medically needy); or

b. the client was in a continuous institutional living arrangement (nursing home, hospital, ICF/ID, or a combination of these institutional living arrangements) for 30 consecutive days; the client must also be determined financially eligible for medical assistance.

2. The continuous stay requirement is:

a. ...

b. not interrupted by the client's absence from the ICF/ID when the absence is for hospitalization or leave of absence which is part of the written individual habilitation plan.

3. The client's applicable income is applied toward the ICF/ID fee effective with the date Medicaid payment is to begin.

4. - 5. ...

NOTE: The ICF/ID shall promptly notify LDH/BHSF of admissions, death, and/or all discharges.

D. Advance Deposits

1. An ICF/ID shall neither require nor accept an advance deposit from an individual whose Medicaid (title XIX) eligibility has been established.

EXCEPTION: An ICF/ID may require an advance deposit for the current month only on that part of the total payment which is the client's liability.

2. ...

E. Retroactive Payment. When individuals enter an ICF/ID before their Medicaid (title XIX) eligibility has been established payment for ICF/ID services is made retroactive to the first day of eligibility after admission.

F. Timely Filing for Reimbursements. Vendor payments cannot be made if more than 12 months have elapsed between the month of initial services and submittal of a claim for these services. Exceptions for payments of claims

over 12 months old can be made with authorization from LDH/BHSF only.

G. Refunds to Clients

1. When the ICF/ID receives vendor payments, it shall refund any fees for services collected from clients, family or responsible party by the end of the month in which vendor payment is received.

2. Advance payments for a client's liability (applicable income) shall be refunded promptly if he/she leaves the ICF/ID.

3. The ICF/ID shall adhere to the following procedures for refunds:

a. The proportionate amount for the remaining days of the month shall be refunded to the client, family, or the responsible party no later than 30 days following the date of discharge. If the client has not yet been certified, the procedures spelled out in §33103.G.1 above shall apply.

b. No penalty shall be charged to the client, family, or responsible party even if the circumstances surrounding the discharge occurred as follows:

i. - ii. ...

iii. within some other "minimum stay" period established by the ICF/ID.

c. ...

H. ICF/ID Refunds to the Department

1. Nonparticipating ICF/ID. Vendor payments made for services performed while an ICF/ID is in a nonparticipating status with the Medicaid Program shall be refunded to the department.

2. Participating ICF/ID. A currently participating title XIX, ICF/ID shall correct billing or payment errors by use of appropriate adjustment void or patient liability (PLI) adjustment forms.

I. Sitters. An ICF/ID will neither expect nor require a client to have a sitter. However, the ICF/ID shall permit clients, families, or responsible parties directly to employ and pay sitters when indicated, subject to the following limitations:

1. The use of sitters will be entirely at the client's, family's, or responsible party's discretion. However, the ICF/ID shall have the right to approve the selection of a sitter. If the ICF/ID disapproves the selection of the sitter, the ICF/ID will provide written notification to the client, family, and/or responsible party, and to the department stating the reasons for disapproval.

2. - NOTE. ...

3. Payment to sitters is the direct responsibility of the ICF/ID facility when:

a. - c. ...

4. A sitter will be expected to abide by the ICF/ID's rules, including health standards and professional ethics.

5. The presence of a sitter does not absolve the ICF/ID of its full responsibility for the client's care.

6. The ICF/ID is not responsible for providing a sitter if one is required while the resident is on home leave.

J. Tips. The ICF/ID shall not permit tips for services rendered by its employees.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services

Financing, LR 25:682 (April 1999), LR 31:1082 (May 2005), repromulgated LR 31:2257 (September 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§33105. Evacuation and Temporary Sheltering Costs

A. Intermediate care facilities for persons with intellectual disabilities required to participate in an evacuation, as directed by the appropriate parish or state official, or which act as a host shelter site may be entitled to reimbursement of its documented and allowable evacuation and temporary sheltering costs.

1. The expense incurred must be in excess of any existing or anticipated reimbursement from any other sources, including the Federal Emergency Management Agency (FEMA) or its successor.

2. ICFs/ID must first apply for evacuation or sheltering reimbursement from all other sources and request that the department apply for FEMA assistance on their behalf.

3. ICFs/ID must submit expense and reimbursement documentation directly related to the evacuation or temporary sheltering of Medicaid residents to the department.

B. Eligible Expenses. Expenses eligible for reimbursement must occur as a result of an evacuation and be reasonable, necessary, and proper. Eligible expenses are subject to audit at the department's discretion and may include the following.

1. Evacuation Expenses. Evacuation expenses include expenses from the date of evacuation to the date of arrival at a temporary shelter or another ICF/ID. Evacuation expenses include:

a. resident transportation and lodging expenses during travel;

b. nursing staff expenses when accompanying residents, including:

i. transportation;

ii. lodging; and

iii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented:

(a). the direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department;

c. any additional allowable costs that are directly related to the evacuation and that would normally be allowed under the ICF/ID rate methodology.

2. Non-ICF/ID Facility Temporary Sheltering Expenses. Non-ICF/ID facility temporary sheltering expenses include expenses from the date the Medicaid residents arrive at a non-ICF/ID facility temporary shelter to the date all Medicaid residents leave the shelter. A non-ICF/ID facility temporary shelter includes shelters that are not part of a licensed ICF/ID and are not billing for the residents under the ICF/ID reimbursement methodology or any other Medicaid reimbursement system. Non-ICF/ID facility temporary sheltering expenses may include:

a. additional nursing staff expenses including:

i. lodging; and

ii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented:

(a). the direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department;

b. care-related expenses incurred in excess of care-related expenses prior to the evacuation;

c. additional medically necessary equipment such as beds and portable ventilators that are not available from the evacuating nursing facility and are rented or purchased specifically for the temporary sheltered residents; and

i. these expenses will be capped at a daily rental fee not to exceed the total purchase price of the item;

ii. the allowable daily rental fee will be determined by the department;

d. any additional allowable costs as determined by the department and that are directly related to the temporary sheltering and that would normally be allowed under the ICF/ID reimbursement methodology.

3. Host ICF/ID Temporary Sheltering Expenses. Host ICF/ID temporary sheltering expenses include expenses from the date the Medicaid residents are admitted to a licensed ICF/ID to the date all temporary sheltered Medicaid residents are discharged from the ICF/ID, not to exceed a six-month period.

a. The host ICF/ID shall bill for the residents under Medicaid's ICF/ID reimbursement methodology.

b. Additional direct care expenses may be submitted when a direct care expense increase of 10 percent or more is documented.

i. The direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department.

C. Payment of Eligible Expenses

1. For payment purposes, total eligible Medicaid expenses will be the sum of nonresident-specific eligible expenses multiplied by the facility's Medicaid occupancy percentage plus Medicaid resident-specific expenses.

a. If Medicaid occupancy is not easily verified using the evacuation resident listing, the Medicaid occupancy from the most recently filed cost report will be used.

2. Payments shall be made as quarterly lump-sum payments until all eligible expenses have been submitted and paid. Eligible expense documentation must be submitted to the department by the end of each calendar quarter.

3. All eligible expenses documented and allowed under §33105 will be removed from allowable expenses when the ICF/ID's Medicaid cost report is filed. These expenses will not be included in the allowable cost used to set ICF/ID reimbursement rates in future years.

a. Equipment purchases that are reimbursed on a rental rate under §33105.B.2.c may have their remaining basis included as allowable cost on future costs reports provided that the equipment is in the ICF/ID and being used. If the remaining basis requires capitalization then depreciation will be recognized.

4. Payments shall remain under the upper payment limit cap for ICFs/ID.

D. When an ICF/ID resident is evacuated to a temporary sheltering site (an unlicensed sheltering site or a licensed ICF/ID) for less than 24 hours, the Medicaid vendor payment to the evacuating facility will not be interrupted.

E. When an ICF/ID resident is evacuated to a temporary sheltering site (an unlicensed sheltering site or a licensed NF) for greater than 24 hours, the evacuating ICF/ID may submit the claim for Medicaid vendor payment for a maximum of five days, provided that the evacuating ICF/ID provides sufficient staff and resources to ensure the delivery of essential care and services to the resident at the temporary shelter site.

F. When an ICF/ID resident is evacuated to a temporary shelter site, which is an unlicensed sheltering site, for greater than five days, the evacuating ICF/ID may submit the claim for Medicaid vendor payment for up to an additional 15 days, provided that the evacuating ICF/ID:

1. has received an extension to stay at the unlicensed shelter site; and

2. provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

G. When an ICF/ID resident is evacuated to a temporary shelter site, which is a licensed ICF/ID, for greater than five days, the evacuating ICF/ID may submit the claim for Medicaid vendor payment for an additional period, not to exceed 55 days, provided that:

1. the host/receiving ICF/ID has sufficient licensed and certified bed capacity for the resident, or the host/receiving ICF/ID has received departmental and/or CMS approval to exceed the licensed and certified bed capacity for a specified period; and

2. the evacuating ICF/ID provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

H. If an ICF/ID resident is evacuated to a temporary shelter site which is a licensed ICF/ID, the receiving/host ICF/ID may submit claims for Medicaid vendor payment under the following conditions:

1. beginning day two and continuing during the "sheltering period" and any extension period, if the evacuating nursing home does not provide sufficient staff and resources to ensure the delivery of essential care and services to the resident and to ensure the needs of the residents are met;

2. upon admission of the evacuated residents to the host/receiving ICF/ID; or

3. upon obtaining approval of a temporary hardship exception from the department, if the evacuating ICF/ID is not submitting claims for Medicaid vendor payment.

I. Only one ICF/ID may submit the claims and be reimbursed by the Medicaid Program for each Medicaid resident for the same date of service.

J. An ICF/ID may not submit claims for Medicaid vendor payment for non-admitted residents beyond the expiration of its extension to exceed licensed (and/or certified) bed capacity or expiration of its temporary hardship exception.

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, Bureau of Health Services Financing, LR 43:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1701#054

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for Persons with Intellectual Disabilities—Public Facilities Reimbursement Rate Increase (LAC 50:VII.32969)

The Department of Health, Bureau of Health Services Financing amends LAC 50:VII.32969 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 public intermediate care facilities for persons with developmental disabilities (ICFs/DD), hereafter referred to as intermediate care facilities for persons with intellectual disabilities (ICFs/ID), to establish a transitional Medicaid reimbursement rate for community homes that are being privatized (*Louisiana Register*, Volume 39, Number 2). This Rule also adopted all of the provisions governing reimbursements to state-owned and operated facilities and quasi-public facilities in a codified format for inclusion in the *Louisiana Administrative Code*.

The department promulgated an Emergency Rule which amended the provisions governing the transitional rates for public facilities in order to redefine the period of transition (*Louisiana Register*, Volume 39, Number 10). The department subsequently promulgated an Emergency Rule 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 transitional rates for public facilities (*Louisiana Register*, Volume 40, Number 3). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID to increase the add-on amount to the per diem

rate for the provider fee (*Louisiana Register*, Volume 40, Number 3).

Due to an increase in the add-on amount to the per diem rate for the provider fee, the department promulgated an Emergency Rule which amended the provisions governing the transitional rates for public facilities in order to increase the Medicaid reimbursement rate (*Louisiana Register*, Volume 40, Number 9). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2014 Emergency Rule. This action is being taken to protect the public health and welfare of Medicaid recipients transitioning from public ICFs/ID by ensuring continued provider participation in the Medicaid Program.

Effective January 25, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for public intermediate care facilities for persons with intellectual disabilities.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter C. Public Facilities

§32969. Transitional Rates for Public Facilities

A. - F.4. ...

G. Effective for dates of service on or after October 1, 2014, the transitional Medicaid reimbursement rate shall be increased by \$1.85 of the rate in effect on September 30, 2014.

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 39:326 (February 2013), amended LR 40:2588 (December 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1701#055

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Nursing Facilities
Evacuation and Temporary Sheltering Costs
(LAC 50:II.20019)

The Department of Health, Bureau of Health Services Financing amends LAC 50:II.20019 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.

In compliance with the directives of Act 540 of the 2006 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for nursing facilities to provide for the facility-specific reimbursement of documented and allowable evacuation and temporary sheltering costs of Medicaid-certified nursing facilities (*Louisiana Register*, Volume 38, Number 5).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the May 20, 2008 Rule governing the reimbursement methodology for nursing facilities to amend the provisions governing evacuation and temporary sheltering costs in order to ensure that an evacuating nursing facility continues to receive vendor payments while providing essential care and services to residents at a host site when they are displaced (*Louisiana Register*, Volume 42, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 13, 2016 Emergency Rule. This action is being taken to avoid imminent peril to the public health, safety or welfare of nursing facility residents by ensuring continued access to services during declared disasters.

Effective February 11, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to revise the provisions governing evacuation and temporary sheltering costs during a declared disaster or emergency event.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20019. Evacuation and Temporary Sheltering Costs

[Formerly LAC 50:VII.1319]

A. - B.1.b.iii.(a). ...

c. any additional allowable costs as defined in the *CMS Publication 15-1-21*, last modified 9/28/2012, that are directly related to the evacuation and that would normally be allowed under the nursing facility case-mix rate.

2. - 2.a.ii.(a). ...

b. care-related expenses as defined in LAC 50:II.20005 and incurred in excess of care-related expenses prior to the evacuation;

c. - c.ii. ...

d. any additional allowable costs as defined in the *CMS Publication 15-1-21*, last modified 9/28/2012, that are directly related to the temporary sheltering and that would normally be allowed under the nursing facility case-mix rate.

3. - 3.b.i. ...

C. Payment of Eligible Expenses

1. - 2. ...

3. All eligible expenses documented and allowed under §20019 will be removed from allowable expenses when the nursing facility's Medicaid cost report is filed.

These expenses will not be included in the allowable cost used to set case-mix reimbursement rates in future years.

a. Equipment purchases that are reimbursed on a rental rate under §20019.B.2.c may have their remaining basis included as allowable cost on future costs reports provided that the equipment is in the nursing facility and being used. If the remaining basis requires capitalization under *CMS Publication 15-1-21* guidelines, last modified 9/28/2012, then depreciation will be recognized.

4. ...

D. When a nursing facility (NF) resident is evacuated to a temporary sheltering site (an unlicensed sheltering site or a licensed NF) for less than 24 hours, the Medicaid vendor payment to the evacuating facility will not be interrupted.

E. When a NF resident is evacuated to a temporary shelter site (an unlicensed sheltering site or a licensed NF) for greater than 24 hours, the evacuating nursing facility may submit the claim for Medicaid vendor payment for a maximum of five days, provided that the evacuating nursing facility provides sufficient staff and resources to ensure the delivery of essential care and services to the resident at the temporary shelter site.

F. When a NF resident is evacuated to a temporary shelter site, which is an unlicensed sheltering site, for greater than five days, the evacuating nursing facility may submit the claim for Medicaid vendor payment for up to an additional 15 days, provided that the evacuating nursing facility:

1. has received an extension to stay at the unlicensed shelter site; and

2. provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

G. When a NF resident is evacuated to a temporary shelter site, which is a licensed nursing home, for greater than five days, the evacuating nursing facility may submit the claim for Medicaid vendor payment for an additional period, not to exceed 55 days, provided that:

1. the host/receiving nursing home has sufficient licensed and certified bed capacity for the resident, or the host/receiving nursing home has received departmental and/or CMS approval to exceed the licensed and certified bed capacity for a specified period; and

2. the evacuating nursing facility provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

H. If a NF resident is evacuated to a temporary shelter site which is a licensed NF, the receiving/host nursing home may submit claims for Medicaid vendor payment under the following conditions:

1. beginning day two and continuing during the "sheltering period" and any extension period, if the evacuating nursing home does not provide sufficient staff and resources to ensure the delivery of essential care and services to the resident and to ensure the needs of the residents are met;

2. upon admission of the evacuated residents to the host/receiving nursing facility; or

3. upon obtaining approval of a temporary hardship exception from the department, if the evacuating NF is not submitting claims for Medicaid vendor payment.

I. Only one nursing facility may submit the claims and be reimbursed by the Medicaid Program for each Medicaid resident for the same date of service.

J. A nursing facility may not submit claims for Medicaid vendor payment for non-admitted residents beyond the expiration of its extension to exceed licensed (and/or certified) bed capacity or expiration of its temporary hardship exception.

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 34:879 (May 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1701#056

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Outpatient Hospital Services
Children's Specialty Hospitals
Supplemental Payments for New Orleans Area Hospitals
(LAC 50:V.6121)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.6121 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the state plan amendment for the financing of the transition of the management and operation of certain children's specialty hospitals from state-owned and operated to private partners, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted a supplemental payment methodology for outpatient hospital services rendered by children's specialty hospitals in the New Orleans area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated to continue the

provisions of the February 12, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services through the maximization of federal dollars.

Effective February 7, 2017, the Department of Health, Bureau of Health Services Financing adopts provisions governing outpatient supplemental payments for outpatient hospital services rendered by children's specialty hospitals in the New Orleans area.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6121. Supplemental Payments for Children's Specialty Hospitals in the New Orleans Area

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for outpatient hospital services rendered in a hospital in the New Orleans area that meets the following qualifying criteria per the as filed cost report in state fiscal year 2014:

1. classified by Medicare as a specialty children's hospital;
2. has at least 100 full-time equivalent interns and residents;
3. has at least 70 percent Medicaid inpatient days' utilization rate;
4. has at least 25,000 Medicaid inpatient days; and
5. has a distinct part psychiatric unit.

B. Supplemental payments for outpatient hospital services will be paid quarterly. The payments to the qualifying hospital(s) shall not exceed:

1. the aggregate outpatient hospital upper payment limits for the classification of hospitals pursuant to 42 CFR 447.321; and
2. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

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, Bureau of Health Services Financing, LR 43:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1701#057

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Hospitals
Supplemental Payments for Baton Rouge Area Hospitals
(LAC 50:V.6905)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.6905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the state plan amendment for the financing of the transition of the management and operation of certain hospitals from state-owned and operated to private partners, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing outpatient hospital services rendered by non-rural, non-state hospitals in order to adopt a supplemental payment methodology for services provided by hospitals located in the Baton Rouge area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 12, 2015 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to outpatient hospital services through the maximization of federal dollars.

Effective February 7, 2017, the Department of Health, Bureau of Health Services Financing adopts provisions governing the reimbursement methodology for outpatient hospital services rendered by non-rural, non-state hospitals in the Baton Rouge area.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 69. Supplemental Payments

§6905. Non-Rural, Non-State Hospitals in the Baton Rouge Area

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for outpatient hospital services rendered in a hospital in the Baton Rouge area that meets the following qualifying criteria per the as filed cost report ending state fiscal year 2014:

1. classified as a major teaching hospital;
2. has at least 3,000 Medicaid deliveries, as verified per the Medicaid data warehouse; and
3. has at least 45 percent Medicaid inpatient days utilization rate.

B. Supplemental payments for outpatient hospital services will be paid quarterly. The payments to the qualifying hospital(s) shall not exceed:

1. the aggregate outpatient hospital upper payment limits for the classification of hospitals pursuant to 42 CFR 447.321; and

2. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

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, Bureau of Health Service Financing, LR 43:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1701#058

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Outpatient Hospital Services Non-Rural, Non-State Hospitals Supplemental Payments for Monroe Area Hospitals (LAC 50:V.6903)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.6903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the state plan amendment for the financing of the transition of the management and operation of certain hospitals from state-owned and operated to private partners, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services rendered by non-rural, non-state hospitals in order to adopt a supplemental payment methodology for services provided

by hospitals located in LDH Administrative Region 8 in the Monroe area (*Louisiana Register*, Volume 41, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 12, 2015 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to outpatient hospital services through the maximization of federal dollars.

Effective February 7, 2017, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions governing supplemental payments for outpatient hospital services rendered by non-rural, non-state hospitals in the Monroe area.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 69. Supplemental Payments

§6903. Non-Rural, Non-State Hospitals in the Monroe Area

A. Effective for dates of service on or after February 12, 2015, quarterly supplemental payments shall be made for outpatient hospital services rendered by a hospital in the Monroe area that meets the following qualifying criteria:

1. inpatient acute hospital classified as a major teaching hospital;

2. located in LDH administrative region 8 (lowest per capita income of any region per the 2010 U.S. Census Bureau records); and

3. per the as filed fiscal year ending June 30, 2013 cost report has:

a. greater than 25 full-time equivalent interns and residents;

b. at least 40 percent Medicaid inpatient days utilization; and

c. a distinct part psychiatric unit.

B. Supplemental payments for outpatient hospital services will be paid quarterly. The payments to the qualifying hospital(s) shall not exceed:

1. the aggregate outpatient hospital upper payment limits for the classification of hospitals pursuant to 42 CFR 447.321; and

2. the budgeted state fiscal year supplemental payment amount included in the Annual Appropriation Act as allocated to this specific program in the budget spread pursuant to the department's reimbursement methodology.

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, Bureau of Health Services Financing, LR 43:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1701#059

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Pharmacy Benefits Management Program Methods of Payment

The Department of Health, Bureau of Health Services Financing hereby rescinds the provisions of the November 1, 2012 Emergency Rule which revised the reimbursement methodology for pharmacy services covered under the Medical Assistance Program as authorized by R.S. 36:254. This Emergency Rule was adopted on October 19, 2012 and published in the November 20, 2012 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, Bureau of Health Services Financing provides coverage and reimbursement for prescription drugs to Medicaid eligible recipients enrolled in the Medicaid Program. 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).

Upon further consideration and consultation with the U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services (CMS) on the corresponding Medicaid state plan amendment, the department determined that it was necessary to rescind the provisions of the November 1, 2012 Emergency Rule governing the reimbursement methodology for services rendered in the Pharmacy Benefits Management Program, and to return to the reimbursement rates in effect on September 5, 2012 which is consistent with the currently approved Medicaid state plan (*Louisiana Register*, Volume 40, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2014 Emergency Rule.

Effective January 25, 2017, the Department of Health, Bureau of Health Services Financing rescinds the Emergency Rule governing pharmacy services which appeared in the November 20, 2012 edition of the *Louisiana Register* on pages 2725-2728.

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to

MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1701#060

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Pharmacy Benefits Management Program State Supplemental Rebate Agreement Program (LAC 50:XXIX.Chapter 11)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:XXIX.Chapter 11 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, Bureau of Health Services Financing provides Medicaid coverage of prescription drugs through its Pharmacy Benefits Management Program. The department amended the provisions governing the Pharmacy Benefits Management Program in order to establish provisions for the Medicaid Program's participation in The Optimal PDL Solution (TOP\$) State Supplemental Rebate Agreement Program which is a multi-state Medicaid state supplemental drug rebate pooling initiative (*Louisiana Register*, Volume 39, Number 10). This program allows states to leverage their pharmaceutical purchasing power as a group to achieve more supplemental rebates than could be achieved independently. It is anticipated that this program will lower the net cost of brand drugs and the overall dollars spent on pharmacy benefits. The department promulgated an Emergency Rule 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 Pharmacy Benefits Management Program which established provisions for the Medicaid Program's participation in The Optimal PDL Solution (TOP\$) State Supplemental Rebate Agreement Program (*Louisiana Register*, Volume 40, Number 3). This Emergency Rule is being promulgated to continue the provisions of the February 22, 2014 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs.

Effective February 15, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the Medicaid coverage of prescription drugs to establish provisions for participation in TOP\$ State Supplemental Rebate Agreement Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 11. State Supplemental Rebate Agreement Program

§1101. General Provisions

A. Effective October 1, 2013, the Department of Health, Bureau of Health Services Financing hereby establishes provisions for participation in The Optimal PDL Solution (TOP\$) State Supplemental Rebate Agreement (SRA) Program. TOP\$ is a multi-state Medicaid state supplemental drug rebate pooling initiative approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services and administered by Provider Synergies, L.L.C/Magellan Medicaid Administration. The purpose of this program is to allow states the opportunity to leverage their pharmaceutical purchasing power as a group to achieve more supplemental rebates and discounts from prescription drug companies than could be achieved independently.

B. Pursuant to R.S. 46:153.3, the department shall enter into a contractual agreement with Provider Synergies to participate in TOP\$. Provider Synergies/Magellan Medicaid Administration will act on the department’s behalf to provide the necessary administration services relative to this agreement for the provision of state supplemental drug rebate contracting and preferred drug list administration 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, Bureau of Health Services Financing, LR 43:

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1701#061

DECLARATION OF EMERGENCY

**Department of Health
Office of Public Health**

Added Controlled Dangerous Substances
(LAC 46:LIII.2704)

The Department of Health, Office of Public Health (LDH/OPH), pursuant to the rulemaking authority granted to the Secretary of LDH by R.S. 40:962(C) and (H), hereby adopts the following Emergency Rule for the protection of public health. This rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and shall remain in effect for the maximum period allowed under the Act or until adoption of a final Rule, whichever occurs first.

Based on the criteria, factors, and guidance set forth in R.S. 40:962(C) and 40:963, the secretary, under this

rulemaking, has determined that the below listed substances have a high potential for abuse and should be scheduled as controlled dangerous substances to avoid an imminent peril to the public health, safety, or welfare. In reaching the decision to designate the below listed substances as controlled dangerous substances under Schedule I, the secretary has considered the criteria provided under R.S. 40:963 and the specific factors listed under R.S. 40:962(C). The Ssecretary has determined that Schedule I is the most appropriate due to her findings that the substances added herein have a high potential for abuse, the substances have no currently accepted medical use for treatment in the United States, and there is a lack of accepted safety for use of the substances under medical supervision.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 27. Controlled Dangerous Substances

Subchapter A. General Provisions

§2704. Added Controlled Dangerous Substances

A. The following drugs or substances are added to Schedule I of the Louisiana Uniform Controlled Dangerous Substances Law, R.S. 40:961 et seq.:

1. - 2. ...
3. acrylfentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide);
4. etizolam.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:962, R.S. 40:963, and R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:

Rebekah Gee, M.D.
Secretary

1701#018

DECLARATION OF EMERGENCY

**Department of Health
Office of Public Health**

Special Supplemental Nutrition Program for Women, Infants and Children (WIC)

(LAC 48:V.4101, 4103, 4301, 4303, 4305, 4307, 4309, 4501, 4503, 4505, 4507, 4509, 4511, 4513)

Under the authority of R.S. 46:972 and in accordance with the emergency rulemaking provisions of R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Louisiana Department of Health, Office of Public Health (LDH-OPH), amends Subpart 15 [Supplemental Food Services for Women, Infants, and Children (WIC)] of Part V (Preventive Health Services) of Title 48 (Public Health—General) of the Louisiana Administrative Code (LAC).

These amendments are necessary to ensure that the State of Louisiana remains in compliance with applicable federal regulations of the United States Department of Agriculture (USDA). Failure to timely adopt such amendments may cause federal monetary sanctions to be imposed against the Louisiana WIC program. The effective date of this Emergency Rule is January 29, 2017 and, unless terminated

earlier, it shall remain in effect for the maximum time period allowed under law.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Preventive Health Services

Subpart 15. Special Supplemental Nutrition Program for Women, Infants and Children (WIC)

Chapter 41. General Provisions

§4101. Purpose and Scope

A. The purpose of LAC 48:V.Subpart 15 is to adopt applicable and corresponding state regulations enacted under the authority of the federal Secretary of Agriculture in order to implement the federal Special Supplemental Nutrition Program for Women, Infants and Children (WIC program) within the State of Louisiana. Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), as amended, states in part that “Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program to provide supplemental foods and nutrition education, including breastfeeding promotion and support, through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems, including drug abuse, and improve the health status of these persons.” The program shall be supplementary to the Supplemental Nutrition Assistance Program (SNAP); any program under which foods are distributed to needy families in lieu of SNAP benefits; and, receipt of food or meals from soup kitchens, or shelters, or other forms of emergency food assistance.

B. The Special Supplemental Nutrition Program for Women, Infants and Children (WIC), also hereinafter known as “program” or “the program”, provides supplemental foods and nutrition education, including breastfeeding promotion and support, for women, infants and children. It is federally funded through the U.S. Department of Agriculture via cash grants to state agencies which administer the program. The Louisiana Department of Health, Office of Public Health, Center for Community and Preventive Health, Bureau of Nutrition Services, shall be responsible for the administration of the program in Louisiana. Extensive regulations have been published by the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture in 7 CFR Part 246. Federal regulations stipulate participation requirements, length of certifications, certification processes and standards, participant responsibilities and participant grievance rights. If there is a conflict with any portion of LAC 48:V.Subpart 15 and 7 CFR Part 246, the provisions of 7 CFR Part 246 shall supersede the provisions of LAC 48:V.Subpart 15.

C. The annual Louisiana WIC program state plan, including a comprehensive policy and procedure manual, is available for review by any interested party at both of the Bureau of Nutrition Services offices in Louisiana, as follows: Room 828, 628 North 4th Street, Baton Rouge, Louisiana 70802 and Suite 1906, 1450 Poydras Street, New Orleans, Louisiana 70112.

D. As described in 7 CFR Part 246, the agency is to provide supplemental foods and nutrition education, including breastfeeding promotion and support, to categorically eligible participants who are income eligible and found to be at nutritional risk. The program shall serve as an adjunct to good health care during critical times of growth and development, in order to prevent the occurrence of health problems, including drug and other harmful substance abuse, and to improve the health status of these persons. The WIC state agency is responsible for providing services to as many eligible participants as funding allows.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR Part 246, P. L. 95-627, and 41 USC 1786. Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4103. Definitions

A. The following words and terms are defined for the purposes of this Subpart and for all contracts, guidelines, instructions, forms and other documents related hereto.

B. **Above-50-Percent (A50) Vendors**—vendors that derive more than 50 percent of their annual food sales revenue from WIC food instruments, and new vendor applicants expected to meet this criterion under guidelines approved by FNS. A50 vendors are subject to payment limitations that ensure that the prices of A50 vendors do not result in higher total food costs if program participants transact their food instruments at A50 vendors rather than at non-A50 (“regular”) vendors.

Administrative Review—a procedure by which a vendor may appeal an adverse action by the state agency.

Applicants—pregnant women, breastfeeding women, postpartum women, infants, and children who are applying to receive WIC benefits, and the breastfed infants of applicant breastfeeding women. Applicants include individuals who are currently participating in the program but are re-applying because their certification period is about to expire.

Authorized Supplemental Foods/WIC-Approved Foods—those supplemental foods authorized by the state agency for issuance to participants.

Authorized WIC Vendor (Vendor)—a retail grocery store that has submitted a complete WIC vendor application and any required supporting documentation, passed a pre-authorization on-site review, completed a training program, signed a formal vendor agreement binding the vendor to follow all WIC rules and policies upon authorization, and received a signed authorization letter from the Louisiana WIC program. Only authorized WIC vendors may transact WIC food instruments (FIs)/cash-value vouchers (CVVs).

Breastfeeding—the practice of feeding a mother's breastmilk to her infant(s) on an average frequency of at least once a day.

Breastfeeding Women—women up to one year postpartum who are breastfeeding their infants.

Cash-Value Voucher (CVV)—a fixed-dollar amount check, voucher, electronic benefit transfer (EBT) card or other document which is used by a participant to obtain authorized fruits and vegetables.

Categorical Eligibility—persons who meet the definitions of pregnant women, breastfeeding women, postpartum women, infants or children.

Certification—the implementation of criteria and procedures to assess and document each applicant's eligibility for the program.

Change of Location—the move of a WIC vendor from one physical address to another address.

Change of Ownership—a change that results when all of the assets of the store are sold or transferred to a new owner or business entity. This includes adding a new partner(s).

Children—persons who have had their first birthday but have not yet attained their fifth birthday.

Clinic—a facility where applicants are certified.

CMP—civil money penalty.

Competent Professional Authority—an individual on the staff of the local agency authorized to determine nutritional risk and prescribe supplemental foods. The following persons are the only persons the state agency may authorize to serve as a competent professional authority: physicians, nutritionists (bachelor's or master's degree in nutritional sciences, community nutrition, clinical nutrition, dietetics, public health nutrition or home economics with emphasis in nutrition), dieticians, registered nurses, physician's assistants (certified by the National Committee on Certification of Physician's Assistants or certified by the state medical certifying authority), or state or local medically trained health officials. This definition also applies to an individual who is not on the staff of the local agency but who is qualified to provide data upon which nutritional risk determinations are made by a competent professional authority on the staff of the local agency.

Competitive Price Criteria (CPC)—price level at or below which WIC-approved foods shall be priced in order for a vendor applicant to be considered for authorization. The state agency determines CPC for each WIC-approved food item based on shelf prices for vendors within each peer group of regular vendors. CPC varies by vendor peer group. All vendors are subject to the CPC at all times in order to ensure that vendors do not raise prices, subsequent to selection, to a level that would make such vendors ineligible for authorization.

Confidentiality—in the context of the WIC program, not using or disclosing any confidential applicant, participant or vendor information gathered as a result of participation in the WIC program. Confidential applicant and participant information is any information about an applicant or participant, whether it is obtained from the applicant or participant, another source, or generated as a result of WIC application, certification, or participation, that individually identifies an applicant or participant and/or family member(s). Applicant or participant information is confidential, regardless of the original source. Vendors are required to keep confidential the customer's eligibility for and receipt of WIC benefits. Confidential vendor information is any information about a vendor (whether it is obtained from the vendor or another source) that individually identifies the vendor, except for vendor's name, address, telephone number, web site/e-mail address, store type, and authorization status.

Corrective Action Plan (CAP)—any plan developed by the state agency, or by a vendor and approved by the state

agency, to correct deficiencies identified by the state agency in a vendor's compliance with WIC rules, regulations, policies, and/or procedures. Vendors shall implement CAPs when required by the state agency. CAPs may include, but are not limited to, requirements to provide store personnel or stock rotation training and/or to correct inappropriate WIC FI/CVV processing procedures used by the vendor.

CSFP—the Commodity Supplemental Food Program administered by the U.S. Department of Agriculture, authorized by section 4 of the Agriculture and Consumer Protection Act of 1973 [7 U.S.C. 1431(a)], as amended, and governed by 7 CFR Part 247.

Days—calendar days.

Disqualification—the act of ending the program participation of a participant, or authorized state or local agency, whether as a punitive sanction or for administrative reasons and the act of ending program participation of an authorized WIC vendor for violations of the vendor agreement and/or federal or state rules, regulations or policy governing the WIC program.

Documentation—the presentation of written documents which substantiate oral, written, or electronic statements made by an applicant or participant or a person applying on behalf of an applicant or a vendor.

Drug—

- a. beverage containing alcohol;
- b. controlled substance (having the meaning given it in section 102 of the Controlled Substances Act of 1970 (21 U.S.C. 802(6)), as amended; or
- c. controlled substance analogue (having the meaning given it in section 102 of the Controlled Substances Act of 1970 [21 U.S.C. 802(32)], as amended.

Dual Participation—simultaneous participation in the program in more than one WIC clinic, or participation in the program and in the CSFP during the same period of time.

Electronic Signature—an electronic sound, symbol, or process, attached to or associated with an application or other record and executed and or adopted by a person with the intent to sign the record.

Family—a group of related or nonrelated individuals who are living together as one economic unit, except that residents of a homeless facility or an institution shall not all be considered as members of a single family.

FNS—the Food and Nutrition Service of the U.S. Department of Agriculture.

Food Costs—the costs of supplemental foods, determined in accordance with 7 CFR §246.14(b).

Food Delivery System—the method used by state and local agencies to provide supplemental foods to participants.

Food Instrument (FI)—a voucher, check, electronic benefits transfer (EBT) card, coupon or other document that is used by a participant to obtain WIC-approved foods.

Food Package—WIC eligible food items listed on WIC food instruments in designated quantities.

Food Sales—sales of all SNAP eligible foods intended for home preparation and consumption, including meat, fish, and poultry; bread and cereal products; dairy products; and fruits and vegetables. Food items such as condiments and spices, coffee, tea, cocoa, and carbonated and noncarbonated drinks may be included in food sales when offered for sale along with foods in the categories identified above. Food sales do not include sales of any items that cannot be

purchased with SNAP benefits, such as hot foods or food that will be eaten in the store.

Fraud and Abuse—conduct that violates WIC program rules, regulations, policies, and/or procedures, including, but not limited to, those violations leading to disqualification, as identified in the sanction schedule.

Full-Line Grocery Store—a retail food store/market (as defined under LAC 51:XXIII.101.A.) that stocks, and has on hand at all times, at least:

- a. 5 varieties of cereal with 5 or more units of each variety;
- b. 3 varieties of bread or tortillas with 5 or more units of each variety;
- c. 4 varieties of fresh fruits with at least 5 units of each variety;
- d. 4 varieties of fresh vegetables with at least 5 units of each variety; and
- e. 4 varieties of fresh or frozen meat, poultry or fish with at least 5 units of each variety.
- f. 2 varieties of rice with 6 or more units of each variety

Health Services—ongoing, routine pediatric and obstetric care (such as infant and child care and prenatal and postpartum examinations) or referral for treatment.

Homeless Facility—the following types of facilities which provide meal service:

- a. a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;
- b. a facility that provides a temporary residence for individuals intended to be institutionalized; or
- c. a public or private place not designed for, or normally used as, a regular sleeping accommodation for human beings.

Homeless Individual—a woman, infant or child:

- a. who lacks a fixed and regular nighttime residence; or
- b. whose primary nighttime residence is:
 - i. a supervised publicly or privately operated shelter (including a welfare hotel, a congregate shelter, or a shelter for victims of domestic violence) designated to provide temporary living accommodation;
 - ii. an institution that provides a temporary residence for individuals intended to be institutionalized;
 - iii. a temporary accommodation of not more than 365 days in the residence of another individual; or
 - iv. a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Incentive Items/Incentives—any goods or services provided as inducements to shop in a grocery store or recruit customers.

Infant Formula—a food that meets the definition of an infant formula in section 201 of the Federal Food, Drug, and Cosmetic Act of 1938 (21 U.S.C. 321(z)), as amended, and that meets the requirements for an infant formula under section 412 of the Federal Food, Drug, and Cosmetic Act of 1938 (21 U.S.C. 350a), as amended, and the regulations at 21 CFR Parts 106 and 107.

Institution—any residential accommodation which provides meal service, except private residences and homeless facilities.

Infants—persons under 1 year of age.

Judicial Review—the procedure by which a vendor may appeal a decision rendered at an administrative review, or a participant may appeal a decision rendered at a fair hearing.

Local Agency—A public or private, nonprofit or human service agency which provides health services, either directly or through contract, in accordance with 7 CFR §246.5.

Maximum Allowable Reimbursement Level (MARL)—the highest reimbursement amount for each FI for each peer group that the state agency may pay. The state agency determines a MARL for every WIC FI. Any FI that is submitted with a price higher than MARL shall be reduced through the Automated Clearing House (ACH) process.

Migrant Farmworker—an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last 24 months, and who establishes, for the purposes of such employment, a temporary abode.

Non A50 Vendors—see Regular Vendors (Non-A50).

Nonprofit Agency—a private agency which is exempt from federal income tax under the Internal Revenue Code of 1954, (Title 26 of the U.S.C.), as amended.

Nutrition Education—individual and group sessions and the provision of materials that are designed to improve health status and achieve positive change in dietary and physical activity habits, and that emphasize the relationship between nutrition, physical activity, and health, all in keeping with the personal and cultural preferences of the individual.

Nutritional Risk—

- a. detrimental abnormal nutritional conditions detectable by biochemical or anthropometric measurements;
- b. other documented nutritionally related medical conditions;
- c. dietary deficiencies that impair or endanger health;
- d. conditions that directly affect the nutritional health of a person, including alcoholism or drug abuse; or
- e. conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, homelessness and migrancy.

Other Harmful Substances—other substances such as tobacco, prescription drugs and over-the-counter medications that can be harmful to the health of the WIC population, especially the pregnant woman and her fetus.

Participant Access—the ability of a WIC participant to adequately access WIC-approved foods through the state agency's selection and authorization of an appropriate number and distribution of vendors consistent with ensuring effective state agency management, oversight, and review of its authorized vendors. The state agency has established participant access criteria in accordance with WIC regulations at 7 CFR Part 246.

Participant Violation—any intentional or unintentional action of a participant, caregiver or a proxy that violates federal or state statutes, regulations, policies or procedures governing the program.

Participants—pregnant women, breastfeeding women, postpartum women, infants and children up to their fifth birthday who are currently enrolled in the WIC program and

are receiving supplemental foods under the program, and the breastfed infants of participant breastfeeding women.

Participation—the sum of the number of:

- a. persons who received supplemental foods or food instruments during the reporting period;
- b. infants who did not receive supplemental foods or food instruments but whose breastfeeding mother received supplemental foods or food instruments during the report period; and
- c. breastfeeding women who did not receive supplemental foods or food instruments but whose infant received supplemental foods or food instruments during the report period.

Peer Group—a group of vendors that is based on common characteristics or criteria that affect food prices. Vendors are grouped for management and cost containment purposes including, but not limited to, establishing and applying appropriate competitive price criteria (CPC) and MARLs to vendors.

Postpartum Women—usually, women up to 6 months after termination of pregnancy; however, this term shall also be apply to breastfeeding women up to 1 year after termination of pregnancy.

Pregnant Women—women determined to have one or more embryos or fetuses in utero.

Price Adjustment—an adjustment made by the state agency, in accordance with the vendor agreement, to the purchase price on a food instrument after it has been submitted by a vendor for redemption. Price adjustments are made to ensure that the payment to the vendor for the food instrument complies with the state agency's price limitations.

Program—WIC (unless the context in which this word is used in this Subpart clearly indicates otherwise).

Proxy—any person designated by a woman participant, or by a parent or caretaker of an infant or child participant, to obtain and transact FIs and CVVs and/ or to obtain WIC-approved foods on behalf of a participant. The proxy shall be designated consistent with the state agency's procedures established pursuant to 7 CFR §246.12(r)(1). Parents or caretakers applying on behalf of child and infant participants are not proxies.

Regular Vendors (Non-A50)—vendors that do not meet the above-50-percent (A50) vendor's criterion, as defined elsewhere in this Subsection.

Reimbursement—the payment received by vendors after completing the routine process of depositing an FI or CVV into the banking system and the payment that may be received through the procedure an authorized vendor may use to request payment from the state agency when an FI or CVV has been refused by the bank or state agency. The state agency only reimburses vendors up to the applicable maximum allowable reimbursement level (MARL) for valid FIs and CVVs.

Sanctions—actions taken by the state agency when an authorized vendor fails to comply with WIC program rules, regulations, policies and/or procedures. Actions include, but are not limited to, CAPs, training requirements, termination of agreements, disqualifications or civil money penalties (CMPs), and fines.

Secretary—the Secretary of the United States Department of Agriculture.

Sign or Signature—a handwritten signature on paper or an electronic signature. If the state agency chooses to use electronic signatures, the state agency shall ensure the reliability and integrity of the technology used and the security and confidentiality of electronic signatures collected in accordance with sound management practices, and applicable Federal law and policy, and the confidentiality provisions at 7 CFR §246.26.

State—the State of Louisiana.

State Agency—the State of Louisiana, Louisiana Department of Health, Office of Public Health, Center for Community and Preventive Health.

State Plan—a plan of program operation and administration that describes the manner in which the state agency intends to implement and operate all aspects of program administration within its jurisdiction in accordance with 7 CFR §246.4.

Supplemental Foods—those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding and postpartum women, infants, and children, and foods that promote the health of the population served by the WIC program as indicated by relevant nutrition science, public health concerns, and cultural eating patterns, as prescribed by the Secretary in 7 CFR §246.10.

Supplemental Nutrition Assistance Program (SNAP)—the program authorized by the Food and Nutrition Act of 2008 (7 U.S.C. 2011, et seq.), in which eligible households receive benefits that can be used to purchase food items from authorized retail stores and farmers' markets (formerly known as the Food Stamp Program).

Termination—the ending of a vendor agreement by the state agency for administrative reasons.

USDA—the United States Department of Agriculture.

Vendor—a sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one or more stores authorized by the state agency to provide authorized supplemental foods to participants under a retail food delivery system. Each store operated by a business entity constitutes a separate vendor and shall be authorized separately from other stores operated by the business entity. Each store shall have a single, fixed location, except when the authorization of mobile stores is necessary to meet the special needs described in the state agency's state plan in accordance with 7 CFR §246.4(a)(14)(xiv).

Vendor Agreement—a document that is a legally binding agreement between an authorized vendor and the WIC program.

Vendor Authorization—the process by which the state agency assesses, selects, and enters into agreements with stores that apply or subsequently reapply to be authorized as vendors.

Vendor Limiting Criteria—criteria established by the state agency to determine the maximum number and distribution of vendors it authorizes pursuant to 7 CFR §246.12(g)(2).

Vendor Number—a distinctive five digit number assigned to each authorized vendor.

Vendor Overcharge—any intentional or unintentional charge for supplemental foods to the state agency for more than is permitted under the vendor agreement. It is not a

vendor overcharge when a vendor submits a food instrument for redemption in accordance with the vendor agreement and the state agency makes a price adjustment to the food instrument.

Vendor Portal—a web-based application maintained by the state agency that serves as the primary point of contact for all Louisiana vendors and contains the WIC vendor price reporting system.

Vendor Selection Criteria—the criteria established by the state agency to select individual vendors for authorization consistent with the requirements in 7 CFR §246.12(g)(3) and (g)(4) and found in Section 4503 of this Subpart.

Vendor Violation—any intentional or unintentional action of a vendor's current owners, officers, managers, agents, or employees (with or without the knowledge of management) that violates the vendor agreement or federal or state statutes, regulations, policies, or procedures governing the program.

WIC—WIC program.

WIC-Approved Foods (Authorized Supplemental Foods)—those supplemental foods authorized by the state agency for issuance to participants.

WIC Program—the Special Supplemental Nutrition Program for Women, Infants and Children authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health Office of Public Health, LR 14:868 (December 1988), amended by the Department of Health, Office of Public Health, LR 43:

Chapter 43. Participant Eligibility

§4301. Integration with Health Services

A. To lend administrative efficiency and participant convenience to the certification process, whenever possible, program intake procedures shall be combined with intake procedures for other health programs or services administered by the state and local agencies. Such merging may include verification procedures, certification interviews, and income computations. Local agencies shall maintain and make available for distribution to all pregnant, postpartum, and breastfeeding women, and to parents or caretakers of infants and children, any of whom are applying for and participating in the program, a list of local counseling and treatment resources for drug and other harmful substance abuse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4303. Eligibility Criteria

A. To be certified as eligible for the WIC program, applicants shall:

1. reside within the jurisdiction of the state, however, length of residency is not an eligibility requirement;

2. meet the income requirement as described in Subsection B of this Section; and

3. meet nutritional risk criteria as described in Subparagraph d (priority IV) of Paragraph 3 of Subsection C of this Section and in the state plan.

B. Income Criteria and Income Eligibility Determination

1. Income criteria for the program is established at 185 percent of poverty level (U. S. Department of Health and Human Services) as issued annually by the Louisiana Department of Health, Office of Public Health, Bureau of Nutrition Services. This shall have an effective date of no later than July 1st annually.

2. The state agency shall ensure that WIC clinics and local agencies determine income through the use of a clear and simple application form provided or approved by the state agency. Routine verification of income and/or a random selection to verify participant income is at the discretion of the state agency. Documentation of an applicant's participation in other agency-administered programs which routinely verify income, such as Medicaid, Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) may be accepted provided those programs have income guidelines at or below the WIC program guidelines.

C. Nutritional Risk. A competent professional authority shall determine if a participant is at nutritional risk through a medical and/or nutritional assessment. This determination may be based on referral data by an applicant or participant's medical provider.

1. determination of nutritional risk. At a minimum, height or length and weight of the participant shall be measured, and a hematological test for anemia such as a hemoglobin, hematocrit or free erythrocyte protoporphyrin test shall be performed. However, such tests are not required for infants under 9 months of age.

2. appropriate nutritional risk codes, as specified in the state plan and as summarized in Paragraph 3 of this Subsection, shall be documented at each certification/recertification visit.

3. nutritional Risk Priority System. The state agency shall, in the event that statewide participation has reached the maximum level, fill vacancies according to the federally mandated priority system. In the event a priority level must be partially closed, subpriorities are described in the state plan as approved by USDA. Priority levels are identified as follows.

a. Priority I consists of pregnant women, breastfeeding women and infants at nutritional risk as demonstrated by hematological or anthropometric measurements, or other documented nutritionally related medical conditions which demonstrate the need for supplemental foods.

b. Priority II consists of (except those infants who qualify for Priority I) infant up to 6 months of age born of women who participated in the program during pregnancy, and infants up to 6 months of age born of women who were not program participants during pregnancy but whose medical records document that they were at nutritional risk during pregnancy due to nutritional conditions detectable by biochemical or anthropometric measurements or other documented nutritionally related medical conditions which demonstrated the person's need for supplemental foods.

c. Priority III consists of children at nutritional risk as demonstrated by hematological or anthropometric

measurements or other documented medical conditions which demonstrate the child's need for supplemental foods.

d. Priority IV consists of pregnant women, breastfeeding women, and infants at nutritional risk because of an inadequate dietary pattern.

e. Priority V consists of children at nutritional risk because of an inadequate dietary pattern.

f. Priority VI consists of postpartum women at nutritional risk.

g. Priority VII consists of individuals certified for WIC solely due to homelessness or migrancy and, at state agency option, previously certified participants who might regress in nutritional status without continued provision of supplemental foods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health Office of Public Health, LR 14:868 (December 1988), amended by the Department of Health, Office of Public Health, LR 43:

§4305. Timeframes for Processing Applicants

A. When the WIC clinic or local agency is not serving its maximum caseload, the local agency shall accept applications, make eligibility determinations, notify the applicants of the decisions made and, if the applicants are to be enrolled, issue food, cash-value vouchers or food instruments. All of these actions shall be accomplished within the timeframes set forth below.

1. The processing timeframes shall begin when the individual visits the local agency during clinic office hours to make an oral or written request for benefits.

2. Special nutritional risk applicants shall be notified of their eligibility or ineligibility within 10 days of the date of the first request for program benefits; except that state agencies may provide an extension of the notification period to a maximum of 15 days for those local agencies which make written request, including a justification of the need for an extension. The state agency shall establish criteria for identifying categories of persons at special nutritional risk who require expedited services. At a minimum, however, these categories shall include pregnant women eligible as Priority I participants, and migrant farmworkers and their family members who soon plan to leave the jurisdiction of the local agency.

3. All other applicants shall be notified of their eligibility or ineligibility within 20 days of the first date of the request for program benefits.

4. Each WIC clinic or local agency using a retail purchase system shall issue a food instrument(s) and if applicable a cash-value voucher(s) to the participant at the same time as notification of certification. Such food instrument(s) and cash-value voucher(s) shall provide benefits for the current month or the remaining portion thereof and shall be redeemable immediately upon receipt by the participant. Local agencies may mail the initial food instrument(s) and, if applicable, cash-value voucher(s) with the notification of certification to those participants who meet the criteria for the receipt of food instruments through the mail, as provided in 7 CFR §246.12(r)(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4307. Certification Periods

A. Program benefits shall be based upon certifications established in accordance with the following timeframes:

1. Pregnant women shall be certified for the duration of their pregnancy and for up to 6 weeks postpartum.

2. Postpartum women shall be certified for up to 6 months postpartum.

3. Breastfeeding women shall be certified at intervals of approximately 6 months and ending with the breastfed infant's first birthday.

4. Infants shall be certified up until their first birthday.

5. Children shall be certified at intervals of approximately 6 months and ending with the end of the month in which a child reaches its fifth birthday.

B. Upon request, participants shall receive verification of certification when transferring to another WIC program out of state.

C. If the nutritional risk determination is based on data taken before the time of entrance into the Program, the certification period for breastfeeding women and children shall be based upon the date when the data was first taken.

D. Participants receiving Program benefits may be disqualified during a certification period for the following reasons.

1. Participant violation including, but not limited to, intentionally making false or misleading statements or intentionally misrepresenting, concealing, or withholding facts to obtain benefits; exchanging CVVs, FIs, or WIC-approved foods for cash, credit, non-food items, or unauthorized food items, including WIC-approved foods in excess of those listed on the participant's FI; threatening to harm or physically harming vendor staff; or making a written, electronic, or verbal offer to sell WIC benefits, including WIC-approved foods, FIs, CVVs, and/or EBT cards, or allowing someone else to do so.

2. If the state agency experiences funding shortages, it may be necessary to discontinue program benefits to a number of certified and participating participants. The state agency shall not enroll new participants during the period when currently participating participants, those who have received benefits during a current certification, are denied remaining benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4309. Participant Rights and

Responsibilities/Notification/Fair Hearing

A. Participant Rights and Responsibilities. All applicants shall read or have read to them the programs' rights and responsibilities statement, including the restriction of dual participation in the program or between the program and CSFP. After reviewing the statement, all applicants shall sign attesting to have reviewed the statement.

B. Notification of Ineligibility. Participants found ineligible during a certification period shall be advised in

writing of the ineligibility, the reasons for the ineligibility and of the right to a fair hearing.

C. Notification of Disqualification. Participants who are about to be disqualified from program participation during a certification period shall be advised in writing not less than 15 days before the effective date of disqualification, of the reasons for the disqualification and the right to a fair hearing.

D. Fair Hearing Procedures for Participants. The state agency provides a hearing procedure through which any individual may appeal, within 60 days of the date of notification by the state agency, an action which results in the denial of participation or the disqualification from the program.

1. The hearing process is governed by the procedures set forth in the Administrative Procedure Act, R.S. 49:950, et seq., and as mandated by federal regulations, 7 CFR Part 246.

2. The state agency shall not summarily deny or dismiss an appeal unless:

a. the request is withdrawn in writing by the appellant or legal representative of the appellant;

b. the appellant or legal representative fails, without good cause, to appear at the scheduled hearing; or

c. the appellant has been denied participation by a previous decision following a hearing and does not allege in the request for appeal that circumstances relevant to program eligibility have changed in such a way as to justify a new hearing.

3. The state agency shall continue program benefits for a participant whose participation has been terminated during a certification period if a request for an appeal is received within the 15 days advance notification of disqualification. Benefits shall continue until the hearing officer reaches a decision or the certification period expires, whichever occurs first. Applicants who are denied benefits at initial certification or because of the expiration of their certification may appeal the denial, but shall not receive benefits while pending the hearing and decision of the hearing officer.

4. A participant or representative may appeal the fair hearing decision through judicial review as provided for in the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

Chapter 45. Vendor Selection, Participation and Sanctions

§4501. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), repealed by the Department of Health, Office of Public Health, LR 43:

§4503. Vendor Selection Criteria

A. As outlined in the Federal Register, 7 CFR Part 246, the state agency has the responsibility to maximize the use of available funds by providing supplemental foods to

participants at the most reasonable prices and to have an agreement with enough vendors to ensure adequate participant access. The state agency reserves the right to implement limiting criteria on vendors statewide by peer group in order to meet this responsibility. If the state agency elects to implement such limiting criteria, the criteria shall be made available to all vendors and applied equally to all vendors within peer groups.

B. Vendor Selection Criteria. In order to be eligible to participate in the Louisiana WIC program, the applicant vendor and/or authorized vendors shall:

1. submit a complete and notarized application, including any required supporting documentation, to the WIC state agency within applicable timeframes set by the WIC state agency;

2. be currently authorized and participating in the USDA Supplemental Nutrition Assistance Program (SNAP) and cannot have received a SNAP Civil Money Penalty (CMP) for which the disqualification period, if it had been imposed, would not yet have expired;

3. have a grocery class permit to operate issued under the Bureau of Sanitarian Services of the Office of Public Health for the current state fiscal year;

4. maintain the establishment in a clean, orderly and safe condition, with no current sanctions for violations of the Louisiana State Sanitary Code (LAC 51), the International Plumbing Code as amended by the Louisiana State Uniform Construction Code Council (LAC 17:I.111), or local health code ordinances;

5. be open a minimum of 6 days, and at least 48 hours, per week;

6. have prices that are competitive with other vendors in the vendor's state agency designated peer group, as determined by the state agency's competitive price criteria (CPC). Applying vendors, whose prices are higher than the CPC applicable to their peer groups, shall be informed and given one opportunity to lower their prices to meet the CPC;

7. display prices for WIC-approved foods on the foods or on the shelves/display area in immediate proximity to the foods;

8. stock and maintain sufficient quantities and varieties of all WIC-approved foods in accordance with Louisiana WIC's minimum stock requirements, which can be found in the minimum stock requirements section of the vendor guide;

9. purchase infant formula only from vendors included on Louisiana WIC's list of infant formula manufacturers registered with the Food and Drug Administration (FDA) that provide infant formula, and licensed infant formula wholesalers, distributors, and retailers. This list can be found at <http://new.dhh.louisiana.gov/index.cfm/newsroom/detail/2328>.

10. not have been denied WIC authorization or had a prior WIC authorization terminated by the state agency within the past year for any reason other than the expiration of the vendor agreement, store closing, or store relocation;

11. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have been formerly employed by any vendor that was disqualified from any USDA food program within the prior six years;

12. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have been convicted of any felony within the prior six years;

13. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have been convicted of any federal, state or local tax violations within the prior six years;

14. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have a civil judgment entered against them within the prior six years for any activity indicating a lack of business integrity (including but not limited to fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, and obstruction of justice);

15. be in good standing with no unpaid or overdue balances owed to the Louisiana WIC program;

16. not have had any WIC vendor agreement terminated due to false or inaccurate information provided to the WIC program within the past 6 years;

17. have access to a computer, with internet access, and shall have an e-mail account that can be used to send messages to and receive messages from the Louisiana WIC program, and shall be able to download and upload electronic documents sent/received via email or posted/requested on the vendor portal or any other online application used by the WIC program;

18. utilize a cash register system that performs split tender transactions and produces itemized receipts showing date of purchase, items purchased, price of items purchased, and the total sale amount, at a minimum;

19. redeem or expect to redeem at least 50 WIC FIs per month;

20. agree to be placed in a vendor peer group with other above-50-percent vendors when deriving or expecting to derive more than 50 percent of their annual food sales revenue from WIC FI transactions. Vendors within this peer group shall maintain WIC-approved food prices at a level such that the average payments per FI for above-50-percent vendors does not exceed average payments per FI to regular vendors;

21. agree to neither provide nor advertise nor indicate an intent to provide customers with any incentive items, when deriving or expecting to derive more than 50 percent of their annual food sales revenue from WIC FI transactions. The state agency shall make a determination on what constitutes a violation of the intent of the previous sentence; however, incentive items definitively prohibited include, but are not necessary limited to:

a. services which result in a conflict of interest or the appearance of such conflict for the above-50-percent vendor, such as assistance with applying for WIC benefits;

b. lottery tickets at no charge or below face value;

c. cash gifts in any amount for any reason;

d. anything made available in a public area as a complimentary gift which may be consumed or taken without charge;

e. food, merchandise or services of any value provided to the customer;

f. food, merchandise sold to customers below cost, or services purchased by customers below fair market value;

g. any kind of incentive item which incurs a liability for the WIC program; and

h. any kind of incentive item which violates any federal, state, or local law or regulations;

22. not derive or expect to derive more than 50 percent of annual food sales revenue from WIC FI transactions; and

23. be a full-line grocery store, as defined by the state agency. The Louisiana WIC definition of a full-line grocery store can be found in Section 4103 of this Subpart.

C. After authorization, all WIC vendors shall continue to meet the criteria of this Section, and any changes thereto, at all times. A WIC vendor found to be out of compliance with the WIC regulations, vendor agreement, or WIC vendor selection criteria, at any time during the authorization period is subject to termination of the WIC authorization and vendor agreement and possible disqualification. Disqualification from WIC may result in disqualification from the Supplemental Nutrition Assistance Program (SNAP) and such SNAP disqualification is not subject to administrative or judicial review under the SNAP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4505. Agreement

A. The authorized vendor shall sign and agree to the conditions enumerated and/or referenced in the WIC vendor application and vendor agreement.

B. The authorized vendor shall accept state agency adjustments to WIC FI and CVV claims for reimbursement. The state agency may make adjustments to ensure that payments to the authorized vendor do not exceed the maximum allowable reimbursement level for the vendor's assigned peer group.

C. No request for reimbursement submitted by the vendor shall be paid by the state agency unless the claim is in accordance with the terms of the vendor agreement.

D. Unauthorized vendors that accept FIs or CVVs may be held liable for repayment of any funds received.

E. Terms of Agreement. An agreement shall be for a period not exceeding 3 years. The agreement is null and void if ownership changes. Neither party has an obligation to renew the agreement. Fifteen days written notice shall be given prior to the expiration of an agreement. Expiration of an agreement is not subject to appeal.

F. Termination of Agreement. The agreement may be terminated by 15 days written notice to the other party or by the mutual agreement to terminate of both parties. The 15 days written notice does not apply when the state agency terminates the agreement or disqualifies a vendor as a result of violation(s) of the terms of the agreement.

1. The state agency shall terminate an authorized vendor agreement for failure of the vendor to meet the selection criteria found in Section 4503B of this Subpart

2. The state agency shall immediately terminate the agreement if it determines that the vendor has provided false information in connection with its application for

authorization. Violations of the WIC program regulations shall result in termination of the agreement, disqualification, and/or possible referral for criminal prosecution.

G. A vendor may be subject to announced and unannounced monitoring visits and inventory audits by authorized personnel to determine compliance with the vendor agreement and/or federal or state rules, regulations or policy governing the WIC program.

H. WIC vendors agree to provide any records requested by authorized parties pursuant to their vendor agreement by established due dates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4507. Reimbursement of Altered or Bank Rejected Food Instruments or Cash-Value Vouchers

A. If a vendor has a FI or CVV that has been rejected or has had the payment amount adjusted by the Louisiana WIC contracted bank and the vendor feels that the rejection or adjustment was made in error, the vendor may request reimbursement from the state agency.

B. The vendor shall submit to the state agency, in a format specified by the state agency, any bank rejected FIs or CVVs within 60 days from the last day of the valid period. Any FIs or CVVs submitted thereafter shall not be considered.

C. In determining whether or not to reimburse vendors for FI(s) or CVV(s) rejected by the bank due to errors on the vendors' part, the state agency may consider the following criteria in making its determination:

1. the prior record of the same repeated errors;
2. the vendor's reported food costs versus the amount requested for reimbursement; and
3. the level of documented inventory on hand.

D. Vendors shall be notified of adverse reimbursement decisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4509. Vendor Sanctions for Violations

A. Federal Mandatory Vendor Sanctions.

1. The state agency shall permanently disqualify a vendor convicted of trafficking in food instruments (FIs) or cash value vouchers (CVVs) or selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act of 1970 (21 U.S.C. 802), as amended) in exchange for FIs or CVVs.

2. The state agency shall disqualify a vendor for 6 years for:

- a. one incidence of buying or selling a WIC FI or CVV for cash (trafficking); or
- b. one incidence of selling firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, as amended, in exchange for a WIC FI or CVV;

3. The state agency shall disqualify a vendor for 3 years for:

a. one incidence of the sale of alcohol, alcoholic beverages, or tobacco products in exchange for a WIC FI or CVV;

b. a pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item that exceeds the store's documented inventory of that supplemental food item for a specific period of time;

c. a pattern of vendor overcharges;

d. a pattern of receiving, transacting and/or redeeming FIs or CVVs outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person;

e. a pattern of charging for supplemental foods not received by the participant; or

f. a pattern of providing credit or non-food items (not including alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, as amended) in exchange for FIs or CVVs.

4. The state agency shall disqualify a vendor for 1 year for if:

a. a pattern of providing unauthorized food items in exchange for FIs or CVVs, including charging for supplemental foods provided in excess of those listed on the FI; or

b. a pattern of an above-50-percent vendor providing prohibited incentive items to participants as set forth in federal regulations at 7 CFR 246.12(g)(3)(iv).

B. Second Federal Mandatory Vendor Sanction. When a vendor that has previously been assessed a sanction for any of the federal mandatory vendor sanctions and then receives a second sanction for any of the federal mandatory vendor sanctions, the state agency shall double the second sanction. The total amount assessed in civil money penalties (CMPs) for a second sanction may not exceed the maximum limits allowed under federal regulations.

C. Third or Subsequent Federal Mandatory Vendor Sanction. When a vendor who previously has been assessed two or more sanctions for any of the federal mandatory vendor sanctions and then receives another sanction for any of the federal mandatory vendor sanctions, the state agency shall double the third sanction and all subsequent sanctions. The state agency may not impose a Civil Money Penalty (CMP) in lieu of disqualification for third or subsequent sanctions for federal mandatory vendor sanctions.

D. State Agency Vendor Sanctions. The state agency identifies violations contained in Paragraphs 1 through 7 and 9 of this Subsection as actions subject to a corrective action plan for an initial violation. Corrective action plans shall be implemented in full by vendors when required by the state agency and can include, but are not limited to, store employee training, stock rotation training, and/or training on WIC FI/CVV processing procedures. If the vendor fails to implement a corrective action plan for failure to adhere to selection criteria, the state agency shall terminate the vendor agreement. The state agency may disqualify a vendor from participation in WIC for 1 year for a pattern of any of the following state agency violations:

1. providing cash for returned WIC-approved foods purchased with WIC FIs/CVVs;

2. failing to comply with FI and CVV processing and redemption procedures;

3. stocking or selling WIC-approved foods that are expired or otherwise not fresh, as determined by the state agency;

4. failing to participate in and complete training, as scheduled and required by the state agency;

5. failing to maintain or provide the state agency with required information by the due date identified by the state agency;

6. failing to notify the state agency of instances in which a participant or proxy has failed to comply with WIC program requirements;

7. failing to provide to WIC participants or proxies the same courtesies as offered to other customers;

8. failing to implement a corrective action plan imposed by the state agency; or

9. failing to adhere to any other requirements of the vendor agreement or vendor guide except those for which a longer disqualification period is required as specifically identified within Subsection A.-A.2.f of this Section.

E. Civil Money Penalty. Except where prohibited by federal regulation or in those cases of permanent vendor disqualification pursuant to the application of Subsection A. of this Section, if the state agency determines in its sole discretion that disqualification of the authorized vendor would result in inadequate participant access, the state agency shall impose a civil money penalty (CMP) in lieu of disqualification. Such CMP shall be calculated in accordance with federal regulations. If a vendor does not pay the CMP, only partially pays the CMP, or fails to make timely payment of the CMP in lieu of disqualification, the state agency shall disqualify the vendor for the length of the disqualification corresponding to the violation for which the CMP was assessed.

F. Recoupment of Excess Payment. The state agency shall recoup excess payments made to the authorized vendor resulting from the vendor's violation of the vendor agreement.

G. SNAP Disqualification. The state agency shall disqualify from the WIC program a vendor who is disqualified from SNAP. The disqualification shall be for the same length of time as SNAP disqualification, may begin at a later date than SNAP disqualification, and is not subject to administrative or judicial review under the WIC program.

H. SNAP CMP. The state agency shall disqualify a vendor who receives a CMP for hardship by SNAP. The length of such disqualification shall correspond to the period for which the vendor would otherwise have been disqualified in SNAP.

I. Mandatory Sanction by another WIC State Agency. The state agency shall disqualify a vendor that has been disqualified or assessed a CMP in lieu of disqualification by another WIC state agency for a federal mandatory vendor sanction under the provisions of Subsection A.1.-A.4.b of this Section. The length of the disqualification shall be for the same length of time as the disqualification by the other WIC state agency or, in the case of a CMP in lieu of disqualification assessed by the other WIC state agency, for the same length of time for which the vendor would otherwise have been disqualified. The disqualification may begin at a later date than the sanction imposed by the other WIC state agency.

J. Voluntary Withdrawal Not Accepted. Voluntary withdrawal of a vendor and non-renewal of the vendor agreement as alternatives to WIC disqualifications shall not be accepted, and the disqualification shall be entered on the record.

K. Comprehensive Inclusion of Violations of Vendor Document Requirements (including the WIC vendor guide and the WIC vendor agreement which is not covered elsewhere in this Section). Vendor sanctions for violations of vendor document requirements (including the WIC vendor guide and the WIC vendor agreement not covered elsewhere in this Section) may result in termination or disqualification, following provision to the vendor of reasonable notice and opportunity to correct, where permitted by WIC regulations. Violations may give rise to the state agency's assessment of vendor claims, fines, and penalties. Termination of the vendor agreement does not relieve the vendor of the obligation to pay such assessments.

L. State Agency Actions. The state agency shall determine the action to be taken whenever vendor fraud, abuse, or administrative violations are discovered. If the state agency determines that the vendor has violated WIC rules or regulations, the vendor may be required to develop and submit a corrective action plan, the vendor agreement may be terminated and/or the vendor may be disqualified from participation in the WIC program for a period of time no more than the maximum period of time allowed under federal regulations at 7 CFR part 246. To obtain reauthorization, vendors who are disqualified or whose vendor agreement has been terminated shall reapply and meet all current requirements for authorization.

M. Vendor Notification. The state agency shall notify a vendor in writing when an investigation reveals an initial incidence of a violation for which a pattern of incidences must be established in order to impose a sanction, before another such incidence is documented, unless the state agency determines, in its discretion, on a case-by-case basis, that notifying the vendor would compromise an investigation. Notification shall not be provided for a pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item that exceeds documented inventory.

N. Effect on Other Stores under Same Ownership. If an individual, partnership, corporation, limited liability company, or other business structure is convicted of a criminal offense involving WIC, SNAP, or any other program funded and administered by the Food and Nutrition Service of the U.S. Department of Agriculture, all grocery stores wholly or partially owned or managed by the convicted individual, partnership, corporation, limited liability company, other business structure, or by a partner of a convicted partnership or an officer, of a convicted corporation or a convicted limited liability company, shall be terminated from vendor authorization and shall be ineligible for future vendor authorization for the maximum period of time allowed by federal law and regulations. This termination and period of ineligibility shall occur whether or not the grocery store was the location at which the crime occurred, and regardless of whether or not a penalty was imposed upon the convicted party by the court of competent jurisdiction.

O. Legal Remedies Not Precluded by Sanction. The state agency sanctions for vendor violations or program abuse shall not be construed as excluding or replacing any criminal or civil sanctions or other remedies that may be applicable under any federal or state statute or local ordinance. A vendor who commits fraud or abuse of the program is liable to prosecution under applicable federal, state or local laws. Those vendors who have willfully misapplied, stolen or fraudulently obtained program funds shall be subject to a fine of not more than \$25,000 or imprisonment for not more than 5 years or both, if the value of the funds is \$100 or more. If the value of the funds is less than \$100, such vendors shall be subject to a fine of not more than \$1,000 or imprisonment for not more than 1 year, or both.

P. Prosecution Referral. The state agency shall, where appropriate, refer vendors who abuse the program to federal, state and/or local authorities for prosecution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4511. Administrative Review of State Agency Adverse Actions

A. Adverse actions taken by the Louisiana WIC program that affect vendors or vendor applicants may be subject to administrative review, if appealed.

B. The Louisiana WIC program shall provide written notification of the adverse action, the procedures to follow to request an administrative review, and the cause(s) for and the effective date of the action. If the vendor is disqualified due in whole or in part to violations of Subsection A of Section 4509 of this Subpart, such notification shall include the following statement: "This disqualification from WIC may result in disqualification as a retailer in SNAP. Such disqualification is not subject to administrative or judicial review under SNAP." If the WIC authorized vendor or applicant vendor wishes to appeal the decision, the vendor or applicant vendor shall submit a request for appeal stating the reason for the appeal. The request shall be submitted in writing and mailed to the Louisiana WIC program within 15 calendar days after the receipt of the state agency's written notification of the adverse action. Within the notice of adverse action, the Louisiana WIC program shall include an appropriate return mailing address, along with a staff member's contact name, so that an aggrieved party may properly submit a request for appeal.

C. The adverse action shall be imposed on the effective date noted in the written notification and shall remain in place during the administrative review unless the Louisiana WIC program determines, at its sole discretion, that the adverse action would result in inadequate participant access to supplemental foods.

D. Adverse actions subject to administrative review include the following:

1. denial of authorization based on the application of the vendor selection criteria for minimum variety and quantity of approved foods;
2. denial of authorization based on a determination that the vendor is attempting to circumvent a sanction;
3. termination of an agreement for cause;

4. disqualification, except as a result of a disqualification from SNAP;

5. imposition of a fine or a civil money penalty in lieu of disqualification;

6. denial of authorization based on the vendor selection criteria for business integrity;

7. denial of authorization based on the selection criteria for a current SNAP disqualification or civil money penalty for hardship;

8. denial of authorization based on the application of the vendor selection criteria for competitive price;

9. the application of the state agency's vendor peer group criteria and the criteria used to identify vendors that are above-50-percent vendors or comparable to above-50-percent vendors;

10. denial of authorization based on a state agency-established vendor selection criterion if the basis of the denial is a WIC vendor sanction or a SNAP withdrawal of authorization or disqualification;

11. denial of authorization based on the state agency's limiting criteria, if any;

12. denial of authorization because a vendor submitted its application outside the time frames during which applications are being accepted and processed, as established by the state agency;

13. termination of an agreement because of a change in ownership or location or cessation of operations.

14. a civil money penalty imposed in lieu of disqualification based on a SNAP disqualification; and

15. denial of an application based on a determination of whether an applicant vendor is currently authorized by SNAP.

E. A WIC authorized vendor or vendor applicant who files a proper appeal request for those actions subject to administrative review shall be provided:

1. adequate advance notice of the time and place of the administrative review to provide all parties involved sufficient time to prepare for the review and at least one opportunity to reschedule the administrative review date upon specific request;

2. the opportunity to examine, prior to the review, the evidence upon which the Louisiana WIC program's action is based;

3. the opportunity to be represented by counsel;

4. the opportunity to cross-examine adverse witnesses (when necessary to protect the identity of witnesses, they may be cross-examined behind a protective screen or other device);

5. the opportunity to present its case;

6. an impartial decision-maker, whose determination is based solely on whether the Louisiana WIC program has correctly applied federal and state statutes, regulations, policies, and procedures governing the program, according to the evidence presented at the review; and

7. written notification of the review decision, including the basis for the decision, within 90 days from the date of receipt of a vendor's request for an administrative review; however, this time frame is only an administrative goal for the Louisiana WIC program and, should a decision of the appeal review not be made within the specified time frame, such delay shall not provide a basis to overturn the adverse action.

F. Actions not subject to administrative review include:

1. the validity or appropriateness of the Louisiana vendor limiting criteria, if any;
2. the validity or appropriateness of Louisiana's vendor selection criteria for the minimum variety and quantity of supplemental foods, business integrity, current SNAP disqualification, or civil money penalty for hardship;
3. the validity or appropriateness of the Louisiana selection criteria for a competitive price including, but not limited to, vendor peer group criteria and the criteria used to identify vendors that are above-50-percent vendors or comparable to above-50-percent vendors;
4. the validity or appropriateness of the state agency's participant access criteria and the state agency's participant access determinations;
5. the state agency's determination to include or exclude an infant formula manufacturer, wholesaler, distributor, or retailer from the list of businesses from which an authorized vendor may purchase infant formula pursuant to selection criteria;
6. the validity or appropriateness of the state agency's prohibition of incentive items and the state agency's denial of an above-50-percent vendor's request to provide an incentive item to customers;
7. the state agency's determination whether to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction;
8. the state agency's determination whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation;
9. denial of authorization if the state agency's vendor authorization is subject to the procurement procedures applicable to the state agency;
10. the expiration of a vendor's agreement;
11. disputes regarding food instrument or cash-value voucher payments and vendor claims (other than the opportunity to justify or correct a vendor overcharge or other error); and
12. disqualification of a vendor as a result of disqualification from SNAP.

G. A vendor that is permitted to continue program operations while its appeal is in process does not relieve such vendor from the responsibility of continued compliance with the terms of any written agreement with the Louisiana WIC program. Administrative review decisions of the Division of Administrative Law are the final action of the Louisiana WIC program. If the review decision upholds the adverse action against the vendor, the vendor may be able to pursue judicial review of the decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

§4513. Availability of Documents

A. The vendor application, the vendor agreement, and the WIC vendor guide shall be provided for review to any interested party by submission of an e-mail request to LAWICVendor@la.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 43:

Request for Comments

Interested persons may submit written comments to Bruce Boyea, Director, Bureau of Nutrition Services, Office of Public Health, 1450 Poydras Street, Suite 1906, New Orleans, LA 70112, or faxed to (504) 568-8232. He is responsible for responding to inquiries regarding this Emergency Rule.

Rebekah E. Gee, MD, MPH
Secretary

1701#020

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Broker Permits and General Requirements
(LAC 55:IX.Chapter 1)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, has exercised the emergency provision in accordance with R.S. 49:953(B), of the Administrative Procedure Act, to amend, supplement and expand portions of and readopt LAC 55:I.Chapter 1 as authorized by R.S. 40:1846. Furthermore, the Liquefied Petroleum Gas Commission has found an immediate need to adopt amendments to create a new class of permits applicable to brokers and special vendors of liquefied petroleum gas within the State of Louisiana. In particular, the Emergency Rule amends LAC 55:IX.Chapter 1, Section 107 to require a permit for third party brokers who are instrumental in the sale and service of liquefied petroleum. The adoption of this Rule on an emergency basis is necessary due to the hazardous components of liquefied petroleum gas, also referred to as propane or butane, which are flammable mixtures of hydrocarbon gases used as fuel in heating appliances, cooking equipment, and vehicles. The Liquefied Petroleum Gas Commission finds that an imminent peril to the public health, safety and welfare requires adoption of this Rule. This Emergency Rule was adopted and became effective January 20, 2017 and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever occurs first.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§107. Requirements

A. Before any permit or registration may be issued from the office of the director, all applicants shall have complied with or agree to comply with the applicable requirements as follows:

1. Shall deposit filing fee of \$150 for classes and \$25 for all registrations. This fee shall accompany application.

2. -5.b. ...

c. Each location of Class I, Class VI and Class VIII dealers, which fill DOT specification cylinders of 200 lbs. or less, liquefied petroleum gas capacity, that are in commerce or transportation, shall provide a suitable weighing device (scales).

6. Applicants shall have paid a permit fee in the amount of \$150, except for Class VII-E, which shall be \$100, and Class III which shall be \$500 and R-1, R-2 registrations, which shall be \$37.50 and Class VI-X shall be in the amount of \$150 for each location. For fiscal year 2014-2015, and for each subsequent fiscal year, the permit fee shall be 0.1369 of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of \$150 for each location. For classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$150, except registrations shall be \$37.50 per year.

6.a. - 7. ...

8. All service and installation personnel, fuel transfer personnel, carburetion mechanics and tank truck drivers shall have a card of competency from the office of the director. All permit holders, except Class III and VI-X permit holders, shall have at least one card of competency issued to their permit. The commission may waive the one card of competency until the dealer commences operations in the state. A card of competency shall be issued to an applicant upon receipt of a \$20 examination fee and successfully passing the competency test, providing the applicant holds some form of identification acceptable to the commission. The commission may accept as its own a reciprocal state's examination which contains substantially equivalent requirements. This shall be evidenced by a letter from the issuing authority or a copy of a valid card issued by the reciprocal state. All applicable fees shall be paid prior to issuing the card.

a. - c.i.(d). ...

(e). Proof of a passing grade, for purposes of certification, shall be maintained in dealer employee file. The employer shall maintain this record until 1 year after the employment has terminated.

8.c.i.(f). -15 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:2553 (December 2002), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1140 (June 2007), effective July 1, 2007, LR 35:2201 (October 2009), LR 35:2465 (November 2009), LR 38:1256 (May 2012), LR 41:395 (February 2015), LR 42:427 (March 2016), LR 42:1671 (October 2016), LR 43:

§113. Classes of Permits and Registrations

A. - A.2.e. ...

3. Class III. Brokers/Special Vendors. Holders of these permits may purchase liquefied petroleum gas only from liquefied petroleum gas dealers who hold a valid liquefied petroleum gas permit and resell the aforementioned

purchased liquefied petroleum gas product to end users utilizing floor maintenance machines/or industrial trucks (forklifts) on their premises. Holders of these permits shall not deliver gas or engage in repairing liquefied petroleum gas containers or systems.

a. Holders of these permits shall furnish evidence of general liability insurance in the minimum sum of \$1,000,000 per products liability coverage.

b. Shall submit a completed "Location Approval Form" for each physical location being served, with a handling fee of \$150 for each location being served.

c. Compliance with all other rules and regulations is a mandatory requirement.

d. Shall provide 24 hour emergency contact information at each liquefied petroleum gas storage location. The person deemed the emergency contact shall have basic knowledge regarding liquefied petroleum gas emergencies and shall maintain contact information per the servicing liquefied petroleum gas supplier.

e. The Class III permit holder shall post the servicing liquefied petroleum gas supplier 's name (name on Louisiana liquefied petroleum gas permit) at each liquefied petroleum gas storage site and each end user 's location.

4 - 13.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:701 (July 1995), LR 24:461 (March 1998), LR 25:2411 (December 1999), LR 29:2509 (November 2003), LR 33:1141 (June 2007), effective July 1, 2007, LR 38:1259 (May 2012), LR 41:395 (February 2015), LR 43:

Subchapter D. Forms and Reports

§159. Required Forms and Reports

A. - A.7. ...

8. Location approval forms shall be in accordance with §113.A.3.b.

Location Approval Form

The submission of this form by a Class III dealer representative does not absolve the dealer of following the rules and regulations established by this Commission concerning the storage of liquefied petroleum gas. Due to the fact that all requisite details are not submitted regarding the storage locations referred to on this this form, it is, therefore assumed when approval is made on the information submitted, details regarding information not provided will comply with all regulations. Any changes to the cylinder location will require a new form to be submitted.

Name of Class III dealer submitting this form: _____

Name of Dealer supplying gas: _____

Is storage location protected from vehicular impact? ___ Yes ___ No

Is storage location: ___ inside building or ___ outside building?

Is storage location the proper distance from electrical equipment, ignition sources, doors and windows? ___ Yes ___ No

Is Name of Class III Dealer, Supplier and 24 hour Emergency Contact on storage location? ___Yes ___No

Is all the proper signage displayed at storage location? ___Yes ___No

Does the public have access to the cylinder storage location? ___Yes ___No

If yes, please ensure sketch is submitted by properly permitted dealer.

Contact information for someone at cylinder location:

Name _____

Telephone Number _____

Please give brief description of storage area including distances to permanent reference points:

All information submitted on this form has been verified as correct, and it is understood that any changes to this form shall require a new form to be submitted.

Signed (person in charge of insuring correctness of this form)

X _____

Date: _____

FEE \$150.00

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:559 (May 1985), LR 15:861 (October 1989), LR 24:466 (March 1998), LR 38:1265 (May 2012), LR 41:395 (February 2015), LR 43:

John W. Alario
Executive Director

1701#074

DECLARATION OF EMERGENCY

Department of the Treasury Deferred Compensation Commission

Administration and Distributions
(LAC 32:VII.105, 701, and 709)

The Louisiana Deferred Compensation Commission has exercised the emergency provision in accordance with the Administrative Procedure Act, R.S. 49:953(B) and pursuant to the authority set forth in R.S. 42:1303, to amend LAC 32:VII.105, 701, and 709 regarding distributions for unforeseen emergencies. This Emergency Rule is necessary to allow plan participants (as defined by LAC 32:VII.101) who qualify for the relief provided by IRS Announcement 2016-30, or an extension thereof, to take a distribution from the Plan. This Emergency Rule was adopted to extend the provisions of the September 1, 2016, Emergency Rule concerning Administration and Distributions.

The Louisiana Deferred Compensation Commission hereby finds that the following circumstances constitute an immediate danger to the public health, safety, or welfare: On

August 12, 2016, pursuant to Proclamation No. 111 JBE 2016, Governor John Bel Edwards declared a State of Emergency within the State of Louisiana in response to historic flooding in Louisiana. Additionally, on August 14, 2016, the President of the United States of America issued a Major Disaster Declaration for designated parishes of Louisiana by issuing FEMA DR-4277. Over 100,000 Louisiana residents have applied to the Federal Emergency Management Agency for assistance. The Office of the Governor estimates over 60,000 houses were damaged by this historic flooding event. The damage caused by this historic flooding event has resulted in the closing of businesses in affected areas, loss of personal belongings, and loss of employment by many plan participants and/or their families. This historic flooding has produced an immediate threat to the public health, safety, and welfare of many participants in the Louisiana Deferred Compensation Plan. In order to provide relief to taxpayers who have been adversely affected by the storms and flooding that began August 11, 2016, the IRS issued Announcement 2016-30 to provide relief from certain verification procedures that may be required under retirement plans with respect to hardship distributions until January 17, 2017.

This Emergency Rule was adopted on December 13, 2016 and shall be effective on December 13, 2016. This Emergency Rule shall remain effective for the maximum period allowed under the Act or until the expiration of the relief provided in IRS 2016-30 or any extension thereof, whichever occurs first, unless renewed by the Louisiana Deferred Compensation Commission, or until permanent rules are promulgated in accordance with the law.

Title 32

EMPLOYEE BENEFITS

Part VII. Public Employee Deferred Compensation

Subpart 1. Deferred Compensation Plan

Chapter 1. Administration

§105. Duties of Commission

A - A.7. ...

8. appointing an emergency committee comprised of at least three individuals. Applications for a withdrawal of deferred compensation based on an unforeseeable emergency shall be approved or disapproved by such committee:

a. a participant shall furnish medical or other evidence to the emergency committee to establish and substantiate the existence of an unforeseeable emergency. However, if a participant qualifies for a distribution arising from the Louisiana Storms, as set forth in IRS Announcement 2016-30, or any extension thereof, the commission may rely upon the representations from the participant as to the need for and amount of the distribution unless it has actual knowledge to the contrary.

b. if an application for a withdrawal based on unforeseeable emergency is approved, and the application does not qualify for the relief set forth in IRS Announcement 2016-30 or any extension thereof, the amount of the withdrawal shall be limited to the amount required to meet such emergency. Payment shall not be made to the extent such emergency is relieved:

i. - iii. ...

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1963 (October 1998), amended LR 28:1495 (June 2002), LR 43:

Chapter 7. Distributions

§701. Conditions for Distributions

A. - A.2. ...

3. the participant incurs an approved unforeseeable emergency pursuant to LAC 32:VII.709.A or meets the qualifications for relief set forth in IRS Announcement 2016-30, or any extension thereof; or

A.4. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:121 (January 2006), LR 43:

§709. Unforeseeable Emergency

A. If a participant has incurred a genuine unforeseeable emergency and no other resources of financial relief are available, or if a participant meets the qualifications for relief set forth in IRS Announcement 2016-30, or any extension thereof; the commission may grant, in its sole discretion, a participant's request for a payment from the participant's account. Any payment made under this provision shall be in a lump sum.

1. The commission shall have the right to request and review all pertinent information necessary to assure that hardship withdrawal requests are consistent with the provisions of IRC §457 or IRS Announcement 2016-30, or any extension thereof.

2. Unless a participant meets the qualifications for relief set forth in IRS Announcement 2016-30, or any extension thereof, an unforeseeable emergency distribution shall not be made if such hardship may be relieved:

2.a. - 3.b. ...

c. If a participant meets the qualifications for relief set forth in IRS Announcement 2016-30, or any extension thereof, the commission may rely upon the representation of the participant as to the need for and amount of a financial hardship distribution unless the commission or plan administrator has actual knowledge to the contrary.

4. Payment of a financial hardship distribution shall result in mandatory suspension of deferrals for a minimum of 6 months from the date of payment (or such other period as mandated in treasury regulations) unless the participant's distribution is made pursuant to the guidelines set forth in IRS Announcement 2016-30, or any extension thereof. If a participant's financial hardship distribution is made pursuant to the guidelines set forth in IRS Announcement 2016-30, or any extension thereof, then the suspension of deferrals shall be in the discretion of the participant.

B. - B.7. ...

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002), LR 32:122 (January 2006), LR 37:1621 (June 2011), LR 43:

Emery Bares
Chairman

1701#007

DECLARATION OF EMERGENCY

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

Commercial King Mackerel
Harvest Season—2017-18

In accordance with the provisions of R.S. 49:953 which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to employ emergency procedures to establish seasonal rules to set finfish seasons, R.S. 56:6(25)(a) and 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish in Louisiana waters, the Wildlife and Fisheries Commission hereby sets the following season for the commercial harvest of king mackerel in Louisiana state waters:

The commercial season for the harvest of king mackerel in Louisiana state waters shall open at 12:01 a.m., July 1, 2017 and remain open until the allotted portion of the commercial king mackerel quota for the western Gulf of Mexico has been harvested or is projected to be harvested.

The commission grants authority to the Secretary of the Department of Wildlife and Fisheries to close the commercial king mackerel season in Louisiana state waters when he is informed by NOAA Fisheries that the commercial king mackerel quota for the western Gulf of Mexico has been harvested or is projected to be harvested, such closure order shall close the season until 12:01 a.m., July 1, 2018, which is the date expected to be set for the re-opening of the 2018-19 commercial king mackerel season in Federal waters. The secretary of the department may further modify any provisions pursuant to this declaration of emergency when notified by NOAA Fisheries that other changes have been made regarding the season for the commercial harvest of king mackerel, or as needed to effectively implement the provisions herein upon notification to the Chairman of the Wildlife and Fisheries Commission.

Effective with seasonal closures under this rule, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell, or attempt to purchase, exchange, barter, trade, or sell king mackerel, whether taken from within or without Louisiana territorial waters. Also effective with seasonal closures under this rule, no person shall possess king mackerel in excess of a daily bag limit, which may only be in possession during the open recreational season by legally licensed recreational fishermen. Nothing shall prohibit the possession or sale of fish by a commercial dealer if legally taken prior to the closure providing that all commercial dealers possessing such fish taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Bart R. Yakupzack
Chairman

1701#023

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Harvest Closure East of the Mississippi River

In accordance with the emergency provisions of *Louisiana Revised Statutes* (R.S.) 49:953, under the authority of R.S. 56:433, and under the authority of a Declaration of Emergency passed by the Wildlife and Fisheries Commission on September 1, 2016 which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action if oyster resources and/or reefs are being adversely impacted, notice is hereby given that the secretary of Wildlife and Fisheries hereby declares that the harvest of oysters from the public oyster seed grounds east of the Mississippi River shall close at one half hour after sunset on Sunday, January 8, 2016.

Harvest pressure during the season has substantially reduced oyster stocks and continued commercial harvest may threaten the long-term sustainability of remaining oyster resources in these areas. Protection of these remaining oyster resources from injury is in the best interest of these public oyster seed grounds.

Notice of any opening, delaying, or closing of a season will be provided by public notice at least 72 hours prior to such action, unless such closure is ordered by the Louisiana Department of Health and Hospitals for public health concerns.

Patrick D. Banks
Interim Secretary

1701#035

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Partial Fall Inshore Shrimp Season Closure

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons; R.S. 56:497 which allows the Wildlife and Fisheries Commission to delegate to the Secretary of the Department the powers, duties and authority to set shrimp seasons; and in accordance with a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 4, 2016 which authorizes the Secretary of the Department of Wildlife and Fisheries to close the fall inshore shrimp season when biological and technical data indicate the need to do so or if enforcement problems develop, the Secretary of the Department of Wildlife and Fisheries does hereby declare:

The 2016 fall inshore shrimp season shall close on December 19, 2016 at official sunset, except for the following inside waters located east of the Mississippi River: Lake Pontchartrain, Chef Menteur and Rigolets Passes, Lake Borgne, Mississippi Sound, Mississippi River Gulf Outlet (MRGO), a section of the Gulf Intracoastal Waterway

(GIWW) in Orleans parish from the GIWW East Closure Sector Gate westward to the GIWW intersection with the Inner Harbor Navigation Canal, and the open waters of Breton and Chandeleur Sounds as bounded by the double-rig line described in R.S. 56:495.1(A)2.

R.S. 56:498 provides that the possession count on saltwater white shrimp for each cargo lot shall average no more than 100 (whole specimens) per pound except during the time period from October fifteenth through the third Monday in December. Recent biological sampling conducted by the Department of Wildlife and Fisheries has indicated that average white shrimp size within these waters to be closed is smaller than the minimum possession count and this action is being taken to protect these small white shrimp and provide opportunity for growth to larger and more valuable sizes. Existing data do not currently support shrimping closures in additional state inside and outside waters. However, historic data suggest additional closures may be necessary and the Department of Wildlife and Fisheries will continue monitoring shrimp populations in these waters. Notice of any opening, delaying or closing of a season by the secretary will be made by public notice at least 72 hours prior to such action.

Charles J. "Charlie" Melancon
Secretary

1701#005

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Red Snapper Recreational (Private and Charter) Season Closure

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use seasonal rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in LAC 76.VII.335.G.5 to modify opening and closing dates of recreational red snapper harvest seasons in Louisiana state waters, the secretary hereby declares:

The private and charter season for the recreational harvest of red snapper in Louisiana state waters shall close at 11:59 p.m. on December 15, 2016. Effective with this closure, no person shall recreationally harvest or possess red snapper whether within or without Louisiana waters.

Preliminary estimates of recreational red snapper landings in Louisiana from the La Creel program indicate that the department's self-imposed harvest limit of 1,116,732 pounds for private and charter harvest has been met. Closing the season for recreational red snapper harvest is intended to limit future closed seasons and allows for continued rebuilding the red snapper stock in the Gulf of Mexico.

Charles J. "Charlie" Melancon
Secretary

1701#003

DECLARATION OF EMERGENCY

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

Reef Fish—Harvest Regulations
2017 Recreational Red Snapper Season

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use seasonal rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in LAC 76:VII.335.G.5 to modify opening and closing dates of recreational red snapper harvest seasons in Louisiana state waters, the commission hereby declares:

The season for the recreational harvest of red snapper in Louisiana state waters, shall open at 12:01 a.m. on February 1, 2017. Effective with this action, the season shall be open daily, with a bag and possession limit of 2 fish per person per day. Size limits shall remain at the currently established minimum size limit in LAC 76:VII.335 of 16 inches total length. The season shall remain open until further notice.

The commission further declares that the secretary of the Department of Wildlife and Fisheries is authorized to modify the recreational season and bag limits for the harvest of red snapper, upon notification to the chairman of the Louisiana Wildlife and Fisheries Commission, if monitoring data indicate that the self-imposed state allocation of red snapper is projected to be met, is met, or allows for additional harvest.

Bart R. Yakupzack
Chairman

1701#024

DECLARATION OF EMERGENCY

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

Shark Harvest Regulations—Non-Sandbar Large Coastal
Sharks Commercial Possession Limit

The shark fisheries in the Gulf of Mexico are cooperatively managed by the Louisiana Department of Wildlife and Fisheries (LDWF), the Wildlife and Fisheries Commission (LWFC), and the National Marine Fisheries Service (NMFS). Regulations promulgated by NMFS are applicable in waters of the Exclusive Economic Zone (EEZ) of the U.S.

Previously promulgated rules, 50 CFR 635.24(a) (2), by NMFS increasing the federal possession limit of commercially harvested sharks from the non-sandbar large coastal sharks group (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse, blacktip, bull, lemon, silky, spinner and tiger sharks) from 36 to 45 sharks in the Gulf of Mexico are effective for the commercial season opening at 12:01 a.m. on February 1, 2017.

In order to have compatible regulations in place in Louisiana waters to coincide with the new regulations set

forth by NMFS, it is necessary that emergency rules be enacted.

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:6 (25) (a) and R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons and limits for saltwater finfish in Louisiana waters, the Wildlife and Fisheries Commission hereby declares:

Persons possessing a commercial state shark permit but no federal shark permit shall not possess on any one day, or on any trip, or land from any trip, or sell, barter, trade, or exchange in excess of the federal possession limit for sharks from the Non-Sandbar Large Coastal Species group (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse, blacktip, bull, lemon, silky, spinner and tiger sharks), taken from Louisiana state waters. Persons possessing a commercial state shark permit shall not possess any sandbar sharks unless they also have in their name and in their possession a valid federal shark research permit under 50 CFR 635.32(1). Those persons possessing a federal commercial directed or incidental limited access shark permit or federal shark research permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for Atlantic Sharks are limited to daily take, trip and possession limits as specified in that federal permit. This Declaration of Emergency is effective with the opening of the season for the commercial harvest of large coastal sharks, which shall open at 12:01 a.m. February 1, 2017.

The commission also hereby grants authority to the Secretary of the Department of Wildlife and Fisheries to modify any provisions pursuant to this declaration of emergency when notified by NOAA Fisheries that changes have been made regarding the possession of non-sandbar large coastal sharks in the Federal waters of the Gulf of Mexico, or as needed to effectively implement the provisions herein upon notification to the Chairman of the Wildlife and Fisheries Commission. Such authority shall extend through December 31, 2017.

Bart R. Yakupzack
Chairman

1701#022

DECLARATION OF EMERGENCY

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

Shrimp Season Closures

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which allows the Wildlife and Fisheries Commission to delegate to the Secretary of the Department the powers, duties and authority to set shrimp seasons, and in accordance with a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on December 1, 2016 which authorizes the Secretary of the Department of Wildlife and

Fisheries to close all or parts of state outside waters where significant numbers of small, sublegal size white shrimp are found in biological samples conducted by the department; and to reopen any area closed to shrimping when the closure is no longer necessary; the Secretary of the Department of Wildlife and Fisheries does hereby declare:

On January 2, 2017 at official sunset the portion of state outside waters extending a distance of 3 nautical miles seaward of the inside/outside shrimp line as described in R.S. 56:495(A) from the northwest shore of Caillou Boca at -90 degrees 50 minutes 27 seconds west longitude westward to the western shore of Freshwater Bayou Canal at -92 degrees 18 minutes 33 seconds west longitude will be closed to shrimping.

R.S. 56:498 provides that the possession count on saltwater white shrimp for each cargo lot shall average no

more than 100 (whole specimens) per pound except during the time period from October fifteenth through the third Monday in December. Recent biological sampling conducted by the Department of Wildlife and Fisheries has indicated that average white shrimp size within the waters to be closed is smaller than the minimum possession count and this action is being taken to protect these small white shrimp and provide opportunity for growth to larger and more valuable sizes. Notice of any opening, delaying or closing of a season by the secretary will be made by public notice at least 72 hours prior to such action.

Charles J. "Charlie" Melancon
Secretary

1701#012

Rules

RULE

Department of Culture, Recreation and Tourism Office of Cultural Development Division of Archeology

Fees (LAC 25:V.122)

Under the authority of the Archaeological Resources Act, R.S. 41:1608, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Division of Archaeology has increased the curation fee and has assessed an annual GIS access fee.

The amendment increases the fee for depositing a box of archaeological materials with the division's curation facility, and establishes an annual fee for access to the division's online geographic information system (GIS). The curation fee increase will provide sufficient operating funds to the division to fully support its archaeological curation facility and staff without relying on state funds. The GIS fee will provide funds for the Division of Archaeology's GIS operation and maintenance. The division operates a GIS system for inhouse use and provides online access to federal agencies, state agencies, private firms, students, and academic and other researchers. Online accessibility to the system enables users to save significant time and money by accessing the system at their office rather than having to travel to Baton Rouge and use the system at the division's offices. In addition, the GIS system allows users to overlay multiple datasets and examine the data in ways that is not possible through the use of paper records. The annual fee will maintain this access and provide the funds to support the operation, maintenance, and necessary upgrades of the GIS system. State agencies will not be charged the access fee, and the division will provide free online access at its Baton Rouge office for any user who does not wish to pay the access fee.

Title 25

CULTURAL RESOURCES

Part I. Office of Cultural Development

Chapter 1. Division of Archeology

Subchapter A. Regulations

§122. Fees

A. - B. ...

C. Curation of Archaeological Collections. A one-time fee of \$400 shall be charged for processing and long-term curation of a standard box of artifacts deposited with the division. A standard box measures 12 x 10 x 15 inches and the contents can weigh no more than 30 pounds (13.6 kg). Oversize artifacts shall be assessed at the rate of \$400 per square foot of shelf space occupied.

D.1. The division shall charge an annual, non-refundable fee for online access to the division's geographic information system (GIS). The fee will be \$1,300 per state fiscal year for each public or private entity with one or more professional archaeologists on staff or an individual professional archaeologist who will use the online access.

2. Professional archaeologists at academic institutions and graduate students studying to become a professional archaeologist will not be charged the access fee.

E. Fee Adjustments. Fees may be adjusted in accordance with the division's *Archaeological Code of Louisiana*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1601-1615.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Division of Archaeology, LR 20:411 (April 1994), amended by the Department of Culture, Recreation and Tourism, Office of Cultural Development, Division of Archaeology, LR 43:46 (January 2017).

Phil Boggan
Assistant Secretary

1701#001

RULE

Office of the Governor Board of Pardons and Committee on Parole

Hearings before the Pardon Board and Notification
Requirements to Victims (LAC 22:V.211 and XI.510)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons has amended its rules of LAC 22:V.211 and LAC 22:XI.510. This Rule provides clarification to hearing notification requirements to victims.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part V. Board of Pardons

Chapter 2. Clemency

§211. Hearings before the Pardon Board

A. - B. ...

C. At least 30 days prior to public hearing date, the board shall give written notice of the date, time, and place to the following:

1. the district attorney and sheriff of the parish in which the applicant was convicted and, in Orleans Parish, the superintendent of police;

2. the applicant;

3. the victim or the spouse or next of kin, unless the injured victim's spouse or next of kin of a deceased victim. The notice is not required when the victim, or the spouse or next of kin of a deceased victim advises the board, in writing, that such notification is not desired;

4. the Crime Victims Services Bureau of the Department of Public Safety and Corrections; and

5. any other interested person who notifies the Board of Pardons, in writing, giving name and return address.

D. The district attorney, injured victim, spouse, or next of kin, and any other persons who desire to do so shall be given a reasonable opportunity to attend the hearing. The

district attorney or his representative, victim, victim's family, and a victim advocacy group, may appear before the board of pardons by means of telephone communication from the office of the local district attorney. The victim shall be allowed to present written or oral statement of the victim's views about the offense, the offender, and the effect of the offense on the victim.

E. Only three persons in favor, to include the applicant, and three in opposition, to include the victim/victim's family member, will be allowed to speak at the hearing. Any person making an oral presentation to the board will be allowed no more than 5 minutes. All persons making oral presentations in favor of an applicant shall be allowed cumulatively no more than 10 minutes. All persons making oral presentations against an applicant, including victims, shall be allowed cumulatively no more than 10 minutes. The chairman may extend the time limitations for oral presentations at his or her discretion. However, there is no limit on written correspondence in favor of and/or opposition to the applicant's request.

F. If an applicant is released from custody and/or supervision prior to public hearing date, the case will be closed without notice to the applicant. Applicant may reapply two years from the date of release.

G. Applicant's failure to attend and/or notify the board of pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise of inability to attend may reapply in five years if it is his/her initial hearing, and every five years thereafter.

H. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2256 (August 2013), amended LR 42:1088 (July 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:46 (January 2017).

Part XI. Committee on Parole

Chapter 5. Meetings and Hearings of the Committee on Parole

§510. Victims

A. Before a parole panel considers parole release for an offender who is serving a sentence of an offense in which a person was a victim, the direct victim of the offense shall be allowed to present written or oral testimony of the victim's views about the offense, the offender, and the effect of the offense on the victim. The parole panel shall allow one person to appear in person before the panel on behalf of the victim. Nothing in this Section is intended to limit the panel's discretion to allow individual victims to make personal appearance or to make contact by phone through the local district attorney's victim advocacy representative. There is no limit on written correspondence in favor of and/or opposition to an offender's consideration for parole.

B. The victim, spouse, or next of kin of a deceased victim shall be advised in writing no less than 30 days prior to the hearing date when the offender is scheduled for a parole hearing.

1. *Victim*—an individual against whom a crime has been perpetrated.

C. The notice shall advise the victim, spouse, or next of kin of a deceased victim that:

1. the hearing is open to the public;

2. he or she may remain in the hearing room during the entire hearing (except during executive session); and

3. he or she may speak to the panel prior to its making a decision in the case.

D. The Committee on Parole has delegated the responsibility for this notice to the Department of Public Safety and Corrections.

E. The written notice is not required when the victim, the spouse, or next of kin of a deceased victim, advises the committee in writing that such notification is not desired.

F. Notification is not required when the victim cannot be located despite the exercise of due diligence.

G. Pursuant to R.S. 15:574.2(C)(12) the panel may exclude anyone from the hearing to protect the privacy of the victim or victims.

H. The victim, the guardian of the victim, or close relative of a deceased victim shall have the right to make a written or oral statement as to the impact of the crime.

I. The victim, the guardian of the victim, or close relative of a deceased victim or a victim's advocacy group, and the district attorney or his representative may also appear before the panel by means of telephone communication from the office of the local district attorney.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2263 (August 2013), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:47 (January 2017).

Sheryl M. Ranatza
Board Chair

1701#048

RULE

Office of the Governor Division of Administration Office of State Lands

Granting of Rights-of-Way to Corporations or Individuals
(LAC 43:XXVII.2701)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 41:1173, the Office of State Lands has amended Chapter 27 to increase the fees associated with pipeline rights-of-way. The Office of State Lands previously charged \$25, \$35, and \$45 for the three classes of pipeline that traverse state property. The Office of State Lands has double these rates, bringing Louisiana's rates closer to those of neighboring states.

Title 43
NATURAL RESOURCES
Part XXVII. State Lands

Subpart 2. Use and Management of State Lands

Chapter 27. Rights-of-Way

§2701. Granting Rights-of-Way to Corporations or Individuals

A. - L. ...

M. Fees for permits shall be as follows:

1. class 1: pipe 2 inches up to 19 inches outside diameter with a minimum of 75 feet right-of-way during construction to revert to 35 after construction is completed with the additional right of ingress and egress for the purpose of maintenance, repairs, removal or modification—\$50 per rod;

2. class 2: pipe 19 inches up to 36 inches outside diameter with a maximum of 100 feet right-of-way during construction to revert to 50 feet after construction is completed with the additional right of ingress and egress for the purpose of maintenance, repairs, removal or modification—\$70 per rod;

3. class 3: pipe over 36 inches outside diameter with a maximum of 200 feet right-of-way during construction to revert to 60 feet after construction is completed with the additional rights of ingress and egress for the purpose of maintenance, repairs, removal or modification—\$90 per rod;

M.4. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1173.

HISTORICAL NOTE: Adopted by the State Land Office, LR 1:147 (February 1975), amended by the Department of Natural Resources, Office of the Secretary, LR 3:314 (July 1977), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19:493 (April 1993), amended by the Office of the Governor, Division of Administration, Office of State Lands, LR 43:48 (January 2017).

Mark Gates
Assistant Director

1701#039

RULE

Department of Health
Board of Dentistry

Advertising and Soliciting by Dentists and Complaints and Investigation (LAC 46:XXXIII.701 and 1509)

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), the Department of Health, Board of Dentistry has amended LAC 46:XXXIII.701 and 1509.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XXXIII. Dental Health Profession

Chapter 7. Dental Hygienists

§701. Authorized Duties

A. ...

B. A person licensed to practice dentistry in the state of Louisiana may delegate to any dental hygienist any chairside dental act which said dentist deems reasonable, using sound

professional judgment. Such act must be performed properly and safely on the patient. Furthermore, the act must be under the direct on-premises supervision of the treating dentist. A dentist may not delegate to a dental hygienist:

B.1. - G.2. ...

3. No duly licensed and registered dentist in a private practice shall supervise a dental hygienist for more than five consecutive business days or for more than 20 total days in any calendar year. These limits do not apply to a hygienist working at a school or public institution.

4. - 6. ...

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 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998), LR 27:1892 (November 2001), LR 32:2056 (November 2006), LR 37:590 (February 2011), LR 37:1406 (May 2011), amended by the Department of Health, Board of Dentistry, LR 43:48 (January 2017).

Chapter 15. Anesthesia/Analgesia Administration
§1509. Third-Party Sedation/Anesthesia

A. ...

B. In order to utilize a third-party to administer sedation and/or anesthesia as described in Subsection A, a dentist must obtain an office permit for each office location at which a third-party anesthetist will be administering sedation or anesthesia, subject to the exceptions in R.S. 37:793(H). This permit will only be issued after an office inspection by the board to assure that the office meets the minimum requirements for facilities, personnel and equipment for sedation/anesthesia procedures. Additionally, the dentist who is performing the dental work but not performing the sedation/general anesthesia must have current certification in advanced cardiac life support (ACLS) as described in §1503.E and, if children are to be sedated, must also have current certification in pediatric life support (PALS) as described in §1504.A.4. If a dentist's practice is restricted to treating only children, the certification in pediatric life support (PALS) described in §1504.A.4 will suffice as a substitute for ACLS.

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 42:54 (January 2016), amended by the Department of Health, Board of Dentistry, LR 43:48 (January 2017).

Arthur F. Hickham, Jr.
Executive Director

1701#077

RULE

Department of Health
Board of Drug and Device Distributors

General Provisions, Requirements, Qualifications,
Recordkeeping, Fees, Wholesale Distributors,
and Third-Party Logistics Providers
(LAC 46:XCI.301)

Editor's Note: This Rule is being repromulgated to correct citation error's. The original Rule can be viewed in the

The Louisiana Board of Drug and Device Distributors has amended LAC 46:XCI.103, 105, 301, 303, 305, 307, 311, 315, and 801, and adopted Chapter 13 and Chapter 15 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 37:3467 et seq. of the Louisiana Drug and Device Distributors Act. This Rule will support the board's ability to license entities and regulate the distribution of legend drugs and legend devices into and within the state of Louisiana in its effort to safeguard the life and health of its citizens and promote the public welfare. The Rule is herein set forth.

Title 46

PROFESSIONAL AND OCCUPATION STANDARDS

Part XCI. Drug and Device Distributors

Chapter 3. Drug and Device Distributors

§301. Licensing, Renewal and Reinstatement Requirements

A. The board shall issue sub-types for distributors of legend drug and legend device licenses as follows:

1. standard distributors;
2. wholesale distributors; and
3. third-party logistics provider distributors.

B. Every drug or device distributor shall submit an initial application for a new license on a form furnished by the board and accompanied by the initial license fee.

1. The board shall require a separate license for each facility or physical location directly or indirectly owned or operated by the same business entity or for a parent entity with divisions, subdivisions, subsidiaries, and/or affiliate companies when operations are conducted at more than one location and there exists joint ownership and control among all the entities.

2. Parent entity must license all divisions, subdivisions, subsidiaries, and/or affiliate companies owned by the parent company that sell and/or ship legend drugs or devices in or into Louisiana.

C. All new licenses issued by the board shall expire on December 31 of the calendar year issued.

D. A license shall be renewed annually by timely submitting an application and the license renewal fee.

E. Each application for the renewal of the license must be made between October 1 and December 31 of each year on a paper or electronic form provided by the board.

1. If a license is not renewed on or before the expiration date, a person may apply for reinstatement of the expired license within one year by submitting an application, the license renewal fee, and the license reinstatement fee.

2. If a license is expired beyond one year, a person may apply for reinstatement of the expired license by submitting an application, the initial license fee, the license reinstatement fee, and if applicable, the initial inspection fee.

3. A person may not lawfully operate as a drug or device distributor in Louisiana until the expired license has been reinstated.

F. Licenses renewed annually between October 1 and December 31 shall expire on December 31 of the following calendar year.

G. Each license issued hereunder shall be displayed by the licensee in a conspicuous place at the licensed facility or physical location.

H. Out-of-state drug or device distributors licensed by the board must have on file at all times with the board a current copy of a valid certificate of registration or license for drug or device distribution as issued by the appropriate regulatory board or agency of the state in which the facility or physical location licensed with the board is located or registration or license as issued by the appropriate federal agency when applicable.

1. If the state in which the facility licensed with the board is located does not require the facility to be registered or licensed as a drug or device distributor and the facility or physical location is registered or licensed in the state in which it is located as a manufacturer of drugs or devices, a current copy of the valid manufacturer registration or license must be submitted to and maintained with the board.

2. If the state in which the facility or physical location licensed with the board is located does not require the facility or physical location to be registered or licensed as a drug or device distributor and/or the facility or physical location is not a registered/licensed manufacturing facility and the state in which the facility or physical location is located does not require any registration or licensure of the facility or physical location, a letter from the appropriate state regulatory board or agency must be submitted to the board confirming such fact.

a. If the state in which the facility or physical location is located does not require any registration or licensure for distribution or manufacturing but a federal agency does require and issues registration or licensure to the facility or physical location licensed by this board, a copy of the federal registration or license must be submitted.

3. If the facility or physical location licensed with the board does not physically distribute and/or manufacture the drugs or devices that it owns or holds title to and/or the facility or physical location licensed with the board contracts with a third-party logistics provider for distribution of the drugs or devices and the state in which the facility or physical location licensed by the board is located does not require any registration or licensure of the facility or physical location, a letter from the appropriate state regulatory board or agency confirming this fact and a current copy of the valid registration or license from the state in which the third-party logistics provider facility is located must be submitted to the board.

a. if the state in which the third-party logistics provider facility or physical location is located does not require any registration or licensure for third-party logistics providers but a federal agency does require and issues registration or licensure to the third-party logistics provider facility or physical location licensed by this board, a copy of the federal registration or license must be submitted.

I. An initial application for a new license is valid for 180 days after receipt by the board and must be completed within this time frame.

1. If the application is not completed, the application becomes void and any application fee(s) paid is forfeited by the applicant and is non-refundable.

2. After the 180 days have expired, a new application for a license will be required to be submitted by the applicant to include payment of another license application fee.

J. Requests for voluntary cancellation of a license made by a licensee must be made in writing and must include information such as, but not limited to, the date the request is effective and the reason for the voluntary cancellation of the license.

1. If the request for voluntary cancellation is made before the license has expired, the original unexpired license certificate must be returned to the board and no refund of any portion of the license fee(s) paid will be made by the board.

K. If a licensed in-state drug or device distributor has an additional off-site storage facility, the off-site storage facility may operate under the current drug or device distribution license held by the licensee as long as the off-site storage facility is in compliance with §309.A.1 of this Part and has temperature monitoring and an alarm system and the off-site storage facility does not physically receive or distribute legend drugs or devices from its location.

L. A license shall not be issued by the board for any drug or device distributor to operate from or out of a dwelling, building, or property zoned as residential.

M. A license issued to a drug or device distributor will be revoked after 180 days from the date of issuance if an inspection and disciplinary hearing reveal a lack of legitimate business activity as per recordkeeping requirements of §311.B of this Part or a violation of any provisions of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003), LR 32:396 (March 2006), LR 34:875 (May 2008), LR 35:1538 (August 2009), LR 36:322 (February 2010), LR 39:2758 (October 2013), amended by the Department of Health, Board of Drug and Device Distributors LR 42:2183 (December 2016), repromulgated LR 43:49 (January 2017).

George Lovecchio
Executive Director

1701#019

RULE

Department of Health Board of Pharmacy

Pharmacist-in-Charge of Nonresident Pharmacy (LAC 46:LIII.2307)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended Chapter 23, Nonresident Pharmacy, of its rules. In particular, the board has amended §2307 relative to the requirements for the pharmacist-in-charge of a nonresident pharmacy. In addition, the board made technical changes in the Chapter title and Section headings to change “out-of-state” to “nonresident.”

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 23. Nonresident Pharmacy

§2307. Pharmacist-in-Charge

A. The opportunity to accept an appointment as the pharmacist-in-charge (PIC) of a pharmacy is a professional privilege. The following requirements are attached to a PIC privilege.

1. The acquisition of the PIC privilege shall require:

a. possession of an active Louisiana pharmacist license;

b. possession of an active license in the state in which the pharmacy is located, and further, said license shall not have any restrictions which prohibit the position of pharmacist-in-charge;

c. active practice as a pharmacist for a minimum of two years under the jurisdiction of any board of pharmacy in the United States; and

d. the completion of the affidavit of responsibility and duties described in Subsection J of this Section.

2. The PIC shall be present and practicing at the pharmacy for which he holds the PIC position no less than 20 hours per week during the pharmacy’s ordinary course of business. In the event the pharmacy’s normal hours of business are less than 20 hours per week, the PIC shall be present and practicing at least 50 percent of the normal business hours.

B. An initial and renewal pharmacy permit application shall designate and identify the licensed pharmacist-in-charge.

C. - J. ...

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 18:1381 (December 1992), effective January 1, 1993, LR 29:2100 (October 2003), effective January 1, 2004, LR 33:1133 (June 2007), amended by the Department of Health, Board of Pharmacy, LR 43:50 (January 2017).

Malcolm J. Broussard
Executive Director

1701#008

RULE

Department of Health Bureau of Health Services Financing

Forensic Supervised Transitional Residential and Aftercare Facilities Licensing Standards (LAC 48:I.Chapter 72)

The Department of Health, Bureau of Health Services Financing has repealed and replaced LAC 48:I.Chapter 72 in the Medical Assistance Program as authorized by R.S.

36:254 and R.S. 28:31-28:37. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

Chapter 72. Forensic Supervised Transitional Residential and Aftercare Facilities Licensing Standards

Subchapter A. General Provisions

§7201. Introduction

A. These rules and regulations contain the minimum licensure standards for forensic supervised transitional residential and aftercare (FSTRA) facilities, pursuant to R.S. 28:31-28:37. These licensing regulations contain core requirements as well as module specific requirements, depending upon the services provided by the forensic supervised transitional residential and aftercare facility. The modules to be licensed under a FSTRA license are:

1. secure community supervised transitional/residential facility; and
2. secure forensic facility.

B. A forensic supervised transitional residential and aftercare facility serves clients referred by state forensic hospitals or state forensic inpatient psychiatric units operated by the Department of Health, including persons who are court ordered and persons who are on court ordered conditional release status. A FSTRA facility shall operate 7 days per week, 24 hours a day.

C. The care and services to be provided through arrangement or by the facility shall include, but are not limited to, the following:

1. behavioral health services;
2. nutritional services;
3. medication management;
4. assistance with independent living skills;
5. recreational services; and
6. transportation services.

D. Key administrative personnel shall include the administrator, physician/psychiatrist and the registered nurse supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:51 (January 2017).

§7203. Definitions

Activities of Daily Living (ADLs)—the functions or tasks which are performed by an individual in a typical day, either independently or with supervision/assistance. Activities of daily living may include, but are not limited to, bathing, dressing, eating, grooming, walking, transferring and/or toileting.

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

Assistance with Activities of Daily Living—services that provide assistance with activities of daily living. Such assistance may be the actual performance of the task for the

individual, or may provide hands-on assist with the performance of the tasks, or may be supervision and prompting to allow the individual to self-perform such tasks.

Behavior Management—techniques, measures, interventions and procedures applied in a systematic fashion to promote positive behavioral or functional change which fosters the client's self-control, and to prevent or interrupt a client's behavior which threatens harm to the client or others.

Cessation of Business—FSTRA is non-operational and/or has stopped offering or providing services to the community.

Department—the Louisiana Department of Health (LDH).

Division of Administrative Law (DAL)—the administrative law tribunal authorized by law to hear and decide the administrative appeals for the department.

Forensic Clients—persons transitioned from a forensic facility established pursuant to R.S. 28:25.1(A) or (B).

Forensic Psychiatrist—a physician, currently licensed to practice medicine in Louisiana, who:

1. signs the order admitting the individual to the FSTRA facility;
2. maintains overall responsibility for the client's medical management; and
3. is readily available for consultation and collaboration with the FSTRA facility staff.

Forensic Supervised Transitional Residential and Aftercare Facility—a facility that provides supervised transitional residential and aftercare services to forensic clients, including persons who are court ordered or who are on court ordered conditional release status. A forensic supervised transitional residential and aftercare facility shall provide clients, referred by state operated forensic facilities/hospitals and under court order or court ordered forensic conditional release, with individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Health Standards Section (HSS)—the licensing and certification section of the Louisiana Department of Health.

Instrumental Activities of Daily Living (IADLs)—the functions or tasks that are not necessary for fundamental functioning but assist an individual to be able to live in a community setting. These are activities such as light house-keeping, food preparation and storage, grocery shopping, laundry, reminders to take medication, scheduling medical appointments, arranging transportation to medical appointments and accompanying the client to medical appointments.

Licensee—the person, partnership, company, corporation, association, organization, professional entity or other entity to whom a license is granted by the licensing agency and upon whom rests the ultimate responsibility and authority for the conduct of and services provided by the FSTRA facility.

Non-Operational—the FSTRA facility is not open for continuous business operation 24 hours a day, 7 days per week as stated on the licensing application and business location signage.

Secure Community Supervised Transitional/Residential Facility—a secure residential facility within the community that provides individualized services to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or

state forensic psychiatric unit. These services enable such persons to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Secure Forensic Facility—a secure residential facility located on the grounds of a state owned/operated hospital that provides individualized services, including personal care services and medication administration, to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services prepare such persons for transition to a less restrictive environment before transitioning to the community.

Therapeutic—process of intervention, in accordance with the treatment plan, that has the desirable effect of modifying or redirecting a client's behavior and/or emotional state in a positive or beneficial manner.

Treatment Plan—a comprehensive plan developed by the facility for each client that includes the services each client needs. It shall include the provision of medical/psychiatric, nursing and psychosocial services.

Unit—an integral, separate, segregated living space utilized only by either male, or by female clients, and who reside in that space of the licensed facility. Living spaces include the client's sleeping quarters and bathroom facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:51 (January 2017).

§7205. Licensing Requirements

A. Any person or entity applying for a FSTRA license shall meet all of the core licensing requirements contained in this Subchapter as well as module specific requirements, unless otherwise specifically noted herein.

B. All facilities providing forensic supervised transitional residential and aftercare services shall be licensed by the department. A FSTRA facility shall not be established, opened, operated, managed, maintained or conducted in this state without a license issued by the Department of Health. Each facility shall be separately licensed.

C. The Department of Health is the only licensing authority for FSTRA facilities in the state of Louisiana. It shall be unlawful to operate a FSTRA facility without possessing a current, valid license issued by the department.

D. Each FSTRA license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the facility to which it is issued and only for the specific geographic address of that facility;
3. be valid for one year from the date of issuance, unless revoked, suspended or modified prior to that date, or unless a provisional license is issued;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the facility;
5. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

E. In order for the FSTRA facility to be considered operational and retain licensed status, the facility shall meet the following conditions.

1. When clients are present, the facility shall provide 24 hours a day, 7 days per week supervision and the care and services sufficient to meet the needs of the clients, including but not limited to:

- a. at least three direct care staff persons during the day and two awake staff during the night;
- b. at least two direct care staff persons in each building and/or unit; and
- c. a functional security system on all points of ingress and egress with 24-hour, 7 days per week continuous monitoring by awake staff.

2. There shall be staff employed and available to be assigned to provide care and services to each client during all operational hours consistent with the behavioral health needs of each client.

3. The facility shall have provided services to at least two clients in the preceding 12-month period in order to be eligible to renew its license.

F. The licensed FSTRA facility shall abide by and adhere to any state law, rules, policy, procedure, manual, or memorandums pertaining to such facilities.

G. A separately licensed FSTRA facility shall not use a name which is substantially the same as the name of another such facility licensed by the department, unless the facility is under common ownership with other FSTRA facilities.

H. No branches, satellite locations or offsite campuses will be authorized for a FSTRA facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:52 (January 2017).

§7207. Initial Licensing Application Process

A. An initial application for licensing as a FSTRA facility shall be obtained from the department. A completed initial license application packet for a facility shall be submitted to and approved by the department prior to an applicant providing services. An applicant shall submit a completed initial licensing packet to the department, which shall include:

1. a completed facility licensure application and the non-refundable licensing fee as established by statute;
2. a copy of the approval letter of the architectural facility plans from the Office of the State Fire Marshal and any other office/entity designated by the department to review and approve the facility's architectural plans;
3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;
4. a copy of the health inspection report with approval of occupancy from the Office of Public Health;
5. a copy of the statewide criminal background checks on the following persons:
 - a. all individual owners with a 5 percent or more ownership interest in the FSTRA facility entity;
 - b. facility administrators; and
 - c. members of the facility's board of directors, if applicable;
6. proof of financial viability, comprised of the following:
 - a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000;

i. any state agency operating a FSTRA facility, or any entity operating a facility pursuant to a cooperative endeavor agreement (CEA) with a state agency, shall be exempted from the line of credit requirement;

b. general and professional liability insurance of at least \$300,000; and

c. worker's compensation insurance;

7. if applicable, clinical laboratory improvement amendments (CLIA) certificate or CLIA certificate of waiver;

8. a letter-sized floor sketch or drawing of the premises to be licensed; and

9. any other documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete when submitted, the applicant will be notified of the missing information and will have 90 days from receipt of the notification to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a facility shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application packet has been approved by the department, notification of such approval shall be forwarded to the applicant. Within 90 days of receipt of the approval of the application, the applicant shall notify the department that the facility is ready and is requesting an initial licensing survey. If an applicant fails to notify the department within 90 days, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a licensed facility shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. When issued, the initial forensic supervised transitional residential and aftercare facility license shall specify the capacity of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:52 (January 2017).

§7209. Types of Licenses

A. The department shall have the authority to issue the following types of licenses.

1. Full Initial License. The department shall issue a full license to the facility when the initial licensing survey finds that the facility is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, or suspended.

2. Provisional Initial License. The department shall issue a provisional initial license to the facility when the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the individuals receiving services. The provisional license shall be valid for a period not to exceed six months.

3. Full Renewal License. The department shall issue a full renewal license to an existing licensed facility which is in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, or suspended.

B. The department, in its sole discretion, may issue a provisional license to an existing licensed facility for a period not to exceed six months for the following reasons.

1. The existing facility has more than five deficient practices or deficiencies cited during any one survey.

2. The existing facility has more than three validated complaints in one licensed year period.

3. The existing facility has been issued a deficiency that involved placing a client at risk for serious harm or death.

4. The existing facility has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey.

5. The existing facility is not in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

C. When the department issues a provisional license to an existing licensed facility, the department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license, and shall issue written notice of the results of the follow-up survey.

1. If the on-site follow-up survey determines that the facility has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the facility license.

2. If the on-site follow-up survey determines that the facility has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee, if no timely informal reconsideration or administrative appeal of the deficiencies cited is filed pursuant to this Chapter.

a. At the sole discretion of the department, the provisional license may be extended for a period, not to exceed 90 days, in order for the facility to correct the noncompliance or deficiencies.

D. When the department issues a provisional license as a result of the initial licensing survey, the facility shall submit a plan of correction to the department for approval, and shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license and shall issue written notice to the facility of the results of the follow-up survey.

1. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, a full license will be issued.

2. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license

shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee and any applicable facility need review approval for licensure.

a. At the sole discretion of the department, the provisional license may be extended for an additional period, not to exceed 90 days, in order for the facility to correct the noncompliance or deficiencies.

E. The license for a facility shall be valid for one year from the date of issuance, unless revoked, suspended or modified prior to that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:53 (January 2017).

§7211. Licensing Surveys

A. Prior to the initial license being issued to the facility, an initial licensing survey shall be conducted on-site at the facility to assure compliance with licensing standards. The facility shall not provide services until the initial licensing survey has been performed and the facility found in compliance with the licensing standards. The initial licensing survey shall be an announced survey.

B. In the event that the initial licensing survey finds that the facility is compliant with all licensing laws, regulations and other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the facility.

C. In the event that the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations, or any other required statutes, laws, ordinances, rules or regulations, that present a potential threat to the health, safety, or welfare of clients, the department shall deny the initial license.

D. Once an initial license has been issued, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards and regulations, as well as other required statutes, laws, ordinances, rules, regulations, and fees. These surveys shall be unannounced.

E. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

1. An acceptable plan of correction may be required from a facility for any survey where deficiencies have been cited.

2. If deficiencies have been cited, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

- a. civil monetary penalties;
- b. directed plans of correction;
- c. license revocations; and
- d. denial of license renewal.

F. LDH surveyors and staff shall be:

1. given access to all areas of the facility and all relevant files during any licensing or other survey; and
2. allowed to interview any facility staff, or client as necessary to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:54 (January 2017).

§7213. Changes in Licensee Information or Personnel

A. A facility license shall be valid only for the person or entity named in the license application and only for the specific geographic address listed on the license application.

B. Any change regarding the facility name, “doing business as” name, mailing address, phone number, or any combination thereof, shall be reported in writing to the department within five days of the occurrence. Any change regarding the facility name or “doing business as” name requires a change to the facility license and the required fee for the reissuance of an amended license.

C. Any change regarding the facility’s key administrative personnel shall be reported in writing to the department within five days of the change.

1. Key administrative personnel include the administrator, physician/psychiatrist and the registered nurse supervisor.

2. The facility’s notice to the department shall include the individual’s:

- a. name;
- b. facility address;
- c. hire date; and
- d. qualifications.

D. A change of ownership (CHOW) of the facility shall be reported in writing to the department within five days of the change of ownership.

1. The license of a facility is not transferable or assignable. The license of a facility cannot be sold.

2. In the event of a CHOW, the new owner shall submit the legal CHOW document, all documents required for a new license, and the applicable licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

3. A facility that is under license suspension, revocation, denial of license renewal or provisional licensure shall not undergo a CHOW.

E. Any request for a duplicate license shall be accompanied by the required fee.

F. A facility that intends to change the physical address of its geographic location is required to have plan review approval, Office of State Fire Marshall approval, Office of Public Health approval, compliance with other applicable licensing requirements, and an on-site licensing survey prior to the facility relocation.

1. Written notice of intent to relocate shall be submitted to the licensing section of the department when plan review request is submitted to the department for approval.

2. The relocation of the facility’s physical address results in a new anniversary date and the full licensing fee shall be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:54 (January 2017).

§7215. Renewal of License

A. License Renewal Application. The facility shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. the license renewal application;
2. a copy of the current on-site inspection with approval for occupancy from the Office of the State Fire Marshal;
3. a copy of the current on-site inspection report with approval of occupancy from the Office of Public Health;
4. proof of financial viability, comprised of the following:
 - a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000; any state agency operating a FSTRA facility, or any entity operating a FSTRA facility pursuant to a CEA with a state entity, shall be exempt from the line of credit requirement;
 - b. general and professional liability insurance of at least \$300,000; and
 - c. worker's compensation insurance;
5. the license renewal fee; and
6. any other documentation required by the department.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the FSTRA license.

D. The renewal of a license or the denial of a renewal application does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:55 (January 2017).

§7217. Denial of License, Revocation of License, Denial of License Renewal

A. In accordance with the provisions of the Administrative Procedure Act, the department may:

1. deny an application for a license;
2. deny a license renewal; or
3. revoke a license.

B. Denial of an Initial License

1. The department shall deny an initial license when the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations or with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the clients who will be served by the facility.

2. The department may deny an initial license for any of the reasons in this Chapter that a license may be revoked or denied renewal.

C. Voluntary Non-Renewal of a License

1. If a facility fails to timely renew its license, the license expires on its face and is considered voluntarily

surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the facility.

2. If a facility fails to timely renew its license, the facility shall immediately cease and desist providing services, unless the facility is actively treating clients, in which case the facility shall comply with the following:

- a. immediately provide written notice to the department of the number of clients receiving treatment at the facility;
- b. immediately provide written notice to the prescribing physician and to the client or legal representative of the following:
 - i. notice of voluntary non-renewal;
 - ii. notice of closure; and
 - iii. plans for orderly transition of the client(s);
- c. discharge and transition of each client within 15 days of voluntary non-renewal; and
- d. notify the department of the location where records will be stored and the contact person for the records.

3. If a facility fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning a FSTRA facility for a period of two years.

D. Revocation of License or Denial of License Renewal. A facility license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the FSTRA facility licensing laws, rules and regulations or with other required statutes, laws, ordinances, rules or regulations;

2. failure to comply with the terms and provisions of a settlement agreement or education letter with or from the department, the Attorney General's office, any regulatory agency or any law enforcement agency;

3. failure to uphold clients' rights whereby deficient practices result in harm, injury, or death of a client;

4. negligent failure to protect a client from a harmful act of an employee or other client including, but not limited to:

- a. mental or physical abuse, neglect, exploitation, or extortion;
- b. any action posing a threat to a client's health and safety;
- c. coercion;
- d. threat or intimidation;
- e. harassment; or
- f. criminal activity;

5. failure to notify the proper authorities, as required by federal or state law, rules or regulations, of all suspected cases of:

- a. mental or physical abuse, neglect, exploitation, or extortion;
- b. any action posing a threat to a client's health and safety;
- c. coercion;
- d. threat or intimidation;
- e. harassment; or
- f. criminal activity;

6. knowingly making a false statement in any of the following areas, including but not limited to:

- a. application for initial license or renewal of license;
- b. data forms;
- c. clinical records, client records or facility records;
- d. matters under investigation by the department or the Office of the Attorney General; or
- e. information submitted for reimbursement from any payment source;

7. knowingly making a false statement or providing false, forged, or altered information or documentation to department employees or to law enforcement agencies;

8. the use of false, fraudulent or misleading advertising;

9. fraudulent operation of a facility by the owner, administrator, manager, member, officer or director;

10. an owner, officer, member, manager, administrator, director or person designated to manage or supervise client care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court. For purposes of these provisions, conviction of a felony includes a felony relating to any of the following:

- a. violence, abuse, or negligence of a person;
- b. misappropriation of property belonging to another person;
- c. cruelty, exploitation, or sexual battery of a person with disabilities;
- d. a drug offense;
- e. crimes of sexual nature;
- f. a firearm or deadly weapon;
- g. fraud or misappropriation of federal or state funds, including Medicare or Medicaid funds;

11. failure to comply with all reporting requirements in a timely manner as required by the department;

12. failure to allow or refusal to allow the department to conduct an investigation or survey, or to interview provider staff or clients;

13. failure to allow or refusal to allow access to facility or client records by authorized departmental personnel; or

14. failure to maintain all required elements of the proof of financial viability without interruption.

E. If an existing facility has been issued a notice of license revocation or suspension and the facility's license is due for annual renewal, the department shall deny the license renewal. The denial of the license renewal does not affect in any manner the license revocation.

F. If a facility license is revoked or renewal is denied, any owner, officer, member, director, manager or administrator of such facility may be prohibited from opening, managing, directing, operating or owning another FSTRA facility for a period of two years from the date of the final disposition of the revocation or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:55 (January 2017).

§7219. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal

A. Notice of a license denial, license revocation or denial of license renewal shall be given to the provider in writing.

B. A facility has a right to an informal reconsideration of the license denial, license revocation or denial of license

renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the facility.

1. The facility shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation or denial of license renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

2. The request for informal reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an informal reconsideration is received by the Health Standards Section, an informal reconsideration shall be scheduled and the facility will receive written notification of the date of the informal reconsideration.

4. The facility shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the denial, revocation or denial of license renewal shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process.

7. The facility will be notified in writing of the results of the informal reconsideration.

C. A facility has a right to an administrative appeal of the license denial, license revocation, or denial of license renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the facility.

1. The facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the results of the informal reconsideration of the license denial, license revocation, or denial of license renewal. The facility may forego its rights to an informal reconsideration, and if so, the facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the license denial, license revocation, or denial of license renewal. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law (DAL).

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the DAL, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the facility shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the facility pose an imminent or immediate threat to the health, welfare, or safety of a client, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. The facility shall be notified of this determination in writing.

4. Correction of a violation or a deficiency which is the basis for the denial, revocation or denial of license renewal shall not be a basis for the administrative appeal.

D. If a timely administrative appeal has been filed by the facility on a license denial, denial of license renewal or license revocation, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

1. If the final agency decision is to reverse the license denial, the denial of license renewal or the license revocation, the facility's license will be re-instated or granted upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to affirm the denial of license renewal or the license revocation, the facility shall discharge any and all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where its records will be stored.

E. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional license to a new facility. A facility that has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license to an existing facility is not considered to be a denial of license, a denial of license renewal, or a license revocation.

F. A facility with a provisional initial license or an existing facility with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an informal reconsideration and the right to an administrative appeal regarding the deficiencies cited at the follow-up survey.

1. The facility has five calendar days from the receipt of the department's notice of the results of the follow-up survey to submit a written request for informal reconsideration of the follow-up survey findings.

2. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

3. The correction of a violation, noncompliance, or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

4. The facility has 15 calendar days from the receipt of the department's notice of the results of the follow-up survey to submit a written request for an administrative appeal.

G. A facility with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge clients unless the DAL issues a stay of the expiration.

1. A stay may be granted by the DAL upon application by the provider at the time the administrative appeal is filed and only:

- a. after a contradictory hearing; and
- b. upon a showing that there is no potential harm to the clients being served by the facility.

H. If a timely administrative appeal has been filed by a facility with a provisional license that has expired under the provisions of this Chapter, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

1. If the final agency decision is to remove all deficiencies, the facility's license will be reinstated upon the

payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to uphold the deficiencies and affirm the expiration of the provisional license, the facility shall discharge all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:56 (January 2017).

§7221. Complaint Surveys

A. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13 et seq.

B. Complaint surveys shall be unannounced surveys.

C. A follow-up survey may be conducted for any complaint survey where deficiencies have been cited to ensure correction of the deficient practices. If the department determines that other action, such as license revocation, is appropriate, a follow-up survey may not be required. The facility will be notified of any action.

D. The department may issue appropriate sanctions, including but not limited to, civil monetary penalties, directed plans of correction, and license revocations for deficiencies and non-compliance with any complaint survey.

E. LDH surveyors and staff shall be given access to all areas of the facility and all relevant files during any complaint survey. LDH surveyors and staff shall be allowed to interview any facility staff, client, or participant, as necessary or required to conduct the survey.

F. A facility which has been cited with violations or deficiencies on a complaint survey has the right to request an informal reconsideration of the validity of the violations or deficiencies. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 10 calendar days of the facility's receipt of the notice of the violations or deficiencies.

G. A complainant shall have the right to request an informal reconsideration of the findings of the complaint survey or investigation. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 30 calendar days of the complainant's receipt of the results of the complaint survey or investigation.

H. An informal reconsideration for a complaint survey or investigation shall be conducted by the department as an administrative review. The facility or complainant shall submit all documentation or information for review for the informal reconsideration, and the department shall consider all documentation or information submitted. There is no right to appear in person at the informal reconsideration of a complaint survey or investigation. The facility's correction of the violation or deficiency shall not be the basis for the reconsideration. The facility and/or the complainant shall be notified in writing of the results of the informal reconsideration.

I. Except as provided pursuant to R.S. 40:2009.13 et seq., the informal reconsideration shall constitute final action by the department regarding the complaint survey or investigation, and there shall be no right to an administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:57 (January 2017).

§7223. Statement of Deficiencies

A. The following statements of deficiencies issued by the department to a facility shall be posted in a conspicuous place on the licensed premises:

1. the most recent annual survey statement of deficiencies; and
2. any subsequent complaint survey statement of deficiencies.

B. Any statement of deficiencies issued by the department to a facility shall be available for disclosure to the public 30 calendar days after the facility submits an acceptable plan of correction of the deficiencies or 90 calendar days after the statement of deficiencies is issued to the facility, whichever occurs first.

C. Unless otherwise provided in statute or in this Chapter, a facility shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the deficient practice, of the violation, or of the noncompliance shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be submitted in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided for in these provisions.

3. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11 et seq., and as provided in this Chapter for license denials, revocations, and denial of license renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. The facility shall be notified in writing of the results of the informal reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:58 (January 2017).

§7225. Cessation of Business

A. A cessation of business or closure is deemed to be effective the date on which the facility stops providing services to the community or residents.

1. Except as provided in §7227 and §7228 of this Chapter, a license shall be immediately null and void if a FSTRA ceases to operate.

B. A cessation of business is considered to be a voluntary action on the part of the facility. As such, there is no right to an informal reconsideration and no right to an administrative appeal of a cessation of business or closure.

C. Upon the cessation of business, the facility shall immediately return the original license to the department.

D. A facility that intends to close or cease operations shall comply with the following procedures:

1. give 30 days' advance written notice to the:

- a. department;
- b. forensic psychiatrist; and
- c. ordering court of any conditional release client(s); and

2. provide for an orderly discharge and transition of all clients admitted to the facility.

E. In addition to the 30 days' advance written notice, the facility shall submit a written plan for the disposition of patient medical records for approval by the department. The plan shall include the following:

1. the effective date of the closure;
2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed facility's patients medical records;
3. an appointed custodian(s) who shall provide the following:

a. access to records and copies of records to the patient or authorized representative, upon presentation of proper authorization(s); and

b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and

4. public notice regarding access to records in the newspaper with the largest circulation in close proximity to the closing facility, at least 15 days prior to the effective date of closure.

F. If a facility fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning a FSTRA facility for a period of two years.

G. Once the facility has ceased doing business, the facility shall not provide services until the facility has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:58 (January 2017).

§7227. Temporary Inactivation of a License Due to a Declared Disaster or Emergency

A. A facility licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

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

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

b. the facility intends to resume operation as a FSTRA facility in the same service area;

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

d. includes an attestation that all clients have been properly discharged or transferred to another facility; and

e. provides a list of all clients and to where each client has been discharged or transferred;

2. the facility resumes operating as a FSTRA in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the FSTRA continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the FSTRA continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate a FSTRA license, the department shall issue a notice of inactivation of license to the FSTRA.

C. Upon completion of repairs, renovations, rebuilding or replacement, the FSTRA which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. The FSTRA shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The facility resumes operating as a FSTRA in the same service area within one year.

D. Upon receiving a completed written request to reinstate a FSTRA license, the department shall conduct a licensing survey. If the FSTRA meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the FSTRA license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the FSTRA at the time of the request to inactivate the license.

E. No change of ownership in the FSTRA shall occur until such FSTRA has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as a FSTRA.

F. The provisions of this Section shall not apply to a FSTRA which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the FSTRA license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:58 (January 2017).

§7228. Inactivation of License due to Non-Declared Emergency or Disaster

A. A FSTRA in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the FSTRA shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

a. the FSTRA has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the FSTRA intends to resume operation as a FSTRA in the same service area;

c. the FSTRA attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the FSTRA's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

NOTE: Pursuant to these provisions, an extension of the 30-day deadline for initiation of request may be granted at the discretion of the department.

2. the FSTRA continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

3. the FSTRA continues to submit required documentation and information to the department, including but not limited to cost reports.

B. Upon receiving a completed written request to temporarily inactivate a FSTRA license, the department shall issue a notice of inactivation of license to the FSTRA.

C. Upon the FSTRA's receipt of the department's approval of request to inactivate the FSTRA's license, the FSTRA shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility to OSFM and OPH as required.

D. The FSTRA shall resume operating in the same service area within one year of the approval of renovation/construction plans by OSFM and OPH as required.

1. Exception. If the FSTRA requires an extension of this timeframe due to circumstances beyond the FSTRA's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the FSTRA's active efforts to complete construction or repairs and the reasons for request for extension of the FSTRA's inactive license. Any approvals for extension are at the sole discretion of the department.

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a FSTRA which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the FSTRA shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall

request scheduling of a licensing or physical environment survey; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate a FSTRA license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the FSTRA has met the requirements for licensure including the requirements of this Section.

NOTE: The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the FSTRA at the time of the request to temporarily inactivate the license.

G. No change of ownership of the FSTRA shall occur until such facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a FSTRA.

H. The provisions of this Section shall not apply to a FSTRA which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the FSTRA license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:59 (January 2017).

§7229. Temporary Inactivation of Licensed FSTRA Beds Due to Major Alterations

A. A FSTRA which is undergoing major alterations to its physical plant may request a temporary inactivation of a certain number of licensed beds providing that:

1. The FSTRA submits a written request to the licensing agency of the department seeking temporary inactivation of a certain number of its licensed bed capacity. Such written request shall include the following:

a. that the FSTRA has experienced or will experience a temporary interruption in the provisions of services to its licensed bed capacity as a result of major alterations;

b. an attestation that the renovations are the sole causal factor in the request for temporary inactivation of a certain number of its licensed beds;

c. the anticipated start date of the temporary inactivation of a certain number of licensed beds;

d. the anticipated end date of the temporary inactivation of a certain number of licensed beds; and

e. the number of licensed beds requested to be inactivated temporarily;

2. the FSTRA ensures the health, safety and welfare of each client during the major alterations; and

3. the FSTRA continues to provide, and each client continues to receive, the necessary care and services to attain or maintain the client's highest practicable physical, mental, and psychosocial well-being, in accordance with each client's comprehensive assessment and plan of care.

B. Upon receiving a completed written request for temporary inactivation of a certain number of the licensed bed capacity of a FSTRA, the department shall issue a notice of temporary inactivation of a certain number of the FSTRA's licensed beds.

C. No change of ownership in the FSTRA shall occur until such FSTRA has completed the major alterations and has resumed operating at prior approved licensed bed capacity.

D. Upon completion of the major alterations and receiving a completed written request to reinstate the number of licensed beds of a FSTRA, the department may conduct a physical environment survey. If the FSTRA meets the requirements for licensure and the requirements under this Subsection, the department may issue a notice of reinstatement of the FSTRA's licensed bed capacity.

NOTE: The licensed bed capacity after major alterations are completed shall not exceed the licensed bed capacity of the FSTRA at the time of the request to temporarily inactivate a certain number of its licensed bed capacity prior to renovations.

E. The provisions of this Subsection shall not apply to a FSTRA which has voluntarily surrendered its license and ceased operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:60 (January 2017).

Subchapter B. Administration and Organization

§7231. Governing Body

A. A FSTRA shall have an identifiable governing body with responsibility for, and authority over, the policies and activities of the program/facility.

B. A FSTRA shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;
2. terms of membership;
3. officers of the governing body; and
4. terms of office of officers.

C. When the governing body of a FSTRA is comprised of more than one person, the governing body shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

D. When the governing body is composed of only one person, this person shall assume all responsibilities of the governing body.

E. Responsibilities of a Governing Body. The governing body of a FSTRA shall:

1. ensure the FSTRA's compliance and conformity with the facility's charter or other organizational documents;

2. ensure the FSTRA's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;

3. ensure that the FSTRA is adequately funded and fiscally sound;

4. review and approve the FSTRA's annual budget;

5. designate a person to act as administrator and delegate sufficient authority to this person to manage the facility (a sole owner may be the administrator);

6. formulate and annually review, in consultation with the administrator, written policies concerning the FSTRA's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;

7. annually evaluate the administrator's performance (if a sole owner is not acting as administrator);

8. have the authority to dismiss the administrator (if a sole owner is not acting as administrator);

9. meet with designated representatives of the department whenever required to do so;

10. inform designated representatives of the department prior to initiating any substantial changes in the services provided by the FSTRA; and

11. notify the Health Standards Section in writing at least 30 days prior to any change in ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:60 (January 2017).

§7233. Policy and Procedures

A. The FSTRA shall establish procedures to assure written communication among staff to ensure safety and continuity of services to all clients.

B. Direct care employees shall have access to information concerning clients that is necessary for effective performance of the employee's assigned tasks.

C. Confidentiality and Security of Files. A FSTRA shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released.

D. The FSTRA shall allow designated representatives of the department, in the performance of their mandated duties, to inspect all aspects of the FSTRA's practices which impact clients and to interview any staff member or client relevant or as required for any survey or investigation.

1. The FSTRA shall make any information or records that the facility is required to have and any information reasonably related to assessment of compliance with these requirements available to the department.

2. The client's rights shall not be considered abridged by this requirement.

E. Procedures shall address the following.

1. Confidentiality of Records

a. The FSTRA shall maintain the confidentiality of all clients' records. Employees of the facility shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly, or indirectly, to any unauthorized person.

b. The FSTRA may use material from records for teaching and research purposes, if names are deleted and other identifying information is disguised or deleted.

2. Release of Information

a. A FSTRA shall obtain the client's or legal representative's written, informed permission prior to releasing any information from which the client or his/her family might be identified, except to the department.

b. Identifying information may be given to appropriate authorities in cases of an emergency.

c. The FSTRA shall have a procedure by which representatives or family of clients is given an opportunity to receive information about the individual client in care of the facility.

3. Publicity

a. The FSTRA shall have written policies and procedures regarding the photographing and audio or audiovisual recordings of clients.

b. No client shall be photographed or recorded without the client's prior informed, written consent. Such consent cannot be made a condition for admission into, remaining in, or participating fully in the activities of the facility.

i. Consent agreements shall clearly notify the client of his/her rights under this regulation, shall specify precisely what use is to be made of the photograph or recordings, and are valid for a maximum of one year from the date of execution.

ii. Clients are free to revoke such agreements at any time, either orally or in writing.

c. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the client.

F. Personnel Policies. The FSTRA shall have written personnel policies that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members;

2. written job descriptions for each staff position including volunteers;

3. policies which provide for staff, either contracted or directly employed, to have a criminal background check, prior to offer of employment and, at least, annually thereafter. Such policy shall be defined in the facility's policy and procedures and in accordance with applicable state or federal laws;

4. policies which provide for staff, upon offer of employment, to have a health assessment, as defined in the facility's policy and procedures. Such policies shall apply for any staff, either contracted or directly employed.

a. these policies shall, at a minimum, require that the FSTRA's staff, either contracted or directly employed, have no evidence of active tuberculosis and be retested on a time schedule as mandated by the Office of Public Health. Test results dated within one year prior to the offer of employment are acceptable for initial employment;

5. policies which provide for any FSTRA staff, either contracted or directly employed, who provide transportation of clients, to have a driving history report upon hire and annually thereafter;

6. an employee grievance procedure;

7. abuse reporting procedures that require all employees to report any incidents of neglect, abuse or mistreatment whether that neglect abuse or mistreatment is done by another staff member, a family member, a client, or any other person;

a. these policies shall have, at a minimum, any reporting requirements to the facility administration, and to the department, as applicable; and

8. a written policy to prevent discrimination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:61 (January 2017).

Subchapter C. Admissions, Transfers and Discharges

§7235. Admissions

A. The facility shall have a clear and specific written description of admission policies and procedures. This written description shall include, but is not limited to the following:

1. the application process and the possible reasons for the rejection of an application;
2. types of clients suitable to the facility;
3. services offered and allowed in the facility; and
4. the facility's house rules.

B. Intake Evaluation

1. An intake evaluation shall take place on the first day of admission and shall include the client's:
 - a. demographic data;
 - b. family information; and
 - c. psychiatric and social background.

2. All of the facility's rules and regulations shall be reviewed with the client. A complete clothing inventory shall be completed and the client shall be assigned to a room.

C. Nursing Assessment

1. The licensed nurse shall complete a nursing assessment and review the client's medication(s). The client's medication administration records shall contain a detailed description of the client's:

- a. medication;
- b. dosage(s) of medication;
- c. frequency medications should be taken; and
- d. ability to self-administer medications.

D. Diagnostic Evaluation

1. The diagnostic evaluation shall include examination of the medical, psychosocial, social, behavioral and developmental aspects of the client's situation and reflect the need for services from a FSTRA.

2. Each medical evaluation shall include:

- a. diagnoses;
- b. summary of medical findings;
- c. medical history;
- d. mental and physical functional capacity;
- e. prognosis; and
- f. physician's recommendations.

E. An individualized plan of care for each client shall be developed upon admission and shall be revised to include recommended changes in the therapeutic plan. The plan to be followed in the event of emergency situations shall be specified in the plan of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:61 (January 2017).

§7237. Mandatory Transfers and Discharges

A. The administrator/director shall, in coordination with the client, forensic aftercare facility, Community Forensic Service, and state level forensic coordinator (as appropriate), assist in planning and implementing the mandatory transfer or discharge of the client when:

1. the treatment plan goals and objectives are substantially met and a crisis relapse/prevention plan is developed and support systems are in place that allow the client to reside safely in a less restrictive environment;
2. the client's physician certifies that the client's physical condition necessitates transfer to a medical facility or the client's psychiatric condition necessitates transfer to a higher level of care; or
3. the client's condition is such that he or she is:
 - a. a danger to self or others; or
 - b. is consistently disruptive to the peace and order of the facility, staff services, or other clients.

B. Emergency Discharge. The FSTRA shall immediately report to the Community Forensic Service, probation officer, state level forensic coordinator, and provider(s) of behavioral health services any program violations (i.e. illegal drugs, suspected or confirmed weapon possession or access, gross deterioration of behavior, or non-compliance with medication). The FSTRA in collaboration with the probation officer and community forensic staff, as appropriate, shall be responsible for the relocation of the client to an appropriate secure placement.

C. The facility shall initiate outpatient services for the client upon discharge and provide consultation to the client concerning where to obtain necessary medications, resources and follow-up outpatient behavioral health services.

D. Discharge Records

1. The following discharge information shall be recorded in the client's record:

- a. date of discharge;
- b. destination; and
- c. reason(s) for leaving.

2. Discharge records shall be retained in a secured environment in accordance with the facility's policy and procedure for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:62 (January 2017).

Subchapter D. Participation Requirements

§7241. Assessment, Service Coordination, and Monitoring

A. Once the client is admitted, the facility shall conduct an assessment to determine the needs of the client. The assessment shall be kept in the client's record and shall at a minimum, include:

1. the client's interests, likes and dislikes;
2. review of physical health, psycho-social status, and cognitive status and the determination of services necessary to meet those needs;
3. a summary of the client's health needs, if any, including medication(s), treatment and special diet orders obtained from licensed professionals with responsibility for the client's physical or emotional health;
4. a written description of the activities of daily living and instrumental activities of daily living for which the client requires assistance, if any, obtained from the client or the client's physician;
5. recreational and social activities in accordance with the client's treatment plan;
6. a plan for handling special emergency evacuation needs, if any; and
7. additional information or documents pertinent to the client's treatment planning, such as guardianship papers, power of attorney, living wills, do not-resuscitate orders, or other relevant medical documents.

B. Within 30 days after admission, the facility, with input from the client, shall develop a service plan using information from the assessment.

C. The service plan shall be responsive to the client's needs and preferences. The service plan shall include:

1. the client's needs;
2. the scope, frequency, and duration of services and monitoring that will be provided to meet the client's needs;

3. staff/providers responsible for providing the services; and

4. a plan for the implementation towards the least restrictive settings.

D. The client's service plan shall be revised by the designated licensed facility staff when a client's needs or condition changes. The revised service plan shall be signed by the client and the designated facility staff.

E. The service plan shall be monitored on an ongoing basis by facility staff to determine its continued appropriateness and to identify when a client's condition or preferences have changed. A documented review of the service plan by the licensed professional staff shall be made at least every quarter. However, changes to the plan may be made at any time, as necessary.

F. All service plans and reviews shall be signed by the client and by the designated licensed facility staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:62 (January 2017).

§7243. Personal and Supportive Services

A. The facility shall provide adequate services and oversight/supervision, including adequate security measures, around the clock as needed for any client in accordance with the client's treatment plan.

B. Client Self-administration of Medications

1. The FSTRA shall have clear written policies and procedures on direct care staff assistance with client self-administration of medications.

2. The FSTRA shall assist clients in the self-administration of prescription and non-prescription medication(s) as agreed to in their contract or service plan and as allowed by applicable state statute and in accordance with the regulations of this Section.

3. Assistance with self-administration of medications shall be limited to the following.

a. The client may be reminded to take his/her medication(s) when such medications have been prescribed for a specific time of day, a specific number of times per day, specific intervals of time or for a specific time in relation to mealtimes or other activities such as arising from bed or retiring to bed.

b. The medication regimen, as indicated on the container, may be read to the client.

c. The dosage may be checked according to the container label.

d. The staff may open the medicine container (i.e. bottle, pill organizer, blister pak, etc.) and/or provide assistance with pouring medications if the client lacks the physical ability to open the container or pour his/her own medications and the client is cognitive of what the medication is, what the medication is for and the need for the medication.

i. Offering of liquids to a client who is familiar with his/her medications to assist that client in ingesting oral medications is allowed.

e. Assistance with self-administration of medications shall not include:

i. administering injections of any kind;

ii. administering any prescription medications including, but not limited to, eye drops, ear drops, nose drops, liquid medications, inhalers, suppositories, or enemas;

iii. prompting or reminding a resident that it is time to take a PRN, or as-needed medication;

iv. crushing or splitting medications;

v. placing medications in a feeding tube; or

vi. mixing medications with foods or liquids.

4. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for assistance with client self-administration of medications including the limitations of this assistance. This training shall be repeated and documented at least annually. Documentation shall include the signature of the employee initially and at least annually at time of training.

5. A competency evaluation shall be developed and conducted to ensure that each direct care staff person that assists a client with the self-administration of medications is able to demonstrate competency in the training areas pursuant to §7243.B.1-4.

a. Documentation of such competency evaluation of each direct care staff person shall be maintained and readily available in the facility's records.

6. Unlicensed employees shall not perform medication administration which is separate and apart from the performance of assistance of a client with the self-administration of medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:63 (January 2017).

§7245. Nutrition

A. The facility shall provide three varied, palatable meals a day, seven days a week. Meals shall take into account clients' preferences and needs.

B. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in one or more conspicuous places in the facility.

C. The facility shall provide medically prescribed diets as ordered by the client's physician. These menus shall be planned or approved by a licensed registered dietician (LRD) and shall include nourishing snacks. The LRD shall be available for consultation as needed and may be either contracted or directly employed by the facility.

D. The facility shall purchase and provide to the clients only food and drink of safe quality. The storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented. Milk and milk products shall be Grade A and pasteurized.

E. Staff shall be available in the dining area to provide supervision as needed.

F. Written reports of inspections by the Department of Health, Office of Public Health, Sanitarian Services shall be kept on file in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:63 (January 2017).

§7247. Transportation Requirements

A. The facility shall have the capacity to provide or to arrange transportation for the following:

1. transportation to behavioral health services (i.e., community mental health center or addictive disorder clinic); and
2. all other related medical appointments.

B. The facility shall:

1. have automotive liability insurance coverage and have proof of such continuous coverage for any vehicle that provides client transportation and which is owned/operated by the facility and staff, either contracted or directly employed;

2. conform to all applicable state laws and regulations pertaining to drivers, vehicles and insurance; and

3. provide for safety of clients by ensuring all transportation drivers have current driving records and current driver's licenses in good standing.

C. The number of occupants allowed in a car, bus, station wagon, van, or any other type of transportation shall not exceed the number of manufacturer's issued seat belts for passengers and the number of passengers for which the vehicle is designed.

D. Provisions shall be made to accommodate clients who use assistive devices for ambulation.

E. Each vehicle shall be maintained in safe, operating condition.

F. If the center contracts with a commercial proprietor for transportation, such shall be licensed to provide commercial transportation. All rules established for transportation furnished by the center shall be observed by the contracted commercial proprietor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:64 (January 2017).

Subchapter E. Client Protection

§7251. Client Rights

A. The facility shall have a written policy on clients' civil rights and the practices of the facility shall assure that no client of a facility shall be deprived of civil or legal rights, benefits or privileges guaranteed by law or the Constitution of the United States solely by reason of status as a client of a facility. A copy of these rights shall be posted conspicuously in the facility.

B. In addition to the basic rights enjoyed by other adults, the facility's written policy on rights shall assure that clients shall be afforded the rights enumerated in R.S. 28:171.

C. The client shall receive, upon admission and during his/her stay, a written statement of the services provided by the facility and the charges for these services.

D. The client shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used.

E. The facility shall ensure that records and other information about the client are kept confidential and released only with a client's expressed written consent or in accordance with state law.

F. In accordance with facility policy and pursuant to R.S. 28:171, the facility shall ensure that the client:

1. receives a timely response to a request from the administrator/director and/or staff;

2. has access to private telephone communication;
3. is able to send and receive mail promptly and unopened;

4. is notified in writing by the facility when the facility's license status is suspended, revoked or limited, and to be informed of the basis of the licensing agency's action;

5. is allowed to select a health care provider and arrange for the services, at his/her own expense, which are not available through the facility as long as the client remains in compliance with the conditions of his/her admission to the facility;

6. is encouraged and assisted to exercise rights as a citizen;

7. is allowed to voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal;

8. is fully informed of all client rights and all rules governing client conduct and responsibilities; and

9. is allowed to consult freely with counsel of their choice.

G. Each client shall be fully informed of these rights and of all rules and regulations governing client conduct and responsibilities, as evidenced by written acknowledgment, prior to or at the time of admission, and when changes occur.

1. Each client's file shall contain a copy of the written acknowledgment which shall be signed and dated by the director or his/her designee, the client and/or representative.

H. The facility shall establish and have written grievance procedures that include, but are not limited to:

1. a formal process to present grievances; and

2. a process to investigate and to respond to grievances in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:64 (January 2017).

Subchapter F. Facility Responsibilities

§7255. General Provisions

A. Facilities shall comply and show proof of compliance with all relevant standards, regulations and requirements established by state, local and municipal regulatory bodies. It is the facility's responsibility to secure the approvals from the following entities:

1. LDH, Health Standards Section;

2. Office of Public Health;

3. Office of State Fire Marshal;

4. city fire department, if applicable; and,

5. the applicable local governing authority (e.g., zoning, building department or permit office).

B. The administrator/director or person authorized to act on behalf of the administrator/director shall be accessible to facility staff or designated representatives of LDH at all times.

1. Updated electronic mail and/or telephonic contact information of key administrative personnel shall be provided to the department's Health Standards Section.

C. The facility shall have an administrative file that includes:

1. the Articles of Incorporation or certified copies thereof, if incorporated, or partnership documents, if applicable;

2. a current copy of the approved constitution and/or bylaws of the governing body;
 3. a current roster of the governing body membership which includes the members' addresses;
 4. written policies and procedures approved by the owner/governing body that address the following:
 - a. confidentiality and security of files;
 - b. publicity;
 - c. personnel;
 - d. client's rights;
 - e. grievance procedure;
 - f. safekeeping of personal possessions, if applicable;
 - g. clients' funds, if applicable;
 - h. emergency and evacuation procedures;
 - i. abuse and neglect;
 - j. critical incidents;
 - k. admissions and discharge procedures;
 - l. assistance with client self-administration of medication;
 - m. driver training, safety and responsibilities while transporting clients; and
 - n. policies related to client transportation; either contracted or provided by facility staff;
 5. the minutes of formal governing body meetings;
 6. an organizational chart of the FSTRA;
 7. all leases, contracts and purchase-of-service agreements to which the FSTRA is a party, which includes all appropriate credentials;
 8. insurance policies:
 - a. every facility shall maintain in force at all times a comprehensive general business insurance policy or policies in an amount adequate to cover all foreseeable occurrences. The insurance shall include coverage for any:
 - i. personal or professional negligence, malpractice or misconduct by facility owners or employees;
 - ii. injuries received by any client while being transported by facility staff or third-party contractors; and
 - iii. injuries sustained by any client while in the facility; and
 9. incident/accident reports.
- D. The facility shall maintain a personnel record for each employee. At a minimum, this file shall contain the following:
1. the application for employment and/or résumé of education, training, and experience;
 2. evidence of a criminal history check prior to an offer of employment and annually thereafter, in accordance with state laws and regulations;
 3. evidence of applicable professional credentials, licensing or certifications according to state law;
 4. documentation of Tuberculosis test results and any other facility required medical examinations;
 5. documentation of reference checks or employee screening in accordance with facility policy;
 6. annual performance evaluation;
 7. the employee's hire and termination dates;
 8. documentation of orientation and annual training, including but not limited to safety and transportation of clients; and
 9. documentation of a current, valid and unrestricted driver's license if driving or transporting clients.

E. The facility shall not release an employee's personnel record without the employee's written permission, except as required by state law.

F. The facility shall have a personnel record for each employee to be kept on the premises or at the corporate office. These records shall be made available and accessible to the survey staff within one hour of request by department surveyors.

1. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of in accordance with state laws.

2. A facility shall have sufficient space, facilities and supplies for providing effective record keeping services, either electronically or via paper documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:64 (January 2017).

§7257. Core Staffing Requirements

A. Each facility shall be staffed to properly safeguard the health, safety and welfare of the clients, as required by these regulations. At a minimum, the following staff positions are required; however, one person may occupy more than one position.

B. Consulting Forensic Psychiatrist

1. Each facility shall have a qualified physician, currently licensed to practice medicine in Louisiana, who:

- a. signs the order admitting the individual to the facility;
- b. maintains overall responsibility for the client's medical management; and
- c. is readily available for consultation and collaboration with the facility staff.

2. The forensic psychiatrist may act as consultant by employment on staff, by contract, or by arrangement with state agency.

C. Administrator/Director

1. Each facility shall have a qualified administrator/director who is an on-site employee and is responsible for the day-to-day management, supervision and operation of the facility.

2. During periods of temporary absence of the administrator/director, there shall be a responsible staff person designated to be in charge that has the knowledge and responsibility to handle any situation that may occur.

3. There shall be a responsible staff person designated to be in charge on the premises of the facility 24 hours per day.

4. The administrator/director shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the facility.

5. The administrator/director shall meet one of the following criteria upon date of hire:

- a. possess a bachelor's degree from an accredited institution plus one year of administrative experience in the fields of health care, behavioral health services, or forensics;
 - b. possess an associate's degree from an accredited institution plus two years of administrative experience in the fields of health care, behavioral health services, or forensics;
- or

c. in lieu of a degree, possess six years of administrative experience in health care, behavioral health services, or forensics.

6. Documentation of the administrator/director's qualifications shall be maintained on file at the facility.

D. Nursing Services

1. The facility shall provide a sufficient number of nursing service personnel consisting of registered nurses, licensed practical nurses and other staff to provide nursing care to all clients in accordance with the client's treatment plan.

2. Registered Nurse (RN). The facility shall employ or contract with at least one RN who is responsible for the overall delivery and supervision of nursing services.

a. The RN shall be currently licensed by, and in good standing with, the state nursing board of Louisiana. No individual who is unlicensed may be employed, either directly or by contract, by the facility as an RN.

b. The RN shall:

i. be on-site or available by telephone during the day time hours of the facility;

ii. develop policies and procedures related to the delivery of nursing services; and

iii. provide medication management through administration, supervision, education and training.

3. Licensed Practical Nurse (LPN). The facility shall employ or contract with LPNs to meet the nursing needs of the clients.

a. The LPN shall be currently licensed by, and in good standing with, the state nursing board of Louisiana. No individual who is unlicensed may be employed, either directly or by contract, by the facility as a LPN.

b. LPNs may administer medication and deliver nursing services as provided by Louisiana law or applicable regulations.

E. Direct Care Staff

1. The facility shall ensure that an adequate number of trained direct care staff, either contracted or directly employed, is available to meet the needs of the clients in accordance with the client's scheduled and unscheduled needs.

2. Direct care staff may include care assistants, activities personnel, or other staff who provide direct care services to clients on a regular basis.

3. Direct care staff shall have the following qualifications:

a. a minimum of a high school diploma, eighteen years of age and six months of experience working with adults with a serious and persistent behavioral health diagnosis; or

b. two years of experience working with adults with a serious and persistent behavioral health diagnosis.

4. The facility shall have at least two direct care staff on site when there is at least one client at the facility.

5. The facility shall demonstrate that sufficient staff is scheduled and available (working) to meet the 24-hour scheduled and unscheduled needs of the clients. At a minimum, there shall be one direct care staff person on duty for every 15 clients.

6. The facility shall not share direct care staff with another licensed facility. (Staff cannot fill two staff positions on the same shift at different licensed facilities.)

F. The facility shall maintain a current work schedule for all employees, either contracted or directly employed, including relief workers, ensuring adequate coverage for each day and night shift.

G. Facility professional staff shall be licensed and/or certified by the appropriate state licensing or certification board(s) of Louisiana. The license and/or certification shall be current, unrestricted and in good standing.

H. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social programs of the facility.

I. A facility shall provide, as needed, consultation(s) with a licensed registered dietician, either directly employed or contracted.

J. Direct Care Staff Orientation and Training

1. Prior to providing services to clients, the FSTRA shall provide a 20-hour documented orientation including, but not limited to the following:

a. the policies and procedures of the facility, including program components;

b. emergency and evacuation procedures;

c. training in proper fire and emergency safety procedures including:

i. CPR;

ii. the Heimlich maneuver;

iii. first aid;

iv. crisis management; and

v. risk reduction;

d. effective communication skills for forensic, behavioral health clients;

e. confidentiality and HIPAA requirements;

f. trainings and intervention programs as deemed appropriate and mutually agreed upon by Community Forensic Services and the state level forensic coordinator;

g. client's rights;

h. procedures and requirements regarding the reporting of abuse, neglect and critical incidents; and

i. transportation safety and responsibilities for staff that transport clients.

2. Orientation for direct care staff shall include an additional five days of supervised training. Training, at a minimum, shall include the following:

a. training in client care services (ADLs and IADLs) provided by the facility;

b. infection control to include blood borne pathogens;

c. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses; and

d. any specialized training to meet clients' needs.

3. A new employee, either contracted or directly employed, shall not be given sole responsibility for the implementation of a client's program plan until this orientation and training is completed.

a. The new employee, either contracted or directly employed, shall sign a statement certifying that such training

has occurred and this shall be maintained in the new employee's personnel file.

4. Orientation and five days of supervised training shall meet the first year's annual training requirements.

5. All direct care staff, either contracted or directly employed, shall receive certification in adult first aid and CPR within the first 30 days of employment.

a. Documentation of such certification shall be maintained in the personnel file of each direct care staff person.

K. Annual Training

1. A facility shall ensure that each direct care worker, contracted or directly employed, participates in and satisfactorily completes a minimum of 16 hours of training each year to ensure continuing competence.

NOTE: Orientation and normal supervision shall not be considered as meeting this requirement.

2. The facility shall document that direct care staff receives training on an annual basis in:

- a. the facility's policies and procedures;
- b. emergency and evacuation procedures;
- c. client's rights;
- d. the procedures and legal requirements concerning the reporting of abuse and critical incidents;
- e. client care services (ADL'S & IADL'S);
- f. infection control to include blood borne pathogens; and
- g. any other areas that may require specialized training to meet clients' needs including but not limited to, driver safety in transporting clients.

3. All direct care staff, either contracted or directly employed, shall have documentation of current certification in adult first aid and CPR.

4. The administrator/director shall participate annually in at least 12 hours of continuing education in the field of behavioral health and specialized training in the population served and/or supervisory/management techniques.

5. Each employee shall sign a statement of understanding certifying that annual training has occurred.

L. A competency evaluation shall be developed and conducted to ensure that, at a minimum, each direct care staff person is able to demonstrate competencies in the training areas in §7257.I-J core staffing requirements.

1. Documentation of such competency evaluation of each direct care staff person shall be maintained and readily available in the agency's records.

M. An employee's annual performance evaluation shall include his/her interaction with clients, family, staff and other providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:65 (January 2017).

§7259. Client Records

A. The facility shall maintain a separate record for each client. Such records shall be current and complete and shall be maintained in the facility or in a central administrative location readily available to facility staff and to the department.

B. All records shall be maintained in an accessible, standardized order and format, either electronically and/or in

paper form, and shall be retained and disposed of in accordance with state laws.

C. The facility shall have sufficient space, equipment, and supplies for providing effective record keeping services.

D. The facility shall have a secured storage area that ensures the safeguarding of all electronic or paper client records and that prevents loss from, including but not limited to, fire or water.

E. Each record shall contain at least the following information:

1. the client's identifying and personal information including:

- a. the client's name;
- b. date of birth;
- c. sex;
- d. Social Security number;
- e. previous home address; and
- f. marital status, if applicable;

2. dates of admission and discharge;

3. names, addresses, and telephone numbers of responsible persons to be notified in case of accident, death or other emergency;

4. name, address, and telephone number of a physician and dentist to be called in an emergency;

5. ambulatory status;

6. the client's plan/authorization for routine and emergency medical care, as required;

7. the client's written authorization for a representative and their name, address and telephone number, if applicable;

8. the pre-admission assessment by a forensic psychiatrist and admission agreement;

9. findings of the assessment and any special problems or precautions identified;

10. the service plan, updates, and quarterly reviews;

11. continuing record of any illness, injury or medical or dental care when it impacts the client's ability to function or the services he/she needs;

12. a record of all personal property and funds which the client has entrusted to the facility;

13. reports of any client complaints or grievances and the conclusion or disposition of these reports;

14. incident reports; and

15. written acknowledgments that the client has received clear verbal explanations and:

- a. copies of his/her rights and the house rules;
- b. written procedures for safekeeping of valuable personal possessions of clients; and
- c. a written statement explaining the client's rights regarding personal funds and the right to examine his/her record.

F. All information and records obtained from or regarding clients shall be securely stored and kept confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:67 (January 2017).

§7261. Abuse and Neglect

A. The facility shall have comprehensive written procedures concerning client abuse and neglect to include provisions for:

1. training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

2. protecting clients from abuse inflicted by other clients, employees or third parties, including but not limited to, criminal prosecution of the offending person and his/her permanent removal from the facility;

3. ensuring that regulations stipulated in this rule for reporting any incidents involving abuse and neglect are followed;

4. ensuring that the administrator/director completes an investigation report within 10 working days; and

5. ensuring that the client is protected from potential harassment during such investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:67 (January 2017).

§7263. Critical Incidents

A. A facility shall have written procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client(s) (i.e. death by unnatural causes, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect). Critical incidents shall be defined by facility policy, approved by the facility's governing body and reviewed at least annually.

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Copies of all critical incident reports shall be kept as part of the client's record and a separate copy shall be kept in the administrative file of the facility.

B. Incident/Accident Report. When an incident occurs, a detailed report of the incident shall be documented. At a minimum, the incident report shall provide documentation of the following:

1. the circumstances under which the incident occurred;

2. the date and time the incident occurred;

3. the location where the incident occurred (bathroom, bedroom, street, lawn, etc.);

4. immediate treatment and follow-up care;

5. the names and addresses of witnesses;

6. the date and time the family or representative was notified;

7. any symptoms of pain and injury discussed with the physician; and

8. the signatures of the staff completing the report, client, and administrator/director.

C. When an incident results in the death of a client, involves abuse or neglect of a client, or entails any serious threat to the client's health, safety or well-being, a facility shall:

1. immediately take appropriate corrective action to protect the client and to prevent further incidents;

2. report the incident verbally to the administrator within two hours of the time of the incident;

3. notify the appropriate law enforcement authority in accordance with state law, but no later than 24 hours after the time of the incident;

4. verbally notify the family or the client's representative as soon as possible but no later than two hours after the time of the incident, with written notification to follow within 24 hours;

5. notify the Department of Health, Health Standards Section, and other appropriate authorities in accordance with state law, with written notification to the above agencies to follow within 24 hours of the time of the incident;

6. provide follow-up written reports to all of the persons and agencies identified in this §7261.C; and

7. document its compliance with all of the above procedures for each incident and shall keep such documentation (including any written reports or notifications) in the client's file. A separate copy of all such documentation shall be kept in the facility's administrative file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:68 (January 2017).

§7265. Personal Possessions

A. The facility may, at its discretion, offer to clients the service of safekeeping their valuable possessions. The facility shall have a written statement of its policy.

B. If the facility offers such a service, a copy of the written policy and procedures shall be given to a client at the time of his/her admission.

C. The facility shall give the client a receipt listing each item that it is holding in trust for the client. A copy of the receipt shall be placed in the client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:68 (January 2017).

§7267. Client Funds

A. The facility's admission agreement shall include the client's rights regarding personal funds and list the services offered and charges, if any.

B. The facility shall offer safekeeping and management of a client's funds. If a client chooses to entrust funds with the facility, the facility shall obtain written authorization from the client and/or his/her representative for the safekeeping and management of the funds.

C. The facility shall:

1. provide each client with an account statement on a quarterly basis with a receipt listing the amount of money the facility is holding in trust for the client;

2. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the client for each transaction;

3. provide a list or account statement regarding personal funds upon request of the client;

4. maintain a copy of each quarterly account statement in the client's record;

5. keep the funds received from the client in a separate interest-bearing account; and

6. not commingle the clients' funds with the facility's operating account.

D. The facility shall develop, implement, and follow written policies and procedures to protect client funds.

E. Unless otherwise provided by state law, upon the death of a client, the facility shall provide the executor or administrator of the client's estate or the client's representative, as agreed upon in the admission agreement, with a complete account statement of the client's funds and personal property of the client being held by the facility.

F. A client with a personal fund account managed by an FSTRA facility may sign an account agreement acknowledging that any funds deposited into the personal account by, or on the client's behalf, are jointly owned by the client and his legal representative or next of kin. The account agreement shall state that:

1. the funds in the account shall be jointly owned with the right of survivorship;

2. the funds in the account shall be used by, for or on behalf of the client;

3. the client or the joint owner may deposit funds into the account; and

4. the client or joint owner may endorse any check, draft or other monetary instrument to the order of any joint owner, for deposit into the account.

G. If a valid account agreement has been executed by the client, upon the client's death, the facility shall transfer the funds in the client's personal fund account to the joint owner within 30 days of the client's death.

H. If a valid account agreement has not been executed, upon the client's death, the facility shall comply with the federal and state laws and regulations regarding the disbursement of funds in the account and the properties of the deceased. The facility shall abide by the procedures of the Louisiana Department of the Treasury and the Louisiana Uniform Unclaimed Property Act for the handling of funds of a deceased client that remain unclaimed.

I. The provisions of this Section shall have no effect on federal or state tax obligations or liabilities of the deceased client's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

J. A termination date of the account and the reason for termination shall be recorded on the client's participation file. A notation shall read, "to close account." The endorsed cancelled check with check number noted on the ledger sheet shall serve as sufficient receipt and documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:68 (January 2017).

§7269. Contraband

A. There shall be no contraband, illegal drugs, controlled dangerous substances or any medications that are not prescribed to a client, on the campus of the facility. Clients may be subjected to random periodic drug testing as a requirement for residency at the facility. A positive drug test shall be reported to the attending psychiatrist and the applicable court.

B. The facility shall have written policies defining contraband and procedures for staff to follow when contraband is discovered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:69 (January 2017).

Subchapter G. Safety and Emergency Preparedness

§7271. General Provisions

A. The facility shall have an emergency preparedness plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the clients and/or the community it serves. The emergency preparedness plan shall be made available, upon request or if mandated to do so, to local, parish, regional and/or state emergency planning organizations, the department and the Office of the State Fire Marshal.

B. At a minimum, the emergency preparedness plan shall include:

1. identification of potential hazards that could necessitate an evacuation, including internal and external disasters such as a natural disaster, acts of bioterrorism, weapons of mass destruction, labor work stoppage or industrial or nuclear accidents;

2. emergency procedures for evacuation of the facility;

3. procedures in the case of interruption of utility services in a way that affects the health and safety of clients;

4. identification of the facility and an alternate facility to which evacuated clients would be relocated;

5. the estimated number of clients and staff that would require relocation in the event of an evacuation;

6. the system or procedure to ensure that medical charts accompany clients in the event of a client evacuation and that supplies, equipment, records and medications would be transported as part of an evacuation; and

7. the roles and responsibilities of staff members in implementing the disaster plan.

C. The facility shall conduct and document fire drills once per quarter, one drill per shift every 120 days, at varying times of the day. Each employee, either contracted or directly employed, shall participate in at least one drill annually.

D. The facility shall immediately notify the Health Standards Section and other appropriate agencies of any fire, disaster or other emergency that may present a danger to clients or require their evacuation from the facility.

E. The facility shall have access to 24-hour telephone service, and shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show evidence of an alternate means of immediate access to these services.

F. General Safety Practices

1. The facility shall not maintain any firearm or chemical weapon in the living units of the facility.

2. The facility shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to the contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of clients, staff and visitors.

3. The facility shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:69 (January 2017).

Subchapter H. Physical Environment

§7275. General Provisions

A. Location

1. The area to be licensed as a FSTRA facility shall meet all of the licensing regulations established for FSTRA facilities.

2. A facility that is located within any other facility shall be secure and have its own identifiable staff, space and storage. The facility shall have a separate entrance, separate dining area and separate common areas.

3. A facility that accepts both male and female clients shall not assign male and female clients to reside within the same unit of the licensed facility.

B. General Appearance and Conditions

1. Heating, cooling and ventilation systems shall permit comfortable conditions.

2. Furniture that is clean, safe and operable, where applicable, shall be available to facilitate usage by the number of clients in the facility.

3. The facility shall have sufficient space and equipment to accommodate the full range of program activities and services.

4. The facility shall be flexible and adaptable for large and small groups and individual activities and services.

5. There shall be sufficient office space to permit staff to work effectively and without interruption.

6. There shall be adequate storage space for program and operating supplies.

C. Interior Space

1. Floors and steps shall have a non-slippery surface and kept dry when in use by the clients.

2. Doorways and passageways shall be kept clear to allow free and unhindered passage.

3. The facility shall provide an appropriate controlled-egress system on all required exit doors and doors leading to other areas of the facility unless prior approval of an alternative method for prevention of client elopement from the facility has been obtained from the authority (Office of the State Fire Marshal) having jurisdiction over such matters.

4. All staff shall have a key to locked exit doors.

5. All operable windows shall be equipped with a mechanism to limit exterior openings to prevent elopement.

6. Windows used for ventilation to the outside and exterior doors used for ventilation shall be screened and in good repair.

7. The facility shall be constructed, equipped, and maintained in operating condition and kept free of hazards.

8. The facility shall have sufficient storage space for administration records, locked areas for medications, cleaning supplies (janitorial), food service (supplies) and lawn maintenance (equipment).

9. There shall be evidence of routine maintenance and cleaning programs in all areas of the facility.

10. The facility shall have an effective pest control program. Pest control services may be provided by maintenance personnel of the facility or by contract with a

pest control company. If pest control chemicals are stored in the facility, they shall be kept in a locked location.

11. The facility shall have an area for the safe and secure maintenance and storage of medical records and other facility files, records and manuals.

D. Bedrooms

1. Single rooms shall contain at least 100 square feet and multi-bed rooms shall contain at least 80 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment. An existing state owned or operated hospital that converts a building, unit or wing to a facility shall contain a minimum of 65 square feet per bed in a multi-bed room.

2. Any client room shall not contain more than four beds.

a. Beds shall be of solid construction, appropriate to the size and age of the client and have a clean, comfortable, non-toxic fire-retardant mattress that fits the bed.

b. Cots or other portable beds are to be used in emergencies only.

3. Rooms shall have at least a 7 1/2 foot ceiling height over the required area.

a. In a room with varying ceiling heights, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

4. There shall be at least three feet between beds.

5. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of clients.

6. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

7. The facility shall not use any room that does not have a window as a bedroom space.

8. The facility shall provide sheets, pillows, bedspreads and blankets that are of good quality for each client. Linens that are torn or worn shall not be used.

9. Each client shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the client.

10. The facility shall not assign clients to a space that is not part of the licensed facility.

E. Bathrooms

1. The number of toilets and hand-washing facilities shall not be less than one designated, segregated male bathroom facility and one designated, segregated female bathroom facility per 13 clients.

a. Post promulgation of this rule, facilities seeking to change geographic location or new construction, and that have not received plan review approval, the number of toilets and hand-washing facilities shall be in accordance with current, applicable state laws, rules and regulations.

2. A bathroom facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to client care needs.

3. Bathrooms shall be so placed as to allow access without disturbing other clients during sleeping hours.

4. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for personal hygiene, unless clients are individually given such items.

a. Clients shall be provided individual items such as hair brushes and toothbrushes.

5. Tubs and showers shall have slip proof surfaces.

6. The facility shall have toilets and baths or showers that allow for individual privacy, unless the clients in care require assistance.

7. Toilets, wash basins and other plumbing or sanitary facilities in the facility shall, at all times, be maintained in operable condition and shall be kept free of any materials that might clog or otherwise impair their operation.

8. The facility shall have separate toilet facilities for staff.

F. Furnishings

1. The facility shall be sufficiently furnished to meet the needs of the clients. All furnishings and equipment shall be kept clean, safe and operable, where applicable.

2. Adequate furniture shall be available and shall be appropriate for use by the clients in terms of comfort and safety.

3. Furnishings shall include tables and chairs sufficient in number to serve all clients.

G. Kitchen

1. A facility that has a kitchen area shall meet all health and sanitation requirements and shall be of sufficient size to accommodate meal preparation for the proposed number of clients.

2. Kitchens used for meal preparations shall have the equipment necessary for the preparation, serving and storage and clean-up of all meals regularly served to all clients and staff. All equipment shall be maintained in proper working order.

3. The facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below. Freezers shall be maintained at a temperature of 0 degrees Fahrenheit or below. Thermometers shall be provided for all refrigerators and freezers. The facility shall maintain logs of temperatures of the refrigerator and freezers. Abnormal temperatures shall be reported to management and arrangements made for repair/service. Documentation of such shall be maintained.

4. The facility shall ensure that all dishes, cups and glasses used by clients are free from chips, cracks or other defects and are in sufficient number to accommodate all clients.

5. If food is prepared in a central kitchen and delivered to the facility, provisions shall be made and approved by the Department of Health, Office of Public Health, Sanitarian Services for proper maintenance of food temperatures and a sanitary mode of transportation.

H. Medication Storage and Monitoring

1. The facility shall have policies and procedures for the storage, administration and disposal of both prescription and over-the-counter medications.

2. There shall be a designated secure area for the storage, preparation, and proper disposal of medications.

3. Medications that require refrigeration shall be stored in a separate secured refrigerator (not with food, beverages, etc.).

4. The facility shall have a process for monitoring the inventory and reconciliation of prescribed controlled substances by authorized licensed staff. The process shall include the reporting of lost or missing medications by

designated licensed staff in accordance with the Louisiana State Board of Pharmacy and applicable state law.

5. Medications may be administered from a secured medication dispensing central area of the facility.

I. Laundry

1. The facility shall provide for laundry services, either on-site or at an off-site location that is adequate to meet the needs of the clients.

2. For any provision of laundry service, available on-site or contracted, the facility shall ensure and maintain procedures to prevent cross contamination of soiled laundry with clean laundry.

3. If on-site, laundry facilities shall be located in a specifically designated area and there shall be adequate rooms and spaces for sorting, processing, and storage of soiled material.

4. Laundry rooms shall not open directly into client common areas or food service areas.

5. Domestic washers and dryers that are for the exclusive use of clients may be located in client areas, provided they are installed in such a manner that they do not pose a sanitation problem or safety risk.

J. Water Supply

1. An adequate supply of water, under pressure, shall be provided at all times.

2. Clean sanitary drinking water shall be available and accessible in adequate supply at all times. Disposable cups, if used, shall be stored in such a way as to prevent contamination.

3. When a public water system is available, a connection shall be made thereto. If water from a source other than a public water supply is used, the supply shall meet the requirements set forth under the rules and regulations of the Office of Public Health (OPH).

4. The facility shall have a plan and policy for an alternative water supply in the event of interruption of water supply and for the prolonged loss of water.

K. All sewage shall be disposed of by means of either:

1. a public system where one is accessible within 300 feet; or

2. an approved sewage disposal system that is constructed and operated in conformance with the standards established for such systems by OPH.

L. Facility Exterior

1. The FSTRA shall maintain all areas of the facility that are accessible to the clients in good repair and free from any reasonably foreseeable hazard to health or safety.

2. All structures on the grounds of the facility shall be maintained in operating condition.

3. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

4. Fences shall be in good repair and constructed in such a way as to provide safety and security.

5. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect clients.

6. Clients shall have access to safe, suitable outdoor recreational space.

7. The facility shall ensure that exterior areas are well lit at night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:70 (January 2017).

Subchapter I. Secure Community Supervised Transitional/Residential Facility Module

§7279. General Provisions

A. Providers applying for the Secure Community Supervised Transitional/Residential (SCSTR) Facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure community supervised transitional/residential facility is a secure residential facility within the community that provides individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community, to persons who are under a court-ordered forensic conditional release and who are referred by a state forensic hospital or a state forensic psychiatric unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:72 (January 2017).

§7281. Operational Requirements

A. Staff Requirements

1. When clients are present, the facility shall provide 24-hour, 7 day per week supervision and the care and services sufficient to meet the needs of the clients. Staffing shall consist of at least three direct care staff persons during the day, one of which shall be a licensed nurse and at least two awake staff during the night.

a. Requirements for the level of supervision provided and the specified time frame for day hours shall be defined by facility policy and approved by the facility governing body with documented annual review.

2. The facility shall have a licensed nurse on call when there are no licensed nurses on duty at the facility.

B. Admissions. The facility shall:

1. only accept clients referred by LDH state forensic facilities or those who are under a court-ordered forensic conditional release;

2. admit only those clients who have the ability to self-administer medications and provide for their own personal care needs;

3. admit male and female clients to reside in separate segregated and designated units of the licensed facility;

4. not admit more clients into care than the number specified on the facility's license; and

5. provide contact information, including the telephone number and mailing address, for the appropriate state protection and advocacy organization.

NOTE: the facility shall request from the HSS an increase in licensed bed capacity prior to accepting more clients than specified on the facility's license.

C. Assistance with Medication Self-Administration

1. The facility shall have clear written policies and procedures on medication self-administration.

2. The facility shall assist clients in the self-administration of prescriptions and non-prescription medication according to the client's service plan and as allowed by state laws and regulations. For assistance with

self-administration, such clients shall have documented awareness of the medications to be taken.

3. Assistance with self-administration of medication shall be limited to the following:

a. the client may be reminded to take his/her medication;

b. the medication regimen, as indicated on the container, may be read to the client;

c. the dosage may be checked according to the container label;

d. staff may open the medicine container (i.e. bottle, mediset, blister pack, etc.) if the client lacks the ability to open the container; and

e. the client may be physically assisted in pouring or otherwise taking medications, so long as the client is cognitive of what the medication is, what it is for, and the need for the medication.

4. An unlicensed employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance. Documentation shall include the signature of the employee. This training shall be repeated at least annually.

a. A competency evaluation shall be developed and conducted to ensure that each direct care staff person that assists a client with the self-administration of medications is able to demonstrate competency in the training areas pursuant to §7281.C.1-4.

b. Documentation of such competency evaluation of each direct care staff person shall be maintained and readily available in the agency's records.

NOTE: Such training does not permit the unlicensed employee to perform medication administration which is separate and apart from the performance of assistance of a client with the self-administration of medications.

5. Medications shall be stored in a secure central location and not stored in the client's own room.

6. The facility may require the clients to come to a designated medication area to take their medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:72 (January 2017).

Subchapter J. Secure Forensic Facility Module

§7285. General Provisions

A. Providers applying for the secure forensic (SF) facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure forensic facility is a secure residential facility located on the grounds of a state owned or operated hospital that provides individualized services, including personal care services and medication administration, to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit, in order to prepare such persons for transition to a less restrictive environment before transitioning to the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:72 (January 2017).

§7287. Operational Requirements

A. The facility shall provide 24-hour, seven day per week supervision and the care and services sufficient to meet the needs of the clients. Staffing shall consist of at least three direct care staff persons during the day and two awake staff during the night. There shall be at least two direct care staff persons in each building and/or unit at all times when clients are present.

1. The facility shall have a RN on duty during the day shift to oversee the nursing services of the facility.

a. Requirements for the level of RN supervision provided and the specified time frame for day shift shall be defined by facility policy, approved by the governing body, reviewed and documented annually.

2. The facility shall have at least one licensed nurse on duty for each shift.

3. The facility shall provide for, either directly or through contract, a licensed medical doctor on call.

B. Admission

1. The facility shall:

a. admit clients who are under a court order or court ordered forensic conditional release and who are referred by a LDH state forensic facility;

b. not admit more clients into care than the number specified on the facility’s license; and

c. provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

C. Client Services

1. The facility shall provide or coordinate, to the extent needed or desired by clients, the following services:

a. assistance provided by direct care staff, either employed or contracted, with activities of daily living and all instrumental activities of daily living;

b. medication administration by the licensed nurse;

c. opportunities for individual and group socialization;

d. services for clients who have behavior problems requiring ongoing staff support, therapeutic intervention, and supervision to ensure no danger or infringement of the rights of other clients or individuals;

e. household services essential for the health and comfort of clients (e.g. floor cleaning, dusting, bed making, etc.);

f. basic personal laundry services; and

g. a planned program of recreational activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:73 (January 2017).

Rebekah E. Gee MD, MPH
Secretary

1701#066

RULE

**Department of Health
Bureau of Health Services Financing**

**Healthcare Services Provider Fees
Nursing Facility Services Providers
(LAC 48:I.4001)**

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.4001 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2625. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. - B.1. ...

2. The provider fee imposed for nursing facility services shall not exceed 6 percent of the average revenues received by providers of that class of services and shall not exceed \$12.08 per occupied bed per day. The fee amount shall be calculated annually in conjunction with updating provider reimbursement rates under the Medical Assistance Program. Notice to providers subject to fees shall be given in conjunction with the annual rate setting notification by the Bureau of Health Services Financing.

C. - D. ...

E. - F. Reserved.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 43:73 (January 2017).

Rebekah E. Gee MD, MPH
Secretary

1701#067

RULE
Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services

Home and Community-Based Services Waivers
Adult Day Health Care Waiver
Electronic Visit Verification
(LAC 50:XXI.2705)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services have adopted LAC 50:XXI.2705 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 XXI. Home and Community-Based Services
Waivers
Subpart 3. Adult Day Health Care
Chapter 27. Provider Responsibilities

§2705. Electronic Visit Verification

A. Effective for dates of service on or after November 1, 2015, Adult Day Health Care Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the ADHC Waiver provider manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:74 (January 2017).

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.

Rebekah E. Gee MD, MPH
Secretary

1701#068

RULE
Department of Health
Bureau of Health Services Financing

Hospital Licensing Standards
(LAC 48:I.9319, 9381 and 9405)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.9319, §9381 and §9405 as authorized by R.S. 40:2100-2115. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 93. Hospitals
Subchapter B. Hospital Organization and Services
§9319. Patient Rights and Privacy

A. - A.21. ...

22. except in emergencies, the patient may be transferred to another facility only with a full explanation of the reason for transfer, provisions for continuing care and acceptance by the receiving institution; and

23. the right for each inpatient or, if applicable, the patient's legal guardian, to have one opportunity to designate an uncompensated caregiver following the patient's inpatient admission into a hospital and prior to the patient's discharge, for provision of the patient's post hospital aftercare at the patient's residence.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2405 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 43:74 (January 2017).

Subchapter G. Food and Dietetic Services
§9381. Menus and Therapeutic Diets

A. ...

B. Therapeutic diets shall be prescribed by the licensed practitioner(s) responsible for the care of the patient. Therapeutic diets, and laboratory tests to monitor the effectiveness of the dietary plan, may be prescribed by a licensed dietitian/nutritionist subject to the approval of, and authorization by, the facility's medical staff or bylaws and in accordance with state law. Each patient's nutritional intake shall be documented in the patient's medical record. Nutritional intake includes both enteral and parenteral nutrition.

C. There shall be a procedure for the accurate transmittal of dietary orders to the dietary service and for informing the dietary service when the patient does not receive the ordered diet, or is unable to consume the prescribed diet.

D. There shall be a current therapeutic diet manual, which shall be the guide used for ordering and serving diets and other nutritional intake. The manual shall be approved by the dietitian and medical staff and be readily available to all medical, nursing and food service personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2414 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 43:74 (January 2017).

Subchapter I. Quality Assessment and Improvement
§9405. Patient Care Services

A. - B. ...

1. If a patient has designated an uncompensated caregiver for aftercare, a hospital shall make a good faith attempt to notify the patient's designated caregiver of the patient's discharge to the patient's residence as soon as

possible prior to the patient's discharge. If the hospital is unable to contact the designated caregiver, the lack of contact may not interfere with, delay or otherwise affect the medical care provided to the patient, or an appropriate discharge of the patient.

a. For purposes of §9405.B.1-3, a residence does not include any rehabilitation facility, hospital, nursing home, assisted living facility or group home.

2. As soon as practicable prior to the patient's discharge, the hospital shall make a reasonable effort to consult with the designated caregiver along with the patient, taking into account the capabilities and limitations of the caregiver, to accomplish the aftercare tasks that may be included in a discharge care plan that describes the patient's aftercare needs at his residence.

3. The hospital shall educate and instruct the caregiver concerning the aftercare needs of the patient in a manner that is consistent with the discharge plan and is based on the learning needs of the caregiver. In addition, the hospital shall also provide an opportunity for the caregiver and patient to ask questions and receive explanations about the aftercare tasks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2417 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 43:74 (January 2017).

Rebekah E. Gee MD, MPH
Secretary

1701#069

RULE

Department of Health Bureau of Health Services Financing

Hospital Licensing Standards
Obstetrical and Newborn Services
(LAC 48:I.Chapter 93)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.9505-9515 as authorized by R.S. 40:2100-2115. This Rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter S. Obstetrical and Newborn Services (Optional)

§9505. General Provisions

A. This Subchapter S requires that the level of care on the neonatal intensive care unit shall match or exceed the level of obstetrical care for each level of obstetric service, except for free standing children's hospitals. All hospitals with existing obstetrical and neonatal services shall be in compliance with this Subchapter S within one year of the promulgation date of this Rule. All new providers of obstetrical and neonatal services shall be required to be in

compliance with this Subchapter S immediately upon promulgation.

NOTE: For facilities that change the level of care and services of the facility's NICU unit, either decreasing or increasing the level provided, the facility shall submit an attestation of this change to the department's Health Standards Section (HSS) in writing and on the appropriate state neonatal services Medicaid attestation form. Such notice shall be submitted to HSS within 90 days of the facility's change in NICU level provided. For facilities that change the level of care and services of the facility's obstetric unit, by either decreasing or increasing the level provided, the facility shall submit written notice of this change to HSS within 90 days of such change.

B. For purposes of this Subchapter, hospital privileges are such privileges that are unrestricted and approved by the medical staff committee and the governing body that allows the practitioner to perform all duties within their scope of practice and certification(s) at the hospital in which the privileges are granted and such duties are performed.

1. The requirements for privileges, such as active privileges, inpatient privileges or full privileges, shall be defined in hospital policy and approved by each hospital's governing body.

C. In accordance with R.S. 40:2109, a hospital located in a parish with a population of 250,000 people or less shall not be required to maintain personnel in-house with credentials to administer obstetric anesthesia on a 24-hour basis in order to qualify for Medicaid reimbursement for level III, neonatal or obstetric medical services, or as a prerequisite for licensure to provide such services. Personnel with such credentials may be required to be on staff and readily available on a 24-hour on-call basis and demonstrate ability to provide anesthesia services within 20 minutes.

NOTE: The provisions of §9505.C shall not apply to any hospital with level IIIS, IIIR or IV obstetrical and neonatal services.

D. For purposes of this Subchapter, the requirements for hospital staff and/or equipment as being immediately or readily available shall be defined by hospital policy and approved by each hospital's governing body.

E. Any transfer agreements shall be in writing and approved by the hospital medical staff and by each hospital's governing body. Transfer agreements shall be reviewed at least annually and revised as needed.

F. For those hospitals providing transports, the qualifications of the transport team shall be in writing, defined by hospital policy and approved by each hospital's governing body. Such qualifications shall be reviewed at least annually and revised as needed.

G. The hospital shall have data collection and retrieval capabilities in use, and shall cooperate and report the requested data to the appropriate supervisory agencies to review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 43:75 (January 2017).

§9507. Obstetrical Units

A. ...

B. Levels of Care Units. There are five established obstetrical levels of care units:

1. obstetrical level I unit;
2. obstetrical level II unit;

3. obstetrical level III unit;
4. obstetrical level III regional unit; and
5. obstetrical level IV.

C. Obstetrical services shall be provided in accordance with acceptable standards of practice as delineated in the 2014 *AAP/ACOG Guidelines for Perinatal Care*. Each advanced level of care unit shall provide all services and meet the personnel requirements of the lower designated units, as applicable, i.e., a level IV unit must meet the requirements of a level I, II, III and III regional unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 43:75 (January 2017).

§9509. Obstetrical Unit Functions

- A. - A.1.a. ...
 - b. There shall be a triage system present in policies and procedures for identification, stabilization and referral of high risk maternal and fetal conditions beyond the scope of care of a level I unit.
 - c. There shall be protocols and capabilities for massive transfusion, emergency release of blood products, and management of multiple component therapy available on-site.
 - d. Postpartum care facilities shall be available on-site.
 - e. There shall be capability to provide for resuscitation and stabilization of inborn neonates.
 - f. The hospital shall have a policy for infant security and an organized program to prevent infant abductions.
 - g. The hospital shall have a program in place to address the needs of the family, including parent-sibling-neonate visitation.
 - h. The hospital shall have a written transfer agreement with another hospital that has an approved appropriate higher level of care.
 - i. - 1. Repealed.
2. Personnel Requirements
 - a. Obstetrical services shall be under the medical direction of a qualified physician who is a member of the medical staff with obstetric privileges. The physician shall be board certified or board eligible in obstetrics/gynecology or family practice medicine. The physician has the responsibility of coordinating perinatal services with the pediatric chief of service.
 - b. The nursing staff shall be adequately trained and staffed to provide patient care at the appropriate level of service. Registered nurse to patient ratios may vary in accordance with patient needs.
 - c. ...
 - d. Anesthesia, radiology, ultrasound, electronic fetal monitoring (along with personnel skilled in the use of these) and laboratory services shall be available on a 24-hour basis. Anesthesia services shall be available to ensure performance of a Cesarean delivery within 30 minutes as specified in Subparagraph c above.
 - e. At least one credentialed physician or certified registered nurse midwife shall attend all deliveries, and at least one individual who is American Academy of Pediatrics

(AAP) certified in neonatal resuscitation and capable of neonatal resuscitation shall attend all deliveries.

f. ...

g. A facility shall have at least one individual with additional education in breastfeeding who is available for support, counseling and assessment of breastfeeding mothers.

h. A facility shall have ability to initiate education and quality improvement programs to maximize patient safety, and/or collaborate with higher-level facilities to do so.

3. - 3.d....

e. For any new construction or major alteration of the obstetrical unit/suite, the hospital shall ensure that the OB unit has a Cesarean delivery room (surgical operative room) to perform Cesarean deliveries at all times.

B. - B.1.a. ...

b. Women with conditions that would result in the delivery of an infant weighing less than 1,500 grams or less than 32 weeks gestation shall be referred to an approved level III or above unit unless the attending physician has documented that the patient is unstable to transport safely. Written transfer agreements with approved obstetrical level III and above units for transfer of these patients shall exist for all obstetrical level II units.

c. Ultrasound equipment shall be on site, in the hospital, and available to labor and delivery 24 hours a day.

d. - e. Repealed.

2. Personnel Requirements

a. The chief of obstetric services shall be a board-certified obstetrician or a board eligible candidate for certification in obstetrics. This obstetrician has the responsibility of coordinating perinatal services with the neonatologist in charge of the neonatal intensive care unit (NICU).

b. ...

c. There shall be a continuous availability of qualified RNs with the ability to stabilize and transfer high-risk women.

d. A board-certified or board eligible OB-GYN physician shall be available 24 hours a day.

EXCEPTION: For those hospitals whose staff OB-GYN physician(s) do not meet the provisions of §9509.B(2)d, such physician(s) may be grandfathered as satisfying the requirement of §9509.B(2)d when the hospital has documented evidence that the OB-GYN physician(s) was granted clinical staff privileges by the hospital prior to the effective date of this Rule. This exception applies only to the physician at the licensed hospital location and is not transferrable.

e. A licensed physician board-certified in maternal fetal medicine (MFM) shall be available 24 hours a day for consultation onsite, by telephone, or by telemedicine, as needed.

f. Anesthesia services shall be available 24 hours a day to provide labor analgesia and surgical anesthesia.

g. A board-certified anesthesiologist with specialized training or experience in obstetric anesthesia shall be available 24 hours a day for consultation.

h. Medical and surgical consultants shall be available 24 hours a day to stabilize obstetric patients who have been admitted to the facility or transferred from other facilities.

C. - C.1. ...

a. Women with conditions requiring a medical team approach not available to the perinatologist in an obstetrical level III unit shall be transported to a higher-level unit.

b. The unit shall have written cooperative transfer agreements with approved higher level units for the transport of mothers and fetuses requiring care unavailable in an obstetrical level III unit or that are better coordinated at a higher level unit.

c. The hospital shall have advanced imaging services available 24 hours a day which will include magnetic resonance imaging (MRI) and computed topography (CT).

d. The hospital shall have medical and surgical ICUs to accept pregnant women and have qualified critical care providers available as needed to actively collaborate with MFM physicians 24 hours a day.

e. Participation is required in a statewide quality collaborative and database selected by the Medicaid Quality Committee, Maternity Subcommittee, with a focus on quality of maternity care. Proof of such participation will be available from the LDH website.

f. Equipment and qualified personnel, adequate in number, shall be available onsite to ventilate and monitor women in labor and delivery until they can be safely transferred to the ICU.

g. This unit shall accept maternal transfers as deemed appropriate by the medical staff and governing body.

2. Personnel Requirements

a. The delivery of safe and effective perinatal nursing care requires appropriately qualified registered nurses in adequate numbers to meet the nursing needs of each patient. The hospital shall develop, maintain and adhere to an acuity-based classification system based on nationally recognized staffing guidelines and shall have documentation of such.

i. - iii. Repealed.

b. A board-certified or board-eligible MFM physician with inpatient privileges shall be available 24 hours a day, either onsite, by telephone, or by telemedicine.

c. The director of MFM services shall be a board-certified or board eligible MFM physician.

d. The director of obstetric service shall be a board-certified OB-GYN with active staff privileges in obstetrical care.

e. Anesthesia services shall be available 24 hours a day onsite.

f. A board-certified anesthesiologist with specialized training or experience in obstetric anesthesia shall be in charge of obstetric anesthesia services and shall be available onsite as needed.

g. A full complement of subspecialists, including subspecialists in critical care, general surgery, infectious disease, urology, hematology, cardiology, nephrology, neurology, neonatology and pulmonology shall be available for inpatient consultations.

h. A lactation consultant or counselor shall be on staff to assist breastfeeding mothers as needed.

i. The lactation consultant or counselor shall be certified by a nationally recognized board on breastfeeding.

i. A nutritionist and a social worker shall be on staff and available for the care of these patients as needed.

D. - D.1....

a. This unit shall provide care for the most challenging of perinatal conditions. Women with such conditions requiring a medical team approach not available to the MFM physician in an obstetrical level III Regional unit shall be transported to a level IV unit.

b. This unit shall have written cooperative transfer agreements with a level IV unit for the transport of mothers and fetuses requiring care that is unavailable in the level III regional unit or that is better coordinated at a level IV.

c. This unit shall accept maternal transfers as deemed appropriate by the medical staff and hospital governing body.

2. ...

a. This unit shall have a board-certified or board-eligible OB/GYN available onsite 24 hours a day.

b. The director of MFM services for this unit shall be board-certified in MFM.

i. - iv. Repealed.

c. This unit shall have an anesthesiologist qualified in the delivery of obstetric anesthesia services available to be onsite 24 hours a day.

c.i. - g. Repealed.

E. Obstetrical Level IV Unit

1. General Provisions

a. This unit shall provide onsite medical and surgical care of the most complex maternal conditions and critically ill pregnant women and fetuses throughout antepartum, intrapartum, and postpartum care.

2. Unit Requirements

a. This unit shall have perinatal system leadership, including facilitation of maternal referral and transport, outreach education for facilities and health care providers in the region and analysis and evaluation of regional data, including perinatal complications and outcomes and quality improvement.

b. Participation is required in the department's designated statewide quality collaborative program.

NOTE: The hospital shall acquire and maintain documented proof of participation.

c. - c, NOTE. Repealed.

3. Personnel

a. This unit shall have a MFM care team with the expertise to assume responsibility for pregnant women and women in the postpartum period who are in critical condition or have complex medical conditions. This includes co-management of ICU-admitted obstetric patients. The MFM team members shall have full privileges and shall be available 24 hours per day for onsite consultation and management. This team shall be led by a board-certified MFM physician.

b. The director of obstetric services for this unit shall be a board-certified MFM physician.

c. This unit shall have qualified subspecialists on staff to provide consultation in the care of critically ill pregnant women in the following areas:

i. cardiothoracic surgery;

ii. neurosurgery;

iii. endocrinology; and

iv. gastroenterology.

d. Obstetrical Medical Subspecialties

Table 1—Obstetrical Medical Subspecialties				
Each higher level obstetrical unit shall meet the requirements of each lower level obstetrical unit.				
Level I	Level II	Level III	Level III Regional	Level IV
Board Certified or Eligible OB/GYN or Family Practice Physician	Board Certified/Eligible OB/GYN §9509.B(2)d -See Exception	Board Certified/Eligible Anesthesiologist	Board Certified/Eligible Anesthesiologist	Board Certified/Eligible Anesthesiologist
Anesthesia services	Anesthesia services*	Board Certified OB/GYN	Board Certified OB/GYN	Board Certified OB/GYN
Radiology services	Clinical Pathologist ¹	Board Certified/Board Eligible MFM ^{1**}	Board Certified/Board Eligible MFM ^{**}	Board Certified MFM ^{**}
Ultrasonography	Clinical Radiologist	Clinical Pathologist ¹	Clinical Pathologist ¹	Clinical Pathologist ¹
Laboratory services	MFM ^{1**}	Clinical Radiologist ¹	Clinical Radiologist ¹	Clinical Radiologist ¹
Electronic fetal monitoring	Lactation Consultant/Counselor See §9509.B(h.i)	Critical Care ¹	Critical Care ¹	Critical Care ¹
		General Surgery ¹	General Surgery ¹	General Surgery ¹
		Infectious Disease ¹	Infectious Disease ¹	Infectious Disease ¹
		Urology ¹	Urology ¹	Urology ¹
		Hematology ¹	Hematology ¹	Hematology ¹
		Cardiology ¹	Cardiology ¹	Cardiology ¹
		Nephrology ¹	Nephrology ¹	Nephrology ¹
		Neurology ¹	Neurology ¹	Neurology ¹
		Neonatology ¹	Neonatology ¹	Neonatology ¹
		Pulmonology ¹	Pulmonology ¹	Pulmonology ¹
		Lactation Consultant/Counselor	Lactation Consultant/Counselor	Lactation Consultant/Counselor
		Nutritionist	Nutritionist	Nutritionist
		Social Worker	Social Worker	Social Worker
				Cardiothoracic Surgery ¹
				Gastroenterology ¹
				Endocrinology ¹
				Neurosurgery ¹
¹ physician shall be available in person on site as needed by the facility.				
*Anesthesia services shall be available 24 hours a day to provide labor analgesia and surgical anesthesia. A board-certified/eligible anesthesiologist with specialized training or experience in obstetric anesthesia shall be available 24 hours a day for consultation.				
**Licensed MFM shall be available for consultation onsite, by telephone, or by telemedicine, as needed.				

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2427 (November 2003), amended LR 33:284 (February 2007, amended by the Department of Health, Bureau of Health Services Financing, LR 43:76 (January 2017).

§9511. Neonatal Intensive Care

- A. ...
- B. Levels of Care. There are five established neonatal levels of care units:
 1. neonatal level I unit;
 2. neonatal level II unit;
 3. level III NICU unit;
 4. level III surgical NICU; and
 5. level IV NICU unit.

C. Each advanced level of care unit shall provide all services and meet the personnel requirements of the lower designated units, as applicable, i.e., a level III surgical unit must meet the requirements of the level I, II, and III units.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2428 (November 2003), amended LR 33:286 (February 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 43:78 (January 2017).

§9513. Neonatal Unit Functions

A. Level I Neonatal Unit (Well Newborn Nursery)

1. ...
 - a. This unit shall have the capability for resuscitation and stabilization of all inborn neonates in accordance with Neonatal Resuscitation Program (NRP) guidelines. The unit shall stabilize unexpectedly small or sick neonates before transfer to the appropriate advanced level of care.
 - b. The unit shall stabilize and provide care for infants born at 35 weeks or greater gestation and who remain physiologically stable. The requirements for maternal transport at lesser gestations for transfer to a higher level of care shall be determined by the medical staff and approved by the hospital governing body.
 - c. This unit shall have the capability to stabilize newborns born at less than 35 weeks gestational age for transfer to higher level of care.
 - d. This unit shall maintain consultation and written transfer agreements with an approved Level II or III as appropriate.
 - e. This unit shall have a defined, secured nursery area with limited public access and/or secured rooming-in facilities with supervision of access.
 - f. Parent and/or sibling visitation/interaction with the neonate shall be provided.

- g. Repealed.
- 2. - 2.b. ...

c. Registered nurse to patient ratios may vary in accordance with patient needs. If couplet care or rooming-in is used, a registered nurse who is responsible for the mother shall coordinate and administer neonatal care. If direct assignment of the nurse is also made to the nursery to cover the newborn's care, there shall be double assignment (one nurse for the mother-neonate couplet and one for just the neonate if returned to the nursery). A registered nurse shall be available 24 hours a day, but only one may be necessary as most neonates will not be physically present in the nursery. Direct care of neonates in the nursery may be provided by ancillary personnel under the registered nurse's direct supervision. Adequate staff is needed to respond to acute and emergency situations.

B. Neonatal Level II Unit (Special Care Nursery)

1. ...

a. This unit shall provide care for infants born at more than 32 weeks gestation and weighing more than 1,500 grams.

i. infants who have medical problems that are expected to resolve rapidly and are not anticipated to need emergent subspecialty services from a higher level NICU as determined by the attending medical staff.

b. This unit shall have the capability to provide mechanical ventilation and/or CPAP for a brief duration (less than 24 hours) for infants born at more than 32 weeks and weighing more than 1,500 grams.

c. Neonates requiring greater than 24 hours of continuous ventilator support shall be transferred to a higher-level neonatal intensive care facility.

d. This unit shall have the ability to stabilize infants born before 32 weeks gestation and/or weighing less than 1,500 grams until transfer to a higher level neonatal intensive care facility.

e. Neonates requiring transfer to a higher-level neonatal intensive care facility may be returned to a level II unit for convalescence.

2. Personnel Requirements

a. A board-certified neonatologist shall be the chief of service.

NOTE: This unit shall have continuously available medical staff defined as available 24 hours per day/7 days per week/365 days per year on call for consultation as defined by medical staff bylaws.

b. Registered nurse to patient ratios may vary in accordance with patient needs.

c. This unit shall have at least one full-time social worker to be available as needed to assist with the socioeconomic and psychosocial problems of high-risk mothers, sick neonates, and their families.

d. This unit shall have at least one occupational or physical therapist to be available as needed to assist with the care of the newborn.

e. This unit shall have at least one registered dietitian/nutritionist to be available as needed who can plan diets as required to meet the special needs of mothers and high-risk neonates.

f. This unit shall have staff available 24 hours per day who have the demonstrated knowledge, skills, abilities and training to provide the care and services to infants in this unit, such as but not limited to:

- i. nurses;
- ii. respiratory therapists;
- iii. radiology technicians; and
- iv. laboratory technicians.

3. Equipment Requirements

a. This unit shall have hospital based equipment to provide care to infants available 24 hours per day, such as but not limited to:

- i. portable x-ray machine;
- ii. blood gas analyzer.

C. - C.1. ...

a. There shall be a written neonatal transport agreement with an approved level III surgical unit or level IV unit.

b. This unit shall have either a neonatologist or a neonatal nurse practitioner or a neonatology fellow in-house 24 hours per day.

c. The staffing of this unit shall be based on patient acuity and consistent with the recommended staffing guidelines of the 2014 edition of the *AAP Guidelines for Perinatal Care*. For medical sub-specialty requirements, refer to Table 1 - Neonatal Medical Subspecialties and Transport Requirements.

NOTE: All provisions of level III NICUs are required of level IIS and IV NICUs.

2. ...

a. The chief of service of a level III NICU shall be a board-certified neonatologist.

i. - ii. Repealed.

Exception: In 1995, those physicians in existing units who were designated as the chief of service of the unit and who were not neonatal or perinatal board-certified, were granted a waiver by written application to the Office of the Secretary, Department of Health and Hospitals. This waiver shall be maintained as it applies only to the hospital where that chief of service's position is held. The physician cannot relocate to another hospital nor can the hospital replace the chief of service for whom the exception was granted and retain the exception.

b. This unit shall have at least one full-time social worker available as needed who has experience with the socioeconomic and psychosocial problems of high-risk mothers and fetuses, sick neonates, and their families. For units with greater than thirty patients, the social worker staffing ratios shall be at least one social worker to thirty patients (additional social workers may be required in accordance with hospital staffing guidelines).

c. This unit shall have at least one occupational or physical therapist available as needed with neonatal expertise and at least one individual skilled in evaluation and management of neonatal feeding and swallowing disorders (e.g., speech-language pathologist).

d. This unit shall have at least one registered dietitian/nutritionist available as needed who has training or experience in perinatal nutrition and can plan diets that meet the special needs of high-risk mothers and neonates.

e. Delivery of safe and effective perinatal nursing care requires this unit to have qualified registered nurses in adequate numbers to meet the nursing needs of each patient. To meet the nursing needs of this unit, hospitals shall develop and adhere to an acuity based classification system based on nationally recognized staffing guidelines and have documentation available on such guidelines.

f. This unit shall have the following support personnel immediately available as needed to be on-site in the hospital, including but not limited to,

i. licensed respiratory therapists or registered nurses with specialized training who can supervise the assisted ventilation of neonates with cardiopulmonary disease.

3. Equipment Requirements

a. This unit shall have the following support equipment, in sufficient number, immediately available as needed in the hospital that includes but is not limited to,

i. advanced imaging with interpretation on an urgent basis (computed tomography, ultrasound (including cranial ultrasound), MRI, echocardiography and electroencephalography); and

NOTE: Level III facilities shall have an arrangement to have such testing interpreted by someone qualified in neonatal diagnostic testing;

ii. a full range of respiratory support that includes conventional and/or high frequency ventilation and inhaled nitric oxide.

4. Transport

a. It is optional for level III NICUs to provide transports. If the unit performs transports, the unit shall have a qualified transport team and provide for and coordinate neonatal transport with level I and level II units throughout the state.

b. Transport shall be in accordance with national standards as published by the American Academy of Pediatrics' section on neonatal and pediatric transport and in accordance with applicable Louisiana statutes.

5. Quality Improvement Collaborative

a. Facilities with level III NICUs and above shall participate in a quality improvement collaborative and a database selected by the Medicaid Quality Committee, Neonatology sub-committee.

b. Proof of current participation by the facility will be available from the Louisiana DHH website.

D. Level III Surgical NICU

1. General Provisions

a. This unit shall have a transport team and provide for and coordinate neonatal transport with level I, level II units and level III NICUs throughout the state as requested. Transport shall be in accordance with national standards as published by the American Academy of Pediatrics' section on neonatal and pediatric transport and in accordance with applicable Louisiana statutes.

b. - c. Repealed.

NOTE: All provisions of level III NICUs are required of level IIS and IV NICUs.

2. ...

a. For medical sub-specialty requirements refer to Table 1—Neonatal Medical Subspecialties and Transport Requirements.

Exception: Those hospitals which do not have a member of the medical staff who is a board certified/eligible pediatric anesthesiologist but whose anesthesiologist has been granted staff privileges to perform pediatric anesthesiology, such physician(s) may be grandfathered as satisfying the requirement of §9513(2)a when the hospital has documented evidence that the anesthesiologist was granted clinical staff privileges by the hospital prior to the effective date of this Rule. This exception applies only to such physician at the licensed hospital location and is not transferrable.

2.b. - 2.d.xii. Repealed.

E. Level IV NICU

1. General Provisions

a. This unit shall be located within an institution with the capability to provide surgical repair of complex conditions (e.g. congenital cardiac malformations that require cardiopulmonary bypass with or without extracorporeal membrane oxygenation).

2. Personnel Requirements

a. for medical sub-specialty requirements, refer to Table 1—Neonatal Medical Subspecialties and Transport Requirements.

NOTE: All provisions of level IIS NICUs are required of level IV NICUs.

b. Neonatal Medical Subspecialties and Transport Requirements

Table 1—Neonatal Medical Subspecialties and Transport Requirements				
Text denoted with asterisks (*) indicates physician shall be available in person on site as needed by the facility. Each higher level NICU unit shall meet the requirements of each lower level NICU unit.				
Level I (Well Nursery)	Level II	Level III	Level IIS	Level IV
Board Certified/Eligible Pediatric or Family Practice Physician	Board Certified/Eligible Pediatric or Family Practice Physician	Pediatric Cardiology ¹	Pediatric Surgery ⁴	Pediatric Surgery ⁴
	Board Certified Neonatologist	Ophthalmology ²	Pediatric Anesthesiology ⁵ §9513(2)a—See Exception	Pediatric Anesthesiology ⁵
	Social Worker		Neonatal Transport	Neonatal Transport
	Occupational Therapist	Social Worker Ratio 1:30	Ophthalmology ^{2*}	Ophthalmology ^{2*}
	Physical Therapist	OT or PT/neonatal expertise	Pediatric Cardiology*	Pediatric Cardiology*
	Respiratory Therapists	RD/training in perinatal nutrition	Pediatric Gastroenterology*	Pediatric Cardiothoracic Surgery*
	Registered dietician/nutritionist	RT/training in neonate ventilation	Pediatric Infectious Disease*	Pediatric Endocrinology*
	Laboratory Technicians	Neonatal feeding/swallowing-SLP/ST	Pediatric Nephrology*	Pediatric Gastroenterology*
	Radiology Technicians		Pediatric Neurology ^{3*}	Pediatric Genetics*
			Pediatric Neurosurgery*	Pediatric Hematology-Oncology*
			Pediatric Orthopedic Surgery*	Pediatric Infectious Disease*
			Pediatric Otolaryngology ^{6*}	Pediatric Nephrology*
			Pediatric Pulmonology*	Pediatric Neurology ^{3*}
				Pediatric Neurosurgery

Table 1—Neonatal Medical Subspecialties and Transport Requirements

Text denoted with asterisks (*) indicates physician shall be available in person on site as needed by the facility. Each higher level NICU unit shall meet the requirements of each lower level NICU unit.

Level I (Well Nursery)	Level II	Level III	Level IIIS	Level IV
				Pediatric Orthopedic Surgery
				Pediatric Otolaryngology ^{7*}
				Pediatric Pulmonology*
				Pediatric Radiology*
				Pediatric Urologic Surgery*
			Transport note:	
¹ There shall be at least one board certified or board eligible pediatric cardiologist as a member of medical staff. For Level III facilities, staff using telemedicine shall be continuously available.			Transport shall be in accordance with national standards as published by the American Academy of Pediatrics' Section on neonatal and pediatric transport and in accordance with applicable Louisiana statutes.	
² There shall be at least one board certified or board eligible ophthalmologist with sufficient knowledge and experience in retinopathy or prematurity as a member of the medical staff. An organized program for monitoring retinotherapy of prematurity shall be readily available in Level III and for treatment and follow-up of these patients in Level IIIS and IV facilities.				
³ There shall be at least one board certified or board eligible pediatric neurologist as a member of medical staff.				
⁴ For pediatric surgery, the expectation is that there is a board certified or eligible pediatric surgeon who is continuously available to operate at that facility.				
⁵ There shall be at least one board certified or board eligible pediatric anesthesiologist as a member of the medical staff.				
⁶ Board eligible or certified in Otolaryngology; special interest in Pediatric Otolaryngology or completion of Pediatric Otolaryngology Fellowship.				
⁷ Board eligible or certified in Otolaryngology; completion of Pediatric Otolaryngology Fellowship.				
For specialties listed above staff shall be board eligible or board certified in their respective fields with the exception of otolaryngology as this field has not yet pursued certification.				

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003), amended LR 33:286 (February 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 43:78 (January 2017).

§9515. Additional Support Requirements

A. A bioethics committee shall be available for consultation with care providers at all times.

B. - Table 2.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:2429 (November 2003), amended LR 33:288 (February 2007, amended by the Department of Health, Bureau of Health Services Financing, LR 43:82 (January 2017).

Rebekah E. Gee MD, MPH
Secretary

1701#070

RULE

**Department of Health
Bureau of Health Services Financing**

Nursing Facilities
Reimbursement Methodology
Pass Through Rate Increase
(LAC 50:II.20005)

The Department of Health, Bureau of Health Services Financing has amended 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 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 II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20005. Rate Determination

[Formerly LAC 50:VII.1305]

A. - D.4.b. ...

c. Effective September 1, 2016, the pass through rate shall be increased as a result of the provider fee increase on nursing facility days from \$10.00 per day up to \$12.08 per day per occupied bed.

D.5. - Q. ...

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 37:902 (March 2011), LR 37:1174 (April 2011), LR 37:2631 (September 2011), LR 38:1241 (May 2012), LR 39:1286 (May 2013), LR 39:3097, 3097 (November

2013), LR 41:707 (April 2015), LR 41:949 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:82 (January 2017).

Rebekah E. Gee MD, MPH
Secretary

1701#071

RULE

**Department of Health
Bureau of Health Services Financing**

Pediatric Day Health Care Facilities
Licensing Standards
(LAC 48:I.5239)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.5239 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2193-40:2193.4. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 52. Pediatric Day Health Care Facilities

Subchapter D. Participation Requirements

§5239. Plan of Care

A. - D.4. ...

E. The medical director shall review the plans of care in consultation with PDHC staff and the prescribing physician every 90 days or more frequently as the child's condition dictates. Prescribed services and therapies included in the plan of care shall be adjusted in consultation with the prescribing physician to accommodate the child's condition.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2769 (December 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 43:82 (January 2017).

Rebekah E. Gee MD, MPH
Secretary

1701#072

RULE

**Department of Health
Bureau of Health Services Financing**

Pediatric Day Health Care Program
(LAC 50:XV.27501, 27503, 27901 and 28101)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XV.27501, §27503, §§27901 and 28101 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 XV. Services for Special Populations

Subpart 19. Pediatric Day Health Care Program

Chapter 275. General Provisions

§27501. Program Description and Purpose

A. Pediatric Day Health Care (PDHC) Services

1. An array of services that are designed to meet the medical, social and developmental needs of children up to the age of 21 who have a complex medical condition which requires skilled nursing care and therapeutic interventions on an ongoing basis in order to:

- a. preserve and maintain health status;
- b. prevent death;
- c. treat/cure disease;
- d. ameliorate disabilities or other adverse health conditions; and/or
- e. prolong life.

2. PDHC services offer a community-based alternative to traditional long term care services or extended nursing services for children with medically complex conditions.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1557 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:83 (January 2017).

§27503. Recipient Criteria

A. In order to qualify for PDHC services, a Medicaid recipient must meet the following criteria. The recipient must:

1. ...

2. have a medically complex condition which involves one or more physiological or organ systems and requires skilled nursing and therapeutic interventions performed by a knowledgeable and experienced licensed professional registered nurse (RN) or licensed practical nurse (LPN) on an ongoing basis in order to:

- a. preserve and maintain health status;
- b. prevent death;
- c. treat/cure disease;
- d. ameliorate disabilities or other adverse health conditions; and/or
- e. prolong life;

3. have a signed physician's order and plan of care, not to exceed 90 days, for pediatric day health care by the recipient's physician specifying the frequency and duration of services; and

A.3.a. - A.3.e. Repealed.

4. be stable for outpatient medical services in a home or community-based setting.

A.4.a. - A.6. Repealed.

B. ...

C. Re-evaluation of PDHC services must be performed, at a minimum, every 90 days. This evaluation must include a review of the recipient's current medical plan of care and provider agency documented current assessment and progress toward goals.

D. A face-to-face evaluation shall be held every 90 days by the child's prescribing physician. Services shall be

revised during evaluation periods to reflect accurate and appropriate provision of services for current medical status.

E. - 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, Bureau of Health Services Financing, LR 36:1557 (July 2010), amended LR 41:137 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:83 (January 2017).

Chapter 279. Provider Participation

§27901. General Provisions

A. ...

B. A parent, legal guardian or legally responsible person providing care to a medically complex child in a home or any other extended care or long-term care facility, is not considered to be a PDHC facility and shall not be enrolled in the Medicaid Program as a PDHC services provider.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:83 (January 2017).

Chapter 281. Reimbursement Methodology

§28101. General Provisions

A. ...

1. A full day of service is more than six hours, not to exceed a maximum of 12 hours per day.

2. A partial day of service is six hours or less per day.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended LR 39:1286 (May 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:83 (January 2017).

Rebekah E. Gee MD, MPH
Secretary

1701#073

RULE

**Department of Health
Office of Public Health**

Ground Water and Revised Total Coliform Regulations
(LAC 51:XII.101, 311, 319, 325, 343, 901,
903, 905, 907, 911, 912, 913 and 1201)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), has amended Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51). The amendments to Part XII are necessary in order that LDH-OPH can maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt

state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

The Rule herein amends and updates LDH-OPH's existing rule for public water systems. The Safe Drinking Water Act Amendments of 1996 (Public Law 104-182/ August 6, 1996) required the USEPA to issue updated rules relative to the regulation of disinfection of ground water supplies. Subsequently, the USEPA amended the National Primary Drinking Water Regulations (40 CFR Part 141) on November 8, 2006 (71 FR 65650 - 65659) by promulgating a rule entitled "National Primary Drinking Water Regulations: Ground Water Rule; Final Rule", as well as USEPA technical corrections to this federal rule published in the Federal Register dated November 21, 2006 (Volume 71, Number 224, page 67427). The November 8, 2006 federal ground water regulation became effective for Louisiana public water systems at the federal level on December 1, 2009. Furthermore, in accordance with the 1996 Safe Drinking Water Act (SDWA) Amendments, which require the USEPA to review and revise each national primary drinking water regulation no less often than every six years, the USEPA amended the National Primary Drinking Water Regulations (40 CFR Part 141) on February 13, 2013 (78 FR 10346-10363) by promulgating a rule entitled "National Primary Drinking Water Regulations: Revisions to the Total Coliform Rule; Final Rule", as well as certain USEPA minor corrections to this federal rule published in the Federal Register dated February 26, 2014 (79 FR 10668-10670). The February 13, 2013 federal revised total coliform regulations became fully effective for Louisiana public water systems at the federal level on April 1, 2016. This Rule amends the current state regulations by adopting these newly amended federal regulations by reference into Part XII.

For the reasons set forth above, Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51:XII) is amended as follows.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part XII. Water Supplies

Chapter 1. General

§101. Definitions

[formerly paragraph 12:001]

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

* * *

Level 1 Assessment—an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate; existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any State directives that tailor

specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

* * *

Level 2 Assessment—an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 2 assessment provides a more detailed examination of the system (including the system's monitoring and operational practices) than does a Level 1 assessment through the use of more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate; existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must comply with any expedited actions or additional actions required by the State in the case of an *E. coli* MCL violation.

* * *

National Primary Drinking Water Regulations—

a. drinking water regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f et seq., and as published in the July 1, 2015 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141), less and except:

- i. 40 CFR §141.35 Reporting for unregulated contaminant monitoring results;
- ii. 40 CFR §141.40 Monitoring requirements for unregulated contaminants;
- iii. Subpart H—Filtration and Disinfection (40 CFR §§141.70-141.76);
- iv. Subpart P—Enhanced Filtration and Disinfection—Systems Serving 10,000 or More People (40 CFR §§141.170-141.175);
- v. Subpart T—Enhanced Filtration and Disinfection—Systems Serving Fewer Than 10,000 People (40 CFR §§141.500—571); and
- vi. Subpart X—Aircraft Drinking Water Rule (40 CFR §§141.800—810).

b. when "Subpart H", "Subpart P", or "Subpart T" is used within the actual text of the drinking water regulations cited in Subparagraph "a." of this Paragraph (definition), "LAC 51:XII.Chapter 11" shall be substituted therein.

* * *

Sanitary Survey—an onsite review of the water source, facilities, equipment, operation, maintenance, and monitoring compliance of a public water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water.

* * *

Significant Deficiency—a defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the state health

officer determines to be causing, or has the potential for causing the introduction of contamination into the water delivered to consumers.

* * *

AUTHORITY NOTE: The first source of authority for promulgation of the Sanitary Code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 36:254 (B)(7), R.S. 40:4 (A)(8), R.S. 40:5.A. (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002), LR 30:1194 (June 2004), LR 30:2326 (October 2004), LR 35:484 (March 2009), LR 35:1240 (July 2009), LR 38:2375 (September 2012), LR 38:2793 (November 2012), LR 38:3232 (December 2012), amended by the Department of Health, Office of Public Health, LR 43:84 (January 2017).

Chapter 3. Water Quality Standards

§311. Records

[formerly paragraph 12:003-2]

A. Complete daily records of the operation of a public water system, including reports of laboratory control tests and any chemical test results required for compliance determination, shall be kept and retained as prescribed in the national primary drinking water regulations on forms approved by the state health officer. When specifically requested by the state health officer or required by other requirements of this Part, copies of these records shall be provided to the office designated by the state health officer within 10 days following the end of each calendar month. Additionally, all such records shall be signed by a certified operator in charge of the public water system and made available for review during inspections/sanitary surveys performed by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002), amended LR 30:1195 (June 2004), LR 42:408 (March 2016), amended by the Department of Health, Office of Public Health, LR 43:85 (January 2017).

§319. Significant Deficiencies Identified in Sanitary Surveys

A. The state health officer shall conduct a sanitary survey for all public water systems no less frequently than once every three years for community systems and no less frequently than once every five years for non-community systems.

1. The sanitary survey shall address the following eight specific elements:

- a. source;
- b. treatment;
- c. distribution system;
- d. finished water storage;
- e. pumps, pump facilities, and controls;
- f. monitoring, reporting, and data verification;
- g. system management and operation; and
- h. operator compliance with state requirements.

B. Public water systems shall respond in writing to confirm the correction of significant deficiencies identified in a sanitary survey report no later than 90 days after receipt of the report by the public water system. The public water

system's written response shall specify the completed corrective action taken for each significant deficiency or specify a corrective action plan and schedule to address each significant deficiency noted in the sanitary survey report.

C. Upon receipt of the public water system's written response to significant deficiencies identified in a sanitary survey report, the state health officer shall review and approve the public water system's written schedule or shall notify the public water system in writing if the corrective action schedule is unacceptable and will make recommendations to amend the schedule so that the plan can be approved.

D. For all public water systems, the following have been determined by the state health officer to be significant deficiencies and shall be corrected in accordance with §319.B of this Part:

1. §105.A 105.B or 105.C of this Part;
2. §309.A of this Part;
3. There shall be no pathway for contamination into the well casing or discharge piping. The well site grading, the well slab and all well appurtenances including casing, sanitary seal, vent, and drawdown tube shall be maintained to prevent the introduction of contamination into the well casing and discharge piping;
4. Every potable water well, and the immediate appurtenances thereto that comprise the well, shall be located at a safe distance from all possible sources of contamination. The state health officer has deemed that due to the horizontal distance to a possible source of pollution that is currently causing, or may reasonably be expected to cause contamination to be introduced into the water being delivered to consumers, action is necessary to eliminate or mitigate this potential source of contamination;
5. §315.A of this Part;
6. §325.A of this Part;
7. §327.A.15 of this Part;
8. §329.A.6 of this Part;
9. §331.A of this Part;
10. §335.E of this Part;
11. §337.C of this Part;
12. §343.A of this Part;
13. §344.A of this Part;
14. General equipment design shall be such that feeders will be able to supply, at all times, the necessary amounts of chemicals at an accurate rate throughout the range of feed;
15. For fluoride only, day tanks shall be provided where bulk storage of liquid chemical is provided, meet all the requirements of section 5.1.10 of the Ten State Standards, hold no more than a 30 hour supply, and be scale mounted or have a calibrated gauge painted or mounted on the side if liquid levels can be observed in a gauge tube or through translucent sidewalls of the tank. In opaque tanks, a gauge rod extending above a reference point at the top of the tank, attached to a float can be used. The ratio of the area of the tank to its height shall be such that unit readings are meaningful in relation to the total amount of chemical fed during a day;
16. No drain on a water storage structure shall have a direct connection to a sewer or storm drain. The design shall allow draining the storage facility for cleaning or maintenance without causing loss of pressure in the distribution system;

17. System shall have a monitoring plan that includes a list of all routine compliance samples required on a daily, weekly, monthly, quarterly, and annual basis and identify the sampling location where samples are to be collected. The public water system shall revise and re-submit its monitoring plan if changes to a plant or distribution system require changes to the sampling locations or if any significant changes to the disinfection methods are made. In addition, the public water system shall update and re-submit its monitoring plan when the system's sampling requirements or protocols change;

18. §1503.A.1 of this Part;

19. §1503.C of this Part;

20. Storage tanks and pipelines for liquid chemicals shall be specified for use with individual chemicals and shall not be used for different chemicals. Offloading areas shall be clearly labeled to prevent accidental cross-contamination;

21. Critical water system component is in poor condition or defective and indicative of failure or imminent failure. Component failure is expected to critically impact the quality or quantity of produced water;

22. All potable water systems shall be designed, constructed, and maintained so as to prevent leakage of water due to defective materials, improper jointing, corrosion, settling, impacts, freezing, or other causes. Valves and blow-offs shall be provided so that necessary repairs can be made with a minimum interruption of service; and

23. Other condition which is deemed by the state health officer to be a significant deficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:85 (January 2017).

§325. Treatment Chemicals and Components
[formerly paragraph 12:007]

A. Chemicals used in the treatment of water to be used for potable purposes shall either meet the standards of the American Water Works Association or meet NSF 60 requirements as verified by an ANSI accredited testing agency. System wetted components shall meet NSF 61 as verified by an ANSI accredited testing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5.A. (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1322 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:86 (January 2017).

§343. Cross Connections
[formerly paragraph 12:016-1]

A. There shall be no physical connection between a public water supply and any other water supply which is not of equal sanitary quality and under an equal degree of official supervision; and there shall be no connection or arrangement by which unsafe water, hazardous fluid or contamination may enter a public water supply system.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(7)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1325 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:86 (January 2017).

Chapter 9. Louisiana Total Coliform Rule
[formerly Appendix C]

§901. Federal Regulations Adopted by Reference
[formerly the preamble paragraph opening
Appendix C]

A. The State of Louisiana, Louisiana Department of Health (LDH)-Office of Public Health (OPH) adopts the United States Environmental Protection Agency (USEPA) federal Total Coliform Regulations as published in the *Federal Register*, Volume 54, Number 124 Thursday, June 29, 1989. Pursuant to the definition of *national primary drinking water regulations* and the provisions of §377 of this Part, LDH-OPH adopts by reference the USEPA federal Revisions to the Total Coliform Rule (RTCR) as published in the *Federal Register* dated February 13, 2013 (Volume 78, Number 30, pages 10346-10363). In addition, under §377 of this Part, LDH-OPH also adopts by reference certain USEPA minor corrections to the federal RTCR as published in the *Federal Register* dated February 26, 2014 (Volume 79, Number 38, pages 10668-10670). In order to clarify the state's discretionary decisions allowed by the federal requirements, the following is offered.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1333 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:86 (January 2017).

§903. Coliform Routine Compliance Monitoring
[formerly Coliform Routine Compliance
Monitoring of Appendix C]

A. Public water systems shall collect routine compliance samples for total coliforms at sites which are representative of water throughout the distribution system in accordance with a monitoring plan approved by the state health officer. Each public water system shall submit a monitoring plan in a format approved by the state health officer. The monitoring plan shall include a minimum number of point of collection (POC) monitoring sites calculated by multiplying 1.5 times the minimum number of samples required to be routinely collected in accordance with Subsection C of this Section, rounding any mixed (fractional) number product up to the next whole number. The monitoring plan shall include the POC monitoring sites for repeat samples required in §905. The monitoring plan shall include a map of the system with each POC sampling site identified along with a 911 street address, a latitude/longitude coordinate, and a brief description of the site location.

B. ...

C. Community systems and non-community systems shall be routinely monitored in accordance with Table 1.

Population Served	Minimum Number of Routine Samples per Month	Population Served	Minimum Number of Routine Samples per Month
25 to 1,000	1	59,001 to 70,000	70
1,001 to 2,500	2	70,001 to 83,000	80
2,501 to 3,300	3	83,001 to 96,000	90
3,301 to 4,100	4	96,001 to 130,000	100
4,101 to 4,900	5	130,001 to 220,000	120
4,901 to 5,800	6	220,001 to 320,000	150
5,801 to 6,700	7	320,001 to 450,000	180
6,701 to 7,600	8	450,001 to 600,000	210
7,601 to 8,500	9	600,001 to 780,000	240
8,501 to 12,900	10	780,001 to 970,000	270
12,901 to 17,200	15	970,001 to 1,230,000	300
17,201 to 21,500	20	1,230,001 to 1,520,000	330
21,501 to 25,000	25	1,520,001 to 1,850,000	360
25,001 to 33,000	30	1,850,001 to 2,270,000	390
33,001 to 41,000	40	2,270,001 to 3,020,000	420
41,001 to 50,000	50	3,020,001 to 3,960,000	450
50,001 to 59,000	60	3,960,001 or more	480

D. Unless the state health officer specifies otherwise, the public water supply shall collect routine samples at regular time intervals throughout the month and shall alternate routine sampling between all of the approved POC sites. Routine samples shall not be collected from the same POC more than once per calendar month.

E. Special purpose samples (investigative samples) shall not be used to determine compliance with the *Escherichia coli* (*E. coli*) MCL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1333 (June 2002), amended LR 42:410 (March 2016), amended by the Department of Health, Office of Public Health, LR 43:86 (January 2017).

§905. Coliform Repeat Compliance Monitoring [formerly Coliform Repeat Monitoring of Appendix C]

A. If a routine sample is total coliform positive and the public water supply has their own certified laboratory, repeat samples shall be collected by the public water supply within 24 hours of being notified of the positive result. If the State collects and analyzes the samples, repeat samples shall be collected by the state within 24 hours of official notification. At least three repeat compliance samples shall be collected for each routine total coliform positive sample found.

B. For each routine total coliform positive sample, at least one repeat sample shall be collected from the sampling tap where the original total coliform positive sample was taken and at least one repeat sample shall be collected at a tap within five service connections upstream and at least one repeat sample shall be collected at a tap within five service connections downstream of the original sampling site.

C. The repeat samples shall be collected on the same day.

D. In a system with a single service connection, three 100 ml repeat samples shall be collected.

E. If total coliforms are detected in any repeat sample, the system shall collect another set of repeat samples from the same locations within 24 hours of being notified of the positive result. The system shall continue to collect additional sets of repeat samples until either total coliforms are not detected in one complete set of repeat samples or the

system determines that a coliform treatment technique trigger under this Part has been exceeded as a result of a repeat sample being total coliform-positive and the State is notified.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1334 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:87 (January 2017).

§907. Analytical and Reporting Requirements

A. Compliance samples for total coliform and *Escherichia coli* (*E. coli*) shall be analyzed by a certified microbiology laboratory/drinking water. The microbiology laboratory shall be certified by the state health officer for each method (and associated contaminant(s)) used for compliance monitoring analyses under this Part.

B. Compliance samples shall be analyzed to determine the presence or absence of total coliforms and *E. coli*; a determination of density is not required. If a routine or repeat sample result is positive for total coliform, the sample shall also be analyzed for *E. coli* immediately.

C. For compliance samples, laboratories shall use a State-approved laboratory report that contains the following information:

1. public water system (PWS) name and State-assigned PWS ID number;
2. sample identification number;
3. State-assigned point of collection (POC) site ID No. and POC address;
4. sample type (e.g., routine, repeat, source, replacement, investigative or other special purpose sample);
5. date and time of collection;
6. disinfectant residual (specify free or total and units of measurement);
7. name of sampler/collector;
8. date and time of sample receipt by the laboratory;
9. any deficiency in the condition of the sample;
10. date and time analysis begins;
11. analytical technique/method used;
12. results of analysis;
13. any remarks [quality control failures, etc.]; and
14. name and signature of the analyst performing the analysis.

D. Except for a positive sample(s) which is required under to be reported sooner, compliance sample results shall be reported in a format approved by the state health officer by the tenth day of the following month after the end of the monitoring period.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:87 (January 2017).

§911. Treatment Technique Triggers and Maximum Contaminant Level

[formerly Total Coliform MCL of Appendix C]

A. The following conditions are considered treatment technique triggers.

1. For systems collecting 40 or more distribution system samples per month, more than 5.0 percent of the monthly samples are total coliform positive.

2. For systems collecting less than 40 distribution system samples per month, two or more samples per month are total coliform positive.

3. Failure to collect every required repeat sample following a total coliform positive sample.

4. An *E.coli* maximum contaminant level (MCL) violation occurs as specified below:

a. a coliform-positive original sample that is also positive for *E. coli* is followed by a coliform-positive repeat sample;

b. a coliform-positive original sample followed by a coliform-positive repeat sample is also positive for *E. coli*;

c. failure to take all repeat samples following an *E. coli* positive routine sample; or

d. failure to test for *E. coli* on any repeat total coliform positive sample.

5. A second occurrence of conditions under Paragraph 1, 2 or 3 of this Subsection within a rolling 12-month period.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:88 (January 2017).

§912. Assessment Requirements

A. Assessments shall be conducted in accordance with the requirements of the National Primary Drinking Water Regulations as amended by this Chapter after exceeding any of the treatment technique triggers described in §911 of this Part.

1. A Level 1 assessment shall be conducted if the system exceeds one of the treatment technique triggers described in Paragraph 1, 2, or 3 of §912.A.

a. A Level 1 assessment shall be conducted by an operator or operators holding a current license issued by the state health officer for water production, water treatment and water distribution in the class level (or higher) required for the population served by the system in accordance with the requirements of LAC 48:V.Chapter 73.

2. A Level 2 assessment shall be conducted if the system exceeds one of the treatment technique triggers described in Paragraph 4 or 5 of §912.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:88 (January 2017).

§913. Public Notification

[formerly Public Notification of Appendix C]

A. Public notification (PN) shall be provided in accord with the requirements of the National Primary Drinking Water Regulations, as amended under Chapter 19 of this Part. In accordance with the NPDWRs, public water systems shall provide a Tier 1 PN for an *E. coli* MCL violation, a Tier 2 PN for a treatment technique requirement violation for failure to conduct assessments or corrective actions, and a Tier 3 PN for a monitoring violation or a reporting violation.

1. If a replacement sample cannot be analyzed and give a readable result, the public water supply will be assessed a monitoring violation and must give appropriate public notification.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended LR 35:484 (March 2009), amended by the Department of Health, Office of Public Health, LR 43:88 (January 2017).

Chapter 12. Ground Water Rule

§1201. General

A. Pursuant to the definition of *National Primary Drinking Water Regulations* and the provisions of §377 of this Part, the Louisiana Department of Health (LDH) Office of Public Health (OPH) adopts by reference the United States Environmental Protection Agency (USEPA) federal Ground Water Rule (GWR) as published in the *Federal Register* dated November 8, 2006 (Volume 71, Number 216, pages 65650 - 65659). In addition, under §377 of this Part, LDH-OPH also adopted by reference certain USEPA technical corrections to the federal GWR. The applicable technical corrections were published in the *Federal Register* dated November 21, 2006 (Volume 71, Number 224, page 67427).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:88 (January 2017).

Jimmy Guidry, MD
State Health Officer,
and
Rebekah E. Gee, MD, MPH
Secretary

1701#021

RULE

Department of the Treasury Board of Trustees of the Louisiana State Employees' Retirement System

General Provisions (LAC 58:I.Chapter 1)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) has amended in part and repealed in part of provisions contained in Chapter 1 Part I of LAC Title 58. Seven definitions in Section 101 are repealed, as they are unused in

the Part or are already defined in statutory law. Sections 103 and 105 are recommended for repeal in their entirety because they are unneeded. Section 107 is recommended for repeal because it is unsuited for the LASERS appeal process.

Title 58

RETIREMENT

Part I. Louisiana State Employees' Retirement System

Chapter 1. General Provisions

§101. Definitions

A. Wherever in these regulations the masculine is used, it includes the feminine and vice versa. Wherever the singular is used, it includes the plural and vice versa. The following definitions shall apply to all regulations promulgated under Part I, unless the usage clearly indicates another meaning.

Active Member—a member of the Louisiana State Employees' Retirement System who is in state service.

Active Member Trustees—those members of the board of trustees of the Louisiana State Employees' Retirement System who are active employees, or participating in DROP.

Board of Trustees or Board—the board of trustees of the Louisiana State Employees' Retirement System.

Director—the executive director of the Louisiana State Employees' Retirement System.

DROP—Deferred Retirement Option Plan.

Inactive Member—a member who is out of state service but is not retired and has left his contributions in the system.

LASERS—the Louisiana State Employees' Retirement System.

Retired Member Trustees—those members of the board of trustees of the Louisiana State Employees' Retirement System who are retired, but not those members who are participating in DROP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:120 (January 1998), amended LR 43:89 (January 2017).

§103. Petitions for Adoption, Amendment, or Repeal of Rules; Form and Procedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), repealed LR 43:89 (January 2017).

§105. Petitions for Declaratory Rulings on the Applicability of Agency Statutes, Rules or Orders

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:962 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), repealed LR 43:89 (January 2017).

§107. Appeal to the Board of Trustees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement

System, LR 22:373 (May 1996), repealed LR 43:89 (January 2017).

Cindy Rougeou
Executive Director

1701#017

RULE

**Department of Wildlife and Fisheries
Office of Fisheries**

Reef Fish—Harvest Regulations (LAC 76:VII.335)

Editor's Note: The following Rule is being repromulgated to correct a manifest typographical error upon submission. The original Rule can be viewed in the June 20, 2016 *Louisiana Register* on pages 908-909.

The Wildlife and Fisheries Commission has amended a Rule (LAC 76:VII.335) modifying existing reef fish harvest regulations. The changes decrease the daily trip limit of commercially harvested greater amberjack from 2,000 pounds to 1,500 pounds and increase the recreational minimum size limit of greater amberjack from 30 to 34 inches fork length. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), 56:320.2, 56:326.1, and 56:326.3 to the Wildlife and Fisheries Commission.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 3. Saltwater Sport and Commercial Fishery
§335. Reef Fish—Harvest Regulations**

A. - D.7. ...

8. Commercial trip limits shall include those limits listed below. For the purposes of this rule, a *trip* is defined as a fishing trip, regardless of the number of days duration, that begins with departure from a dock, berth, beach, seawall or ramp and that terminates with return to a dock, berth, beach, seawall or ramp.

Species or Group	Trip Limit
a. Gray Triggerfish	12 fish
b. Greater Amberjack	1,500 pounds

E. Recreational and commercial minimum and maximum size limits, unless otherwise noted.

Species	Minimum Size Limits
1. Red snapper	16 inches total length (Recreational) 13 inches total length (Commercial)
2. Gray, yellowtail, and cubera snapper	12 inches total length
3. Lane snapper	8 inches total length
4. Mutton snapper	16 inches total length
5. Vermilion snapper	10 inches total length
6. Red grouper	20 inches total length (Recreational) 18 inches total length (Commercial)
7. Yellowfin grouper	20 inches total length
8. Gag	24 inches total length (Recreational) 22 inches total length (Commercial)
9. Black grouper	24 inches total length
10. Scamp	16 inches total length
11. Greater amberjack	34 inches fork length (Recreational) 36 inches fork length (Commercial)
12. Hogfish	12 inches fork length

Species	Minimum Size Limits
13. Banded rudderfish and lesser amberjack	14 inches fork length (minimum size) 22 inches fork length (maximum size)
14. Gray triggerfish	14 inches fork length

F. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1 and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1993), LR 20:797 (July 1994), LR 21:1267 (November 1995), LR 22:860 (September 1996), LR 24:1138 (June 1998), LR 24:1139 (June 1998), LR 24:1972 (October 1998), LR 26:793 (April 2000), LR 26:1505 (July 2000), LR 26:2833 (December 2000), LR 31:3166 (December 2005), LR 33:1156 (June 2007), repromulgated LR 33:1397 (July 2007), amended LR 34:2209 (October 2008), LR 34:2682 (December 2008), LR 36:1791 (August 2010), LR 38:2383 (September 2012), LR 39:330 (February 2013), LR 40:95 (January 2014), repromulgated LR 40:1116 (June 2014), LR 40:2281 (November 2014), amended by the Department of Wildlife and Fisheries, Office of Fisheries, LR 42:908 (June 2016), repromulgated LR 44:89 (January 2017).

Bart Yakupzack
Chairman

1701#006

RULE

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

Alligator Egg Collections (LAC 76:V.701)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission have amended the rules for alligator egg collections in the alligator regulations.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

A. - A.13.d. ...

14. Alligator Egg Collections

a. - i. ...

j. The alligator egg collection permittee and the landowner are responsible for the return of the percentage of live alligators to the wild described on the alligator egg collection permit. This requirement is nontransferable. Minimum return rates will be based upon the state average hatching success which is 78 percent. In no case shall the return rate be less than 10 percent at 48 inches total length. Each alligator shall be returned to the original egg collection area within a maximum time of two years from date of hatching. Each alligator shall be a minimum of 36 inches and a maximum of 60 inches (no alligator over 60 inches total length will be accepted for release) in total length and the returned sex ratio should contain at least 50 percent females. The alligator egg collection permittee/landowner are responsible for and must compensate in kind for alligator mortality which occurs for department-authorized return to the wild alligators while being processed, stored, or transported. The department shall be responsible for

supervising the required return of these alligators. A department transfer authorization permit is not required for return to the wild alligators which are delivered to the farm of origin no more than 48 hours prior to being processed for wild release. Releases back to the wild will only occur between March 15 and August 25 of each calendar year provided that environmental conditions as determined by the department are favorable for survival of the released alligators. Any farmer who owes 1000 or more alligators at 48 inches must release at least 1/4 of the total owed for that year by April 30; at least another quarter by June 15, at least another quarter by July 31; and the remainder by August 25. A farmer may do more than the required 1/4 of his releases earlier if available unscheduled days allow. Should an alligator egg collection permittee be unable to release the required number of alligators to the wild from his own stock, he shall be required to purchase additional alligators from another farmer to meet compliance with the alligator egg collection permit and these regulations, as supervised by the department. Department-sanctioned participants in ongoing studies involving survivability and return rates are exempt from these requirements during the period of the study. Violation of this Subparagraph is a class four violation as described in R.S. 56.

14.k. - 18.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), LR 30:2338 (October 2004), LR 30:2878 (December 2004), LR 31:2267 (September 2005), LR 33:677 (April 2007), LR 35:690 (April 2009), LR 37:2421 (August 2011), LR 39:2291 (August 2013), LR 42:909 (June 2016), LR 43:90 (January 2017).

Bart R. Yakupzack
Chairman

1701#0025

RULE

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

Freshwater Sport and Commercial Fishing—Poverty Point Reservoir Netting Prohibition (LAC 76:VII.106)

The Wildlife and Fisheries Commission has amended the current net ban and established and permitted a special recurring commercial fishing season, allowing the use of certain nets in Poverty Point Reservoir, Richland Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§106. Poverty Point Reservoir Netting Prohibition

A. The Wildlife and Fisheries Commission hereby prohibits the use of freshwater trammel and gill nets in Poverty Point Reservoir, Richland Parish, Louisiana, except their use will be allowed for the legal harvest of commercial

fish during a special recurring trammel and gill netting season to commence each year at sunrise on October 1 and close at sunset on the last day of February the following year.

1. Commercial fishing with certain nets will be allowed on Poverty Point Reservoir only during the above described special season and only by licensed commercial fishermen. The use of nets in Poverty Point Reservoir will be limited to gill and trammel nets greater than or having at least a minimum mesh size of 3 1/2-inch bar and 7-inch stretch.

2. Commercial fishing will be allowed during daylight hours in designated areas only except that gear can remain set overnight but fish captured shall be removed during daylight hours only.

B. The Wildlife and Fisheries Commission hereby prohibits the use of hoop nets, wire nets and fish seines in Poverty Point Reservoir. No person shall use or possess any hoop nets, wire nets or fish seines in or on Poverty Point Reservoir. Violation of this provision shall be a class 2 violation as specified in R.S. 56:32.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:2569 (October 2005), amended LR 43:90 (January 2017).

Bart R. Yakupzack
Chairman

1701#027

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Harvest—Establishment of Recreational Reef Sites and Restrictions (LAC 76:VII.537)

The Wildlife and Fisheries Commission has amended LAC 76:VII.537 to remove oyster reefs 1-3 in Calcasieu Lake from the list of established recreational reef sites, and thus allow for the harvest of oysters thereon. Furthermore, a new area of water bottoms in Calcasieu Lake (East Calcasieu reef site) would be designated and set aside as a recreational reef whereby the restriction of all harvest of oysters thereon would be applied. Two new areas of water bottoms in Lake Pontchartrain (West End and St. John) are also added to the list of established recreational reef sites. Additional changes to this Section include removal of duplicative reef site coordinates (Redfish Pointe [original]), consistency corrections (Bay Ronquille, St. Tammany East, St. Tammany West, Orleans, South Shore, Bully Camp, St. Charles, Rabbit Island, Finfish, Turner's Bay Island, Sweet Lake, Bird Island, Cypremort Point, and Redfish Point), and subsequent renumbering of reef sites.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oyster

§537. Establishment of Recreational Reef Sites and Restriction of Oyster Harvest

A. The Wildlife and Fisheries Commission hereby establishes the following recreational reef sites as that area within the following coordinates (North America Datum 1983):

1. California Point—Plaquemines Parish:
 - a. 29 degrees 29 minutes 08.86 seconds N,
89 degrees 29 minutes 11.15 seconds W;
 - b. 29 degrees 29 minutes 08.63 seconds N,
89 degrees 28 minutes 54.46 seconds W;
 - c. 29 degrees 28 minutes 54.02 seconds N,
89 degrees 28 minutes 54.73 seconds W;
 - d. 29 degrees 28 minutes 54.25 seconds N,
89 degrees 29 minutes 11.42 seconds W;
2. Bay Ronquille—Plaquemines Parish:
 - a. 29 degrees 20 minutes 04.46 seconds N,
89 degrees 50 minutes 33.38 seconds W;
 - b. 29 degrees 20 minutes 04.54 seconds N,
89 degrees 50 minutes 39.29 seconds W;
 - c. 29 degrees 20 minutes 07.96 seconds N,
89 degrees 50 minutes 40.22 seconds W;
 - d. 29 degrees 20 minutes 09.09 seconds N,
89 degrees 50 minutes 44.75 seconds W;
 - e. 29 degrees 20 minutes 01.34 seconds N,
89 degrees 50 minutes 44.21 seconds W;
 - f. 29 degrees 20 minutes 01.59 seconds N,
89 degrees 50 minutes 41.69 seconds W;
 - g. 29 degrees 19 minutes 50.07 seconds N,
89 degrees 50 minutes 38.19 seconds W;
 - h. 29 degrees 19 minutes 53.35 seconds N,
89 degrees 50 minutes 34.71 seconds W;
 - i. 29 degrees 19 minutes 52.76 seconds N,
89 degrees 50 minutes 34.16 seconds W;
 - j. 29 degrees 20 minutes 02.34 seconds N,
89 degrees 50 minutes 24.99 seconds W;
 - k. 29 degrees 20 minutes 05.37 seconds N,
89 degrees 50 minutes 31.18 seconds W;
3. St. Tammany East—St. Tammany Parish:
 - a. 30 degrees 13 minutes 48.36 seconds N,
89 degrees 57 minutes 15.24 seconds W;
 - b. 30 degrees 13 minutes 48.36 seconds N,
89 degrees 56 minutes 27.24 seconds W;
 - c. 30 degrees 13 minutes 06.36 seconds N,
89 degrees 56 minutes 27.24 seconds W;
 - d. 30 degrees 13 minutes 06.36 seconds N,
89 degrees 57 minutes 15.24 seconds W;
4. St. Tammany West—St. Tammany Parish:
 - a. 30 degrees 18 minutes 41.88 seconds N,
90 degrees 09 minutes 24.00 seconds W;
 - b. 30 degrees 18 minutes 41.88 seconds N,
90 degrees 08 minutes 36.00 seconds W;

- c. 30 degrees 17 minutes 59.88 seconds N,
90 degrees 08 minutes 36.00 seconds W;
- d. 30 degrees 17 minutes 59.88 seconds N,
90 degrees 09 minutes 24.00 seconds W;
- 5. St. Tammany Pier—St. Tammany Parish:
 - a. 30 degrees 12 minutes 28.34 seconds N,
89 degrees 47 minutes 54.03 seconds W;
 - b. 30 degrees 12 minutes 27.96 seconds N,
89 degrees 47 minutes 53.57 seconds W;
 - c. 30 degrees 12 minutes 20.66 seconds N,
89 degrees 48 minutes 01.30 seconds W;
 - d. 30 degrees 12 minutes 21.03 seconds N,
89 degrees 48 minutes 01.76 seconds W;
- 6. North Shore—St. Tammany Parish:
 - a. 30 degrees 16 minutes 38.00 seconds N,
90 degrees 04 minutes 08.00 seconds W;
 - b. 30 degrees 16 minutes 38.00 seconds N,
90 degrees 03 minutes 21.00 seconds W;
 - c. 30 degrees 15 minutes 58.00 seconds N,
90 degrees 03 minutes 21.00 seconds W;
 - d. 30 degrees 15 minutes 58.00 seconds N,
90 degrees 04 minutes 08.00 seconds W;
- 7. North Twin Span—St. Tammany Parish:
 - a. 30 degrees 11 minutes 39.13 seconds N,
89 degrees 50 minutes 15.54 seconds W;
 - b. 30 degrees 11 minutes 39.13 seconds N,
89 degrees 50 minutes 10.78 seconds W;
 - c. 30 degrees 11 minutes 35.02 seconds N,
89 degrees 50 minutes 10.78 seconds W;
 - d. 30 degrees 11 minutes 35.02 seconds N,
89 degrees 50 minutes 15.54 seconds W;
- 8. South Twin Span—Orleans Parish:
 - a. 30 degrees 10 minutes 12.23 seconds N,
89 degrees 50 minutes 47.04 seconds W;
 - b. 30 degrees 10 minutes 12.23 seconds N,
89 degrees 50 minutes 42.27 seconds W;
 - c. 30 degrees 10 minutes 08.11 seconds N,
89 degrees 50 minutes 42.27 seconds W;
 - d. 30 degrees 10 minutes 08.11 seconds N,
89 degrees 50 minutes 47.04 seconds W;
- 9. Orleans—Orleans Parish:
 - a. 30 degrees 07 minutes 47.46 seconds N,
90 degrees 05 minutes 05.70 seconds W;
 - b. 30 degrees 07 minutes 47.46 seconds N,
90 degrees 04 minutes 17.70 seconds W;
 - c. 30 degrees 07 minutes 05.46 seconds N,
90 degrees 04 minutes 17.70 seconds W;
 - d. 30 degrees 07 minutes 05.46 seconds N,
90 degrees 05 minutes 05.70 seconds W;
- 10. Lake Front—Orleans Parish:
 - a. 30 degrees 03 minutes 34.72 seconds N,
89 degrees 59 minutes 40.25 seconds W;
 - b. 30 degrees 03 minutes 35.72 seconds N,
89 degrees 59 minutes 38.25 seconds W;
 - c. 30 degrees 03 minutes 35.57 seconds N,
89 degrees 59 minutes 38.05 seconds W;
 - d. 30 degrees 03 minutes 30.22 seconds N,
89 degrees 59 minutes 33.25 seconds W;
 - e. 30 degrees 03 minutes 28.22 seconds N,
89 degrees 59 minutes 35.25 seconds W;
- 11. West End—Orleans Parish:
 - a. 30 degrees 01 minutes 54.23 seconds N,
90 degrees 07 minutes 17.97 seconds W;
 - b. 30 degrees 01 minutes 54.70 seconds N,
90 degrees 07 minutes 11.13 seconds W;
 - c. 30 degrees 01 minutes 47.65 seconds N,
90 degrees 07 minutes 09.28 seconds W;
 - d. 30 degrees 01 minutes 47.19 seconds N,
90 degrees 07 minutes 16.12 seconds W;
- 12. St. John—St. John the Baptist Parish:
 - a. 30 degrees 05 minutes 53.21 seconds N,
90 degrees 24 minutes 20.29 seconds W;
 - b. 30 degrees 05 minutes 53.16 seconds N,
90 degrees 24 minutes 12.77 seconds W;
 - c. 30 degrees 05 minutes 46.63 seconds N,
90 degrees 24 minutes 12.83 seconds W;
 - d. 30 degrees 05 minutes 46.68 seconds N,
90 degrees 24 minutes 20.35 seconds W;
- 13. South Shore 1, 2, and 3—Jefferson Parish
 - a. 30 degrees 05 minutes 25.00 seconds N,
90 degrees 12 minutes 42.00 seconds W;
 - b. 30 degrees 05 minutes 25.00 seconds N,
90 degrees 11 minutes 56.00 seconds W;
 - c. 30 degrees 04 minutes 44.00 seconds N,
90 degrees 11 minutes 56.00 seconds W;
 - d. 30 degrees 04 minutes 44.00 seconds N,
90 degrees 12 minutes 42.00 seconds W;
- 14. Laketown—Jefferson Parish:
 - a. 30 degrees 02 minutes 40.92 seconds N,
90 degrees 14 minutes 23.11 seconds W;
 - b. 30 degrees 02 minutes 38.30 seconds N,
90 degrees 14 minutes 18.46 seconds W;
 - c. 30 degrees 02 minutes 35.07 seconds N,
90 degrees 14 minutes 20.28 seconds W;
 - d. 30 degrees 02 minutes 37.69 seconds N,
90 degrees 14 minutes 24.93 seconds W;
- 15. Independence Island—Jefferson Parish:
 - a. 29 degrees 18 minutes 34.48 seconds N,
89 degrees 56 minutes 13.37 seconds W;
 - b. 29 degrees 18 minutes 34.22 seconds N,
89 degrees 55 minutes 48.52 seconds W;
 - c. 29 degrees 18 minutes 24.32 seconds N,
89 degrees 55 minutes 48.66 seconds W;
 - d. 29 degrees 18 minutes 24.58 seconds N,
89 degrees 56 minutes 13.51 seconds W;
- 16. Bully Camp 1—Lafourche Parish:
 - a. 29 degrees 27 minutes 30.08 seconds N,
90 degrees 22 minutes 43.33 seconds W;
 - b. 29 degrees 27 minutes 30.04 seconds N,
90 degrees 22 minutes 38.63 seconds W;
 - c. 29 degrees 27 minutes 25.92 seconds N,
90 degrees 22 minutes 38.67 seconds W;
 - d. 29 degrees 27 minutes 25.96 seconds N,
90 degrees 22 minutes 43.37 seconds W;
- 17. Bully Camp 2—Lafourche Parish:
 - a. 29 degrees 27 minutes 44.08 seconds N,
90 degrees 23 minutes 03.33 seconds W;
 - b. 29 degrees 27 minutes 44.04 seconds N,
90 degrees 22 minutes 58.63 seconds W;
 - c. 29 degrees 27 minutes 39.92 seconds N,
90 degrees 22 minutes 58.67 seconds W;

- d. 29 degrees 27 minutes 39.96 seconds N,
90 degrees 23 minutes 03.37 seconds W;
 - 18. St. Charles—St. Charles Parish:
 - a. 30 degrees 08 minutes 26.10 seconds N,
90 degrees 19 minutes 26.28 seconds W;
 - b. 30 degrees 08 minutes 26.10 seconds N,
90 degrees 18 minutes 38.28 seconds W;
 - c. 30 degrees 07 minutes 44.10 seconds N,
90 degrees 18 minutes 38.28 seconds W;
 - d. 30 degrees 07 minutes 44.10 seconds N,
90 degrees 19 minutes 26.28 seconds W;
 - 19. Rabbit Island—St. Mary Parish:
 - a. 29 degrees 30 minutes 41.31 seconds N,
91 degrees 34 minutes 00.39 seconds W;
 - b. 29 degrees 30 minutes 41.34 seconds N,
91 degrees 33 minutes 43.68 seconds W;
 - c. 29 degrees 30 minutes 26.73 seconds N,
91 degrees 33 minutes 43.65 seconds W;
 - d. 29 degrees 30 minutes 26.70 seconds N,
91 degrees 34 minutes 00.35 seconds W;
 - 20. Finfish—Cameron Parish:
 - a. 29 degrees 58 minutes 15.58 seconds N,
93 degrees 18 minutes 12.25 seconds W;
 - b. 29 degrees 58 minutes 15.83 seconds N,
93 degrees 17 minutes 55.47 seconds W;
 - c. 29 degrees 58 minutes 01.22 seconds N,
93 degrees 17 minutes 55.19 seconds W;
 - d. 29 degrees 58 minutes 00.97 seconds N,
93 degrees 18 minutes 11.97 seconds W;
 - 21. Turner's Bay Island—Calcasieu Parish:
 - a. 30 degrees 03 minutes 20.56 seconds N,
93 degrees 18 minutes 29.54 seconds W;
 - b. 30 degrees 03 minutes 20.11 seconds N,
93 degrees 18 minutes 26.51 seconds W;
 - c. 30 degrees 03 minutes 18.54 seconds N,
93 degrees 18 minutes 26.82 seconds W;
 - d. 30 degrees 03 minutes 18.99 seconds N,
93 degrees 18 minutes 29.85 seconds W;
 - 22. East Calcasieu—Cameron Parish:
 - a. 29 degrees 53 minutes 16.49 seconds N,
93 degrees 16 minutes 58.85 seconds W;
 - b. 29 degrees 53 minutes 16.52 seconds N,
93 degrees 16 minutes 34.79 seconds W;
 - c. 29 degrees 52 minutes 57.20 seconds N,
93 degrees 16 minutes 34.74 seconds W;
 - d. 29 degrees 52 minutes 57.17 seconds N,
93 degrees 16 minutes 56.85 seconds W;
 - 23. Sweet Lake—Cameron Parish:
 - a. 29 degrees 56 minutes 38.05 seconds N,
93 degrees 17 minutes 33.42 seconds W;
 - b. 29 degrees 56 minutes 38.27 seconds N,
93 degrees 17 minutes 16.65 seconds W;
 - c. 29 degrees 56 minutes 23.66 seconds N,
93 degrees 17 minutes 16.36 seconds W;
 - d. 29 degrees 56 minutes 23.41 seconds N,
93 degrees 17 minutes 33.14 seconds W;
 - 24. Bird Island 1 and 2—Terrebonne Parish:
 - a. 29 degrees 03 minutes 40.34 seconds N,
90 degrees 43 minutes 34.07 seconds W;
 - b. 29 degrees 03 minutes 41.97 seconds N,
90 degrees 43 minutes 29.63 seconds W;
 - c. 29 degrees 03 minutes 41.89 seconds N,
90 degrees 43 minutes 12.99 seconds W;
 - d. 29 degrees 03 minutes 27.28 seconds N,
90 degrees 43 minutes 13.08 seconds W;
 - e. 29 degrees 03 minutes 25.65 seconds N,
90 degrees 43 minutes 17.53 seconds W;
 - f. 29 degrees 03 minutes 25.73 seconds N,
90 degrees 43 minutes 34.16 seconds W;
 - 25. Point Mast—Terrebonne Parish:
 - a. 29 degrees 06 minutes 34.01 seconds N,
90 degrees 38 minutes 16.87 seconds W;
 - b. 29 degrees 06 minutes 33.92 seconds N,
90 degrees 38 minutes 00.24 seconds W;
 - c. 29 degrees 06 minutes 19.31 seconds N,
90 degrees 38 minutes 00.34 seconds W;
 - d. 29 degrees 06 minutes 19.40 seconds N,
90 degrees 38 minutes 16.97 seconds W;
 - 26. Cypremort Point 1—Iberia Parish:
 - a. 29 degrees 43 minutes 21.03 seconds N,
91 degrees 52 minutes 23.19 seconds W;
 - b. 29 degrees 43 minutes 21.04 seconds N,
91 degrees 52 minutes 20.82 seconds W;
 - c. 29 degrees 43 minutes 18.97 seconds N,
91 degrees 52 minutes 20.81 seconds W;
 - d. 29 degrees 43 minutes 18.96 seconds N,
91 degrees 52 minutes 23.18 seconds W;
 - 27. Cypremort Point 2—Iberia Parish:
 - a. 29 degrees 44 minutes 26.95 seconds N,
91 degrees 52 minutes 54.25 seconds W;
 - b. 29 degrees 44 minutes 27.02 seconds N,
91 degrees 52 minutes 37.51 seconds W;
 - c. 29 degrees 44 minutes 12.41 seconds N,
91 degrees 52 minutes 37.43 seconds W;
 - d. 29 degrees 44 minutes 12.34 seconds N,
91 degrees 52 minutes 54.17 seconds W;
 - 28. Redfish Point—Vermilion Parish:
 - a. 29 degrees 40 minutes 44.28 seconds N,
92 degrees 07 minutes 13.40 seconds W;
 - b. 29 degrees 40 minutes 44.38 seconds N,
92 degrees 06 minutes 56.67 seconds W;
 - c. 29 degrees 40 minutes 29.76 seconds N,
92 degrees 06 minutes 56.56 seconds W;
 - d. 29 degrees 40 minutes 29.66 seconds N,
92 degrees 07 minutes 13.29 seconds W;
 - 29. Prien Point—Vermilion Parish:
 - a. 29 degrees 39 minutes 45.53 seconds N,
92 degrees 08 minutes 05.36 seconds W;
 - b. 29 degrees 39 minutes 45.64 seconds N,
92 degrees 07 minutes 48.63 seconds W;
 - c. 29 degrees 39 minutes 31.02 seconds N,
92 degrees 07 minutes 48.52 seconds W;
 - d. 29 degrees 39 minutes 30.92 seconds N,
92 degrees 08 minutes 05.25 seconds W.
- B. No person shall harvest oysters from these recreational reefs.
- AUTHORITY NOTE: Promulgated in accordance with R.S. 56:805.
- HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41:1309 (July 2015), amended LR 43:91 (January 2017).

Bart R. Yakupzack
Chairman

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment
Standards and Practices—Test Security
(LAC 28:XI.Chapter 53)

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*: §5305, Test Security Notification; §5307, Change of District Test Coordinator Notification; §5309, Erasure Analysis; §5311, Addressing Suspected Violations of Test Security and Troubling Content in Written Responses; and §5316, Cell Phones and Other Electronic Devices. The proposed revisions require local education agency (LEA) test security policies be reviewed once every three years, require that LEAs collect all student cell phones prior to students gaining access to secure test materials, require that all test administrators keep cell phones off while in the vicinity of secure materials, provide that test administrators may only access those electronic devices required for approved accommodations, online assessments, or to provide technical assistance during online assessments, and remove outdated procedures.

Title 28

EDUCATION

Part XI. Accountability/Testing

Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 53. Test Security

§5305. Test Security Policy [Formerly LAC 28:CXL305]

A. - A.3.k. ...

4. Each local education agency (LEA) as described in this policy shall develop and adopt a LEA test security policy and procedures for handling emergencies during online testing that is in compliance with the state's test security policy. The LDE shall audit LEA test security policies every three years to ensure compliance with all aspects of Bulletin 118. The policy shall provide:

4.a. - 13. ...

14. School districts must ensure that individual student test data are protected from unauthorized access and disclosure.

a. The eDIRECT system is designed to be an all-inclusive testing and reporting system for grades 3-12. The system contains students' private information, including state test scores and state identification numbers. The system is password protected and requires a user ID and an assigned password for access. LDE assigns DTCs and back-up DTCs accounts in the eDIRECT system. DTCs are responsible for entering staff into the system and assigning the appropriate permissions.

15. District test coordinators are responsible for providing training regarding the security and confidentiality of individual student test data (in paper and electronic formats) and of aggregated data of fewer than 10 students.

16. LDE staff will conduct site visits during testing to observe test administration procedures and to ensure that appropriate test security procedures are being followed. Schools with prior violations of test security or other testing irregularities will be identified for visits. Other schools will be randomly selected.

17. Any teachers or other school personnel who breach test security or allow breaches in test security shall be disciplined in accordance with the provisions of R.S. 17:416 et seq., R.S. 17:441 et seq., R.S. 17:81 et seq., policy and regulations adopted by the SBESE, and any and all laws that may be enacted by the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.7(C)(G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 33:424 (March 2007), LR 33:2033 (October 2007), LR 34:65 (January 2008), LR 34:431 (March 2008), LR 34:1351 (July 2008), LR 35:217 (February 2009), LR 37:858 (March 2011), repromulgated LR 37:1123 (April 2011), amended LR 38:747 (March 2012), LR 39:1018 (April 2013), LR 40:2510 (December 2014), LR 43:

§5307. Change of District Test Coordinator Notification [Formerly LAC 28:CXL307]

A. If during the academic year the person appointed as district test coordinator changes, the district superintendent must notify the LDE. The notification must be in writing and must be submitted within 15 days of the change in appointment.

1. The former district test coordinator must inform the new district test coordinator of the location of placement tests, and "old" GEE testing materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:257 (February 2007), LR 34:1351 (July 2008), LR 35:217 (February 2009), LR 43:

§5309. Erasure Analysis

[Formerly LAC 28:CXL309]

A. To investigate erasures on student answer documents for the state criterion-referenced and norm-referenced testing programs, the SBESE and the LDE have developed the following procedures.

1. Scoring contractors scan every answer document for wrong-to-right erasures. The state average and standard deviation are computed for each subject at each grade level.

2. - 3.b. ...

4. Once districts, schools, and individual students have been identified, the state superintendent of education sends letters to district superintendents stating that students in those districts have been identified as having excessive

wrong-to-right erasures. Copies of the district/school and student erasure analysis reports are enclosed with the letters. Copies of the correspondence are provided to the coordinator of test security

5. - 6. ...

7. Erasure refers to online answer changing as well as erasing answers on a paper and pencil test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:257 (February 2007), LR 35:217 (February 2009), LR 35:443 (March 2009), LR 40:2512 (December 2014), LR 43:

§5311. Addressing Suspected Violations of Test Security and Troubling Content in Written Responses (Constructed Responses, Short Answers, and Essays)

[Formerly LAC 28:CXL311]

A - A.1.c. ...

d. The district test coordinator must then email a completed void form to the LDE, as directed in the *District and School Test Coordinators Manual*.

2. - 4.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1531 (July 2005), amended LR 33:257 (February 2007), LR 35:217 (February 2009), LR 43:

§5316. Cell Phones and Other Electronic Devices
[Formerly LAC 28:CXL316]

A. If district and school policy allows for students and personnel to carry cell phones or other similar technological devices with imaging or text-messaging capability, test administrators must collect all devices secure test materials are in the vicinity. If a student is in possession of and/or uses a cell phone or electronic device in any manner during the administration of a statewide test, the phone or electronic device will be confiscated until assurance can be evidenced that all traces of information, in print, image, or verbal form, have been removed from all local and cloud storage and that no such traces remain on the device.

1. Test administrators may have devices but they must be in the off position while around secure test materials, except for devices required for approved accommodations, online assessments, or to provide technical assistance during online assessments.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:391 (March 2006), amended LR 40:2512 (December 2014), LR 43:

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 Analysis

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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, February 8, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary

Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 118—Statewide Assessment Standards and Practices—Test Security**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions will have no anticipated effect on costs or savings to state or local governmental units.

The proposed revisions require local education agency (LEA) test security policies be reviewed once every three years, require that LEAs collect all student cell phones prior to students gaining access to secure test materials, require that all test administrators keep cell phones off while in the vicinity of secure materials, provide that test administrators may only access those electronic devices required for approved accommodations, online assessments, or to provide technical assistance during online assessments, and remove outdated procedures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change 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)

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)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1701#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(LAC 28:CXXXIX.519, 1903, 2301, and 2303)

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 126—Charter Schools*: §519, Local School Board Consideration of Charter Application, Awarding of Charters; §1903, Material Amendments for BESE-Authorized Charter Schools; §2301, State Funding; and §2303, Local Education Agency (LEA) Status and Federal Funding.

Act 91 of the 2016 Regular Legislative Session provides for the unification of public schools in Orleans Parish under the oversight of the Orleans Parish School Board (OPSB). Among other things, Act 91 provides that in Orleans Parish, “each Type 3B charter school and, with the approval of the local school board, any other type of charter school under the board's jurisdiction may act as its own local educational agency for one or more funding purposes or statutory definitions, in accordance with R.S. 17:3995, and rules adopted by the State Board of Elementary and Secondary Education.” The proposed revisions provide the requisite rules to implement this provision. The proposed revisions were developed in collaboration with OPSB administration.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 5. Charter School Application and Approval Process

§519. Local School Board Consideration of Charter Application, Awarding of Charters

A. ...

B. Local school boards may approve requests to establish a type 3B charter school pursuant to the process outlined in Bulletin 129, §505.

1. - 5. ...

6. At the time of transfer, the type 3B charter school shall have the option to remain its own local educational agency or have the local school system serve as the charter school's local education agency. A type 3B charter school acting as its own local education agency shall comply with the requirements provided for in §2303 of this Bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2385 (August 2011), amended LR 39:3065 (November 2013), LR 39:3249 (December 2013), LR 42:1869 (November 2016), LR 43:

Chapter 19. Amendments to BESE-Authorized Charters

§1903. Material Amendments for BESE-Authorized Charter Schools

A. A material amendment to a charter is an amendment that makes substantive changes to a charter school's governance, operational, or academic structure. Material amendments include:

1. changes in legal status or management, including the structure of the governing board, a corporate partnership, or assignment of or changes in management organization;

2. changes in grade levels served;

3. changes in student enrollment which result in enrollment in excess of 120 percent of the total number of students set forth in the school's charter, applicable:

a. the superintendent of the recovery school district is authorized to amend the charter of any type 5 charter school participating in a unified enrollment system administered by the recovery school district for the purpose of adjusting student enrollment limitations;

4. changes in admission procedures or criteria, if applicable;

5. changes in any option expressed in the charter contract exhibit with respect to collective bargaining;

6. changes in LEA status for type 4 charter schools in Orleans Parish pursuant to §2303 of this Bulletin; and

7. any changes to the charter contract not specifically identified as non-material amendments.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1369 (July 2008), amended LR 37:873 (March 2011), LR 37:2389 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3120 (December 2012), LR 39:3067 (November 2013), LR 40:1324 (July 2014), LR 43:

Chapter 23. Charter School Funding

§2301. State Funding

A. - G.3. ...

4. The LDE may withhold and retain from state funds otherwise allocated to a local public school system through the Minimum Foundation Program an amount equal to 1 quarter of 1 percent of the fee amount charged to a type 1, 3, 3B, or 4 charter school considered its own LEA pursuant to §2303 of this Bulletin for administrative costs incurred by the LDE for providing financial oversight and monitoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 39:3250 (December 2013), LR 40:1324 (July 2014), LR 42:549 (April 2016), LR 42:1019 (July 2016), LR 43:

§2303. Local Education Agency (LEA) Status and Federal Funding

A. Any type 2 or type 5 charter school shall be considered the local education agency (LEA) for funding purposes and statutory definitions and, as a local education agency, shall receive allocations for all available funding.

B. Type 1, 3, 3B, and 4 Charter School LEAs

1. A type 3B charter school shall have the option to remain its own LEA or have the local school board serve as the charter school's LEA, pursuant to §519 of this Bulletin. A type 3B charter school considered its own LEA shall comply with the requirements for type 3B charter schools detailed in §519 of this Bulletin.

2. Pursuant to R.S. 17:10.7.1, a type 1, 3, 3B or 4 charter school located in Orleans Parish may be considered its own LEA for funding purposes and statutory definitions, and as an LEA, shall receive allocations for all available funding.

a. At all times the charter school is considered its own LEA; it shall:

i. continue participation and follow all rules of the parish-wide enrollment system or, if not currently participating, begin participation upon renewal of the charter school's charter contract, and when enrolling or registering students at the school, do so without regard to English language learner (ELL) or disability status, type or severity of disability, or level of services required;

ii. provide all identification, evaluation, and special education and ELL services to students enrolled at the school required by the Individuals with Disabilities Education Act (IDEA) and other applicable federal and state laws and regulations for LEAs;

iii. when requesting a transfer for a student with a disability, do so in accordance with IDEA and other applicable state and federal special education laws and regulations for LEAs, and only when such transfer has been initiated or agreed to by the student's parent or legal guardian;

iv. continue participation and follow all rules of the parish-wide student expulsion process, and when making a change of placement or an expulsion request for a student with a disability, do so according to such process and in compliance with the provisions of IDEA and other applicable federal and state special education laws and regulations for LEAs;

v. provide transportation services for students as required by applicable state laws and regulations, the school's charter contract, and local school board policy;

vi. comply with all financial, testing, and reporting requirements required by the charter school's authorizer or the department pursuant to applicable federal, state, and local laws and regulations; and

vii. comply with any monitoring, reporting, or corrective actions required by the school's charter authorizer or the department related to the requirements of this Section and any other applicable federal, state, or local laws or regulations for LEAs.

b. For type 1 and 3 charter schools in Orleans Parish, the local superintendent shall implement a process to identify those schools requesting to be considered their own LEAs for the 2017-18 school year. The local superintendent shall also implement a process to identify these schools in future years either on an annual basis for all type 1, 3, or 3B charter schools, or in conjunction with the initial authorization of new charter schools and renewal of existing charter schools. LEA status shall commence on July 1 following receipt by the state superintendent of written notification from the local superintendent no later than the preceding April 1. Such written notification shall include:

i. documentation of the local school board's approval of the charter school to be considered its own LEA;

ii. written certification by the president or chairman of the board of the charter school that at all times the charter school is considered its own LEA it shall comply with the requirements of this Section; and

iii. a letter of attestation signed by the local superintendent, certifying that the requirements listed in this section shall be incorporated into the charter school's contract, and the local superintendent's oversight, evaluation, and renewal determination processes for the charter school.

c. A type 4 charter school in Orleans Parish may be considered its own LEA upon request by the local school board and approval by BESE. The local school board may request LEA status for a type 4 charter school no later than the April 1 preceding the year in which LEA status would commence through any one of the following procedures:

i. inclusion of the request for the charter school to be considered its own LEA in the initial charter application to BESE;

ii. submission of a request to BESE for a material amendment to the charter to permit the charter school to be considered its own LEA pursuant to §1903 of this Bulletin; or

iii. written request for the charter school to be considered its own LEA as part of BESE's renewal of the school's charter.

d. Each type 1, 3, 3B, and 4 charter school in Orleans Parish that is considered its own LEA shall be held solely responsible for the requirements of this section and any other applicable federal, state, or local laws or regulations related to the charter school's LEA status, including, but not limited to data reporting, testing regulations, IDEA compliance, title I regulations, and requirements of other grants made available and secured by the charter school in its capacity as an LEA. However, each type 1, 3, 3B or 4 charter school considered its own LEA is under the jurisdiction of the Orleans Parish School Board and as such, the local superintendent shall have the duty, obligation and authority to monitor and enforce corrective actions and interventions related to the requirements of this section and any other applicable federal, state, or local laws or regulations for such charter school. Based on evidence of noncompliance with any such requirements, laws, or regulations, or that the continuation of LEA status for the charter school may result in a threat to the health, safety, or welfare of students or staff at the charter school, the local superintendent may submit a written request to the state superintendent for rescission of the charter school's LEA status.

e. The local superintendent and the department shall work together to coordinate each entity's reporting requirements for a charter school considered its own LEA in order to streamline and minimize duplication of reporting by the charter school.

3. The state superintendent may rescind the LEA status of a type 1, 3, 3B or 4 charter school at the beginning of a subsequent school year (July 1) should the charter school fail to meet the requirements of this section or other requirements related to LEA status. Prior to such rescission, the state superintendent shall provide written notification of the rescission to the local school board and the charter school no later than April 1st. Such written notification shall include the reason for the rescission and a date by which the local school board and charter school may respond prior to rescission.

4. In situations where continued LEA status for the charter school may result in a threat to the health, safety, or welfare of students or staff at the charter school, the state superintendent may temporarily rescind the charter school's LEA status immediately, without prior written notification. In such a case, the state superintendent shall be required to provide written notification to the local school board and the charter school of the temporary rescission as soon as is feasible. Such written notification shall include the reason for the temporary rescission and a date by which the local school board and charter school may respond prior to permanent rescission of the charter school's LEA status.

5. Upon rescission, the local school board shall begin to serve as the charter school's LEA. The state superintendent may reinstate the charter school's LEA status at the beginning of a subsequent school year (July 1) provided the local school board approves such reinstatement and the state superintendent has determined that the charter school has demonstrated the ability to comply with all applicable requirements henceforth.

6. With the local school board's approval, a type 1, 3, 3B, or 4 charter school considered its own LEA may voluntarily request to relinquish its LEA status. The state superintendent may only approve such request following receipt of the charter school's request and the local school board's approval by April 1. Upon approval by the state superintendent, the local school board shall begin to serve as the charter school's LEA at the beginning of the following school year (July 1).

C. For each pupil enrolled in a charter school who is entitled to special education services, any state special education funding beyond that provided in the Minimum Foundation Program and any federal funds for special education for that pupil that would have been allocated for that pupil shall be allocated to the charter school which the pupil attends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1372 (July 2008), amended LR 39:3251 (December 2013), LR 40:1324 (July 2014), LR 43:

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 Analysis

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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, February 8, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 126—Charter Schools**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed policy revisions will have no anticipated effect on costs or savings to state or local governmental units.

Act 91 of the 2016 Regular Legislative Session provides for the unification of public schools in Orleans Parish under the oversight of the Orleans Parish School Board (OPSB). Among other things, Act 91 provides that in Orleans Parish, “each Type 3B charter school and, with the approval of the local school board, any other type of charter school under the board’s jurisdiction may act as its own local educational agency for one or more funding purposes or statutory definitions, in accordance with R.S. 17:3995, and rules adopted by the State Board of Elementary and Secondary Education.” The proposed revisions provide the requisite rules to implement this provision. The proposed revisions were developed in collaboration with OPSB administration.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy change 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)

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)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1701#044

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center
Licensing Regulations (LAC 28:CLXI.103 and 1711)

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 137—Louisiana Early Learning Center Licensing Regulations*: §103, Definitions; and §1711, Child-to-Staff Minimum Ratios. In order to meet federal child care development fund (CCDF) requirements and to embed standards within the state plan for Louisiana, the state of Louisiana must establish standards for child group sizes and child-to-provider ratios. Therefore, the proposed revisions are necessary in order to require early learning centers to meet appropriate ratios between the number of children and the number of providers and group size, in terms of the age of the children for each type of setting.

**Title 28
EDUCATION**

**Part CLXI. Bulletin 137—Louisiana Early Learning
Center Licensing Regulations**

Chapter 1. General Provisions

§103. Definitions

* * *

Group Size—the number of children assigned to a teacher or team of teachers occupying an individual classroom or well-defined space within a large room.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.31 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:616 (April 2015), effective July 1, 2015, amended LR 41:2103 (October 2015), LR 43:

Chapter 17. Minimum Staffing Requirements and Standards

§1711. Child-to-Staff Minimum Ratios

A. - M. ...

N. Maximum Group Size

1. Type II and Type III

Age of Children	Maximum Group Size
Infants under 1 year	15
1 year	21
2 years	22
3 years	26
4 years	30
5 years	38
6 years and up	46

2. Type I

Age of Children	Maximum group size
Infants under 1 year	18
1 year	24
2 years	24
3 years	28
4 years	32
5 years	40
6 years and up	50

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 43:

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 Analysis

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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, February 8, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 137—Louisiana Early Learning Center Licensing Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions will have no anticipated effect on costs or savings to state agencies, and while there may be an indeterminable impact to local school districts which operate early learning centers, these impacts are not anticipated to be significant.

In order to meet federal Child Care Development Fund (CCDF) requirements and to embed standards within the state plan for Louisiana, the State of Louisiana must establish standards for child group sizes and child-to-provider ratios. Therefore, the attached revisions are necessary to Bulletin 137, Louisiana Early Learning Center Licensing Regulations, in order to require early learning centers to meet appropriate ratios

between the number of children and the number of providers and group size, in terms of the age of the children for each type of setting. Current regulations provide space requirements for each child in the center, but the proposed changes will add an additional cap on the number of children in each group. Districts may be required to modify facilities to ensure adherence to the proposed maximum group sizes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

As an alternative to renovations to physical environment, a center may be forced to reduce the number of children served in order to maintain authorized group sizes in the existing space, which would serve to reduce revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There may be costs to individuals and organizations operating early learning centers. Centers may be required to modify the physical environment to the extent the proposed maximum group sizes would be exceeded. Alternatively, a center may be forced to reduce the number of children served, thereby reducing their self-generated revenues in order to maintain authorized group sizes. These impacts are indeterminable but are not anticipated to be significant.

Additionally, any reduction in child care slots would negatively impact those parents utilizing early childhood learning centers. Any potential impact is indeterminable at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1701#042

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Board of Regents
Office of Student Financial Assistance**

Scholarship/Grant Programs—TOPS Core Curriculum Equivalents: Human Anatomy and Physiology and Pre-Calculus (LAC 28:IV.703)

The Louisiana Board of Regents announces its intention to amend its scholarship/grant rules [R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1.,R.S. 17:3048.1, R.S. 17:3048.5, and R.S. 17:3048.6].

This rulemaking adds human anatomy and physiology as an equivalent to biology in the TOPS core curriculum, adds human anatomy and physiology as a dual enrollment course that may be graded on a 5.0 scale for graduates of 2018 and later, and adds pre-calculus as a gifted course that may be graded on a 5.0 scale for graduates of 2018 and later. (SG17176NI)

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards**

§703. Establishing Eligibility
A. - A.5.a.ii.(d). (iii). ...

* * *

(e). For students graduating in academic year (high school) 2017-2018 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III
Art	Media Arts I-IV; Photography I, Photography II, and Digital Photography
Algebra III; Advanced Math- Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL	AP Computer Science A
Biology II	Human Anatomy and Physiology
Any listed core course or its equivalent.	Any core curriculum course taken by a student who has been deemed to be gifted and talented pursuant to R.S. 17:1941 et. seq. as implemented in State Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted and talented course and shall fulfill the core curriculum requirement in its given subject area.

(f). For students graduating in academic year (high school) 2017-2018 and after, the courses listed in the tables below have been approved by the Board of Regents and the state Board of Elementary and Secondary Education to be converted to a 5.00 scale when used to complete the core curriculum, and shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a.

(i). Advanced Placement Courses

TOPS Core Course	Advanced Placement
Art	AP Art History AP Studio Art: 2-D Design AP Studio Art: 3-D Design AP Studio Art: Drawing
Biology II	AP Biology
Calculus	AP Calculus AB AP Calculus BC
Chemistry II	AP Chemistry
Chinese	AP Chinese Language and Culture
Economics	AP Macroeconomics AP Microeconomics
English III	AP English Language and Composition
English IV	AP English Literature and Composition
Environmental Science	AP Environmental Science
European History	AP European History
Fine Arts Survey	AP Music Theory

TOPS Core Course	Advanced Placement
French	AP French Language and Culture
German	AP German Language and Culture
Italian	AP Italian Language and Culture
Japanese	AP Japanese Language and Culture
Latin	AP Latin
Physics I	AP Physics I: Algebra Based AP Physics II: Algebra Based AP Physics C: Electricity and Magnetism AP Physics C: Mechanics
Probability and Statistics	AP Statistics
Spanish	AP Spanish Language and Culture
US Government or Civics	AP U.S. Government and Politics: Comparative AP U.S. Government and Politics: United States
US History	AP U.S. History
World Geography	AP Human Geography
World History	AP World History

(ii). International Baccalaureate® Courses

TOPS Core Course	International Baccalaureate
Advanced Math–Pre Calculus	IB Math Studies (Math Methods)
Arabic	IB Language ab initio: Arabic IB Language B: Arabic
Art	IB Visual Arts
Biology II	IB Biology I IB Biology II
Calculus	IB Mathematics SL IB Mathematics HL
Chemistry II	IB Chemistry I IB Chemistry II
Chinese	IB Language ab initio: Chinese IB Language B: Chinese
Economics	IB Economics
English III	IB Literature IB Language and Literature IB Literature and Performance
English IV	IB Literature IB Language and Literature IB Literature and Performance
Environmental Science	IB Environmental Systems
French	IB Language ab initio: French IB Language B: French
German	IB Language ab initio: German IB Language B: German
Italian	IB Language ab initio: Italian IB Language B: Italian
Japanese	IB Language ab initio: Japanese IB Language B: Japanese
Latin	IB Classical Language
Music (Performance)	IB Music
Physics I	IB Physics I IB Physics II
Pre-Calculus	IB Math Studies (Math Methods)
Spanish	IB Language ab initio: Spanish IB Language B: Spanish
Theatre (Performance)	IB Film Study IB Theatre IB Dance
US History	IB History of the Americas I
World Geography	IB Geography
World History	IB History of the Americas II

(iii). Gifted and Talented Courses

TOPS Core Course	Gifted and Talented
Art	Art History Talented Visual Arts I Talented Visual Arts II Talented Visual Arts III Talented Visual Arts IV
Biology II	Biology II
Calculus	Calculus I Calculus II
Chemistry I	Chemistry I
Chemistry II	Chemistry II
Chinese	Chinese III Chinese IV
Economics	Economics
English III	English III
English IV	English IV
Environmental Science	Environmental Science
European History	European History
French	French III French IV
German	German III German IV
Italian	Italian III Italian IV
Japanese	Japanese III Japanese IV
Latin	Latin III Latin IV
Music (Performance)	Talented Music I, II, III, IV Small Voice Ensemble II Choir: Intermediate Choir: Advanced Orchestra: Intermediate Orchestra: Advanced
Physics I	Physics
Pre-Calculus	Pre-Calculus
Spanish	Spanish III Spanish IV
Theatre (Performance)	Introduction to Film Studies Talented Theater I, II, III, IV
US Government or Civics	Government
US History	U.S. History
World Geography	World/Human Geography

(iv). Dual Enrollment Courses

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Advanced Math–Pre Calculus	Trigonometry	CMAT 1223
Advanced Math-Functions and Statistics	Introductory Statistics	CMAT 1303
Algebra III	College Algebra	CMAT 1213
Arabic	Elementary Arabic I Elementary Arabic II	CARB 1013/1014 CARB 1023/1024

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Art	Art History I or II Art Structure/2-D Design Beginning Drawing	CART 2103/2113 CART 1113 CART 2203
Biology I	General Biology I General Biology I (Science Majors)	CBIO 1013 CBIO 1033
Biology II	General Biology I General Biology I (Science Majors) General Biology II General Biology II (Science Majors) Human Anatomy & Physiology I Human Anatomy & Physiology I (Lec/Lab) Human Anatomy & Physiology II Human Anatomy & Physiology II (Lec/Lab)	CBIO 1013 CBIO 1033 CBIO 1023 CBIO 1043 CBIO 2213 CBIO 2214 CBIO 2223 CBIO 2224
Calculus	Applied Calculus Calculus I Calculus II	CMAT 2103 CMAT 2113-5 CMAT 2123-5
Chemistry I	General Chemistry Survey I Chemistry I Chemistry I (Science Majors)	CCEM 1013 CCEM 1103 CCEM 1123
Chemistry II	General, Organic and Biochemistry General Chemistry Survey I Chemistry I Chemistry I (Science Majors) Chemistry II Chemistry II (Science Majors)	CCEM 1003 CCEM 1013 CCEM 1103 CCEM 1123 CCEM 1113 CCEM 1133
Earth Science	Physical Geology Historical Geology	CGEO 1103 CGEO 1113
Economics	Economic Principles Macroeconomics Microeconomics	CECN 2113 CECN 2213 CECN 2223
English III	English Composition I English Composition II American Literature I American Literature II Major American Writers	CENL 1013 CENL 1023 CENL 2153 CENL 2163 CENL 2173
English IV	English Composition I English Composition II British Literature I British Literature II Major British Writers World Literature I World Literature II Major World Writers Introduction to Fiction Introduction to Literature Introduction to Poetry and/or Drama	CENL 1013 CENL 1023 CENL 2103 CENL 2113 CENL 2123 CENL 2203 CENL 2213 CENL 2223 CENL 2303 CENL 2323 CENL 2313
Environmental Science	Environmental Science	CEVS 1103
Fine Arts Survey	Exploring the Arts Introduction to Visual Arts Dance Appreciation Music Appreciation	CART 1013 CART 1023 CDNC 1013 CMUS 1013
French	Elementary French I Elementary French II Intermediate French I Intermediate French II	CFRN 1013/1014 CFRN 1023/1024 CFRN 2013/2014 CFRN 2023
German	Elementary German I Elementary German II Intermediate German I Intermediate German II	CGRM 1013/1014 CGRM 1023/1024 CGRM 2013 CGRM 2023
History Of Religion	World Religions	CPHL 2213

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Latin	Elementary Latin I Elementary Latin II Intermediate Latin I Intermediate Latin II	CLTN 1013/1014 CLTN 1023/1024 CLTN 2013 CLTN 2023
Physical Science	Physical Science I	CPHY 1023
Physics I	Physics I (Algebra/Trigonometry Based) Physics I (Lecture and Lab) Physics I (Calculus Based)	CPHY 2113 CPHY 2114 CPHY 2133
Pre-Calculus	Algebra and Trigonometry	CMAT 1233
Probability and Statistics	Introductory Statistics	CMAT 1303
Spanish	Elementary Spanish I Elementary Spanish II Intermediate Spanish I Intermediate Spanish II	CSPN 1013/1014 CSPN 1023/1024 CSPN 2013/2014 CSPN 2023
Theatre (Performance)	Acting I or II Introduction to Theatre	CTHE 2103/2113 CTHE 1013
US Government or Civics	Introduction to American Government Introduction to State and Local Government Introduction to Comparative Government	CPOL 2013 CPOL 2113 CPOL 2213
US History	American History I or II	CHIS 2013/2023
Western Civilization	Western Civilization I or II	CHIS 1013/1023
World Geography	World Regional Geography	CGRG 2113
World History	World Civilization I or II	CHIS 1113/1123

A.5.a.iii.(a). - J.4.b.ii. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:657, 664 (April 2015), LR 41:2596, 2599 (Dec. 2015), LR 43:

Family Impact Statement

The proposed 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.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in LSA-R.S. 49:965.2 *et seq.*

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG17176NI) until 4:30 p.m., February 9, 2017, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Scholarship/Grant Programs—TOPS Core Curriculum Equivalents: Human Anatomy and Physiology and Pre-Calculus

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local governmental expenditures. In accordance with the requirements of R.S. 17:5062(C)(1) and with the prior approval of BESE and receipt of comments and recommendations from Regents, the proposed rule change modifies the Scholarship and Grant Program rules to add the Human Anatomy and Physiology course as an equivalent (substitute) course for Biology II for the purpose of meeting the TOPS core curriculum requirements effective for students graduating during the 2017-2018 high school academic year and thereafter. In addition, the proposed rule adds, for 2018 high school graduates and beyond, Human Anatomy and Physiology courses to the list of dual enrollment courses and Pre-Calculus to the list of gifted/talented courses that may be graded on a 5.0 scale.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated effects on economic benefits to directly affected persons or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

Robin Rhea Lively
Senior Attorney
1701#009

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Division

Fee Increase Authorized by Act 451 of
the 2016 Regular Legislative Session
(LAC 33:I.1119, 1151, 1409, 1411, 1413, 1701, 4501,
4503, 4701, 4703, 4705, 4707, and 5903; III.Chapters 2 and
3; V.Chapter 51; VII.1501, 1503, 1505, 1507, 1509, 1511,
and 10535; IX.1309, 1507, 7301, 7315; and XI.307, 1305;
XV.579, 2504, 2509, 2510, 2511 and 2599) (MM018)

Under the authority of the Environmental Quality Act, R.S. 30:2001 *et seq.*, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 *et seq.*, the secretary gives notice that rulemaking procedures have been initiated to amend the regulations, LAC 33:I.1119, 1151, 1409, 1411, 1413, 1701, 4501, 4503, 4701, 4703, 4705, 4707, 5903; III.209, 211, 215, 217, 223, 307, 309, 311, 313, 315, 317, 319; V.5109, 5111, 5117, 5119, 5120, 5121, 5123, 5125, 5127, 5129, 5131, 5135, 5137, 5139, 5141, 5143, 5145, 5147, 5149; VII.1501, 1503, 1505, 1507, 1509, 1511, 10535; IX.1309, 1507, 7301, 7315; XI.307, 1305; XV.579, 2504, 2509, 2510, 2511 and 2599 (MM018).

This Rule provides for the fee changes authorized in Act 451 of the 2016 Regular Legislative Session. The Act authorized certain fee increases, new fees and other changes to the regulations pertaining to fees. The basis and rationale for this Rule are to implement the fee changes authorized in Act 451 of the 2016 Regular Legislative Session. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 11. Declaratory Rulings

§1119. Disposition of Petition

A. ...

1. notify the applicant that the fee as specified in LAC 33:I.1151 is owed and issue a declaratory ruling;

2. ...

3. grant the request for a declaratory ruling, notify the applicant that the fee as specified in LAC 33:I.1151 is owed, and set a time within which the ruling will be issued; or

A.4. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.10.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 23:1142 (September 1997), amended by the Office of the Secretary, Legal Division, LR 43:

§1151. Fees

A. Fee for Declaratory Ruling

1. After a petition for a declaratory ruling has been received by the department, the appointing authority will determine how the department will proceed according to LAC 33:I.1119.A. If the department decides to proceed via LAC 33:I.1119.A.1 or LAC 33:I.1119.A.3, a minimum

\$1,500 nontransferable and nonrefundable fee shall be submitted to the department.

2. Prior to the issuance of the declaratory ruling, a final fee determination shall be made.

a. An appropriate fee shall be computed based on the maximum hourly overtime salary, including associated related benefits, of the department's civil service employee who issues the ruling.

b. The fee shall be computed by multiplying the salary figure calculated according to Subparagraph A.2.a of this Section by every overtime hour, or portion thereof, worked by the department employee on the declaratory ruling.

c. If the final fee based on these calculations exceeds \$1,500, the applicant shall be invoiced the final fee amount, less the \$1,500 already received paid. The declaratory ruling shall not be issued until this amount is paid.

B. Refunds. The fees in this Section are nontransferable and nonrefundable.

C. Methods of Payment

1. All payments made by check, draft, or money order shall be made payable to the Louisiana Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay method should access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

3. Cash is not an acceptable form of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 43:

Chapter 14. Groundwater Fees

NOTE: The information contained in Chapter 14 was previously located in LAC 33:XIII.Chapter 13. It was relocated and renumbered in November, 1998.

§1409. Groundwater Protection Fees

A. Assessment Oversight (Annual). The fee listed below covers the cost of reviewing, evaluating, and approving plans and/or reports that assess groundwater contamination and draw conclusions as to the need for further assessment and/or corrective action.

Hazardous Waste Facilities	\$11,435
Solid Waste Facilities	\$7,623
Nonregulated Facilities	\$3,812

B. Corrective Action Oversight (Annual). The fee listed below covers the cost of reviewing, evaluating, and approving plans and/or actions to remediate groundwater that has been contaminated by a facility.

Hazardous Waste Facilities	\$15,246
Solid Waste Facilities	\$11,435
Nonregulated Facilities	\$3,812

C. Annual Report Review Fee. The fee listed below covers the cost of reviewing the groundwater annual reports required by Hazardous and/or Solid Waste regulations.

Hazardous Waste Facilities	\$1,525
Solid Waste Facilities	\$381

D. Groundwater Monitoring Systems Review. The fee listed below covers the cost of reviewing the geology and design of proposed groundwater monitoring systems to ensure compliance with department specifications.

Each well	\$726
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E. Groundwater Monitoring Systems Inspection Fee (Annual). The fee listed below covers the cost of inspecting monitoring systems to ensure that they are functioning properly and continue to maintain their integrity. The cost also includes other activities, such as the analysis of boring logs and site geology (cross sections, isopachs, etc.). The maximum fee that can be charged for this category is \$7,260.

Each well	\$363
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F. Facility Inspection Fee (Annual). The fee listed below covers the cost of inspecting the various facilities to ensure compliance with the groundwater protection requirements contained in the facilities' permits.

Hazardous Waste Facilities	\$1,452
With sampling	\$10,890
Solid Waste Facilities	\$726
With sampling	\$2,178

G. Oversight of Abandonment Procedures. The fee listed below covers the cost of reviewing plans to plug and abandon all non-permitted groundwater monitoring systems (monitoring wells, piezometers, observations wells, and recovery wells) to ensure that they do not pose a potential threat to groundwater.

Casing pulled	\$146 each well
Casing reamed out	\$291 each well
Casing left in place	\$726 each well

H. Maximum Total Fee per Facility. The maximum annual fee that can be assessed a facility under these regulations is \$45,739.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:729 (July 1992), amended LR 21:797 (August 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:671 (May 2003), LR 29:2041 (October 2003), amended by the Office of the Secretary, Legal Division, LR 43:

§1411. Methods of Payment

A. - B. ...

1. Persons wishing to make payments using the electronic pay method should access the department's website and follow the instructions provided on the website.

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:730 (July 1992), repromulgated LR 21:797 (August 1995), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2178 (October 2009), amended by the Office of the Secretary, Legal Division, LR 43:

§1413. Late Payment Fee

A. Payments not received within 15 days of the due date will be charged a late payment fee.

B. Any late payment fee shall be calculated from the due date indicated on the invoice.

C. Payments not received by the department by:

1. the fifteenth day from the due date will be assessed a 5 percent late payment fee on the original assessed fee;

2. the thirtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee; and

3. the sixtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, Ground Water Protection Division, LR 18:730 (July 1992), amended LR 21:797 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 25:426 (March 1999), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 17. Permit Qualifications and Requirements

§1701. Requirements for Obtaining a Permit

A. - A.2. ...

3. owe no outstanding monies including, but not limited to: fees, cost recovery, reimbursement costs, response costs, final judgments, or final penalties to the department; and

A.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2441 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2433 (October 2005), LR 33:2079 (October 2007), amended by the Office of the Secretary, Legal Division, LR 43:

Subpart 3. Laboratory Accreditation

Chapter 45. Policy and Intent

§4501. Description and Intent of Program

A. Description and Intent of the Laboratory Accreditation Program

1. - 1.f. ...

2. The department laboratory accreditation program is designed to ensure the accuracy, precision, and reliability of the data generated, as well as the use of department-approved methods in the generation of that data. Laboratory data generated by commercial environmental laboratories that are not accredited under this Subpart shall not be accepted by the department.

B. This accreditation covers the following matrices:

1. air emissions;
2. nonpotable water;

3. solid and chemical material; and

4. biological tissue.

C. Each *matrix*, as defined in LAC 33:I.4503, is divided into test categories. Applications for accreditation may be made for one or more test categories within specified matrices. The laboratory shall identify in the application the specific department-approved methods it will be using for each test category. The laboratory shall also have participated in all relevant department-approved proficiency testing programs and shall indicate this at the appropriate box or location on the application. Any variance from approved protocol or procedure is acceptable only with prior written confirmation by the department.

D. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:917 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1434 (July 2000), LR 29:312 (March 2003), amended by the Office of the Secretary, Legal Division, LR 43:

§4503. Definitions

A. When used in these rules and regulations, the following words and phrases shall have the meanings ascribed to them below.

* * *

Field of Testing—Repealed.

* * *

Matrix (Matrices)—the substrate of a test sample that includes air emissions, nonpotable water, solid and chemical materials, and biological tissue.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:918 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1434 (July 2000), amended by the Office of Environmental Assessment, LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 47. Louisiana Environmental Laboratory Accreditation Program (LELAP) State Accreditation Requirements

§4701. Accreditation Process

A. - A.4. ...

B. When all requirements for accreditation have been successfully fulfilled, the department shall grant the applicant laboratory a formal notice of certification that lists those matrices, analytes, and methods for which the laboratory is certified. The certificate must be posted within public view in the laboratory setting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:2081 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2749 (November 2012), LR 43:

§4703. Application for Accreditation

A. ...

B. An application for environmental laboratory accreditation shall be made in writing to the Office of Environmental Services, using the current application provided by the department. This application shall include all requested information and be accompanied by the appropriate application fee. Supplemental information may be required.

C. ...

D. Each laboratory shall identify an official to represent it in all matters related to attaining and maintaining environmental laboratory accreditation. This official shall be the point of contact with the laboratory and shall be known as the laboratory representative. The laboratory representative may be any senior person from either the technical or managerial staff. The laboratory shall designate an individual in a position of authority to ensure that the laboratory complies with the criteria and conditions for accreditation. The laboratory shall also designate an individual who has the authority to bind the company in a legal manner.

E. In cases where all application requirements have been met, including review of all methods and quality assurance program data, a status of *interim status*, as defined in LAC 33:I.4503.A, may be granted at the discretion of the department on a case-by-case basis. Interim status may not exceed one year in length. Before a laboratory is granted full accreditation, all requirements of these regulations shall be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2434 (October 2005), LR 33:2081 (October 2007), amended by the Office of the Secretary, Legal Division, Legal Division, LR 38:2749 (November 2012), LR 43:

§4705. Categories of Accreditation

A. At the time of application, each applicant shall clearly identify both the matrix (matrices) and the test categories for which accreditation is sought. A copy of each relevant test method documentation and the requisite equipment for the method shall be available at the laboratory. A current list of approved methods for each parameter/analyte shall be maintained by the Office of Environmental Services and shall be included as part of the application package. In cases where a method used by the laboratory is not listed, the laboratory shall submit documentation that verifies that the results obtained from the method in use are equal to or better than those results obtained from the approved method(s). The department shall review the data submitted by the laboratory and shall notify the laboratory in writing within 60 calendar days regarding whether the method is acceptable or unacceptable as an alternate method of analysis.

B. A laboratory may apply for accreditation in any one or more of the four *matrices*, as defined in LAC 33:I.4503.A, and in one or more of the 11 test categories applicable to the matrix (matrices) selected. The laboratory shall be accredited in those parameters within the test category(ies) for which the laboratory demonstrates

acceptable performance on proficiency samples (when available) and meets all other requirements of the department accreditation program. The accreditation test categories are as follows:

1. - 11. ...

C. An accredited laboratory may request the addition of a matrix (matrices) and test category (categories) to its scope of accreditation at any time. Such a request shall be submitted on the current application to the Office of Environmental Services. Unless the previous on-site inspection can verify the competence of the laboratory to perform the additional tests, another on-site inspection may be required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:919 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1435 (July 2000), LR 26:2443 (November 2000), repromulgated LR 27:38 (January 2001), amended by the Office of Environmental Assessment, LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:2081 (October 2007), amended by the Office of the Secretary, Legal Division, Legal Division, LR 38:2750 (November 2012), LR 43:

§4707. Fees

A. Testing laboratories applying for accreditation or renewal of accreditation shall submit the appropriate fee calculated from the fee schedule along with the required application or update materials. Fees are nonrefundable. Fees are based on the number of test categories in each matrix (matrices).

B. - C. ...

D. The following basic fee structure shall be used in determining all application and annual fees due to the department.

Accreditation application fee payable every scope amendment and every three-year renewal	\$726*
Per major test category per matrix payable every year	\$363*
Minor conventional category payable every year	\$290*
Annual surveillance and evaluation applicable to minor conventional facilities and facilities applying for only one category of accreditation	\$363*
Proficiency samples biannually	to be purchased by the laboratory
Bioassay/biomonitoring annually	to be purchased by the laboratory
Third-party audit	to be billed directly to the laboratory
*The accreditation fees for laboratories receiving national accreditation (NELAP)	shall be one and one-half times the regular fee as stated above

E. Additional fees may be charged for the expansion of accreditation to include new test categories. Accreditation shall be granted only after fees have been received.

F. ...

G. Methods of Payment

1. All payments made by check, draft, or money order shall be made payable to the Louisiana Department of Environmental Quality and mailed to the department at the address provided on the invoice.

2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay method should access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method should contact the Office of Management and Finance for further instructions.

3. Cash is not an acceptable form of payment.

H. Late Payment Fee

1. Payments not received within 15 days of the due date will be charged a late payment fee.

2. Any late payment fee shall be calculated from the due date indicated on the invoice.

3. Payments not received by the department by:

a. the fifteenth day from the due date will be assessed a 5 percent late payment fee on the original assessed fee;

b. the thirtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee; and

c. the sixtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 24:920 (May 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1436 (July 2000), LR 29:672 (May 2003), LR 29:2041 (October 2003), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 59. Accreditation for Laboratories Participating in the NELAP Certification Program

§5903. Categories of Accreditation

A. A laboratory may apply for accreditation in any 1 or more of the 4 matrices and in 1 or more of the 11 test categories applicable to the matrix (matrices) selected. The laboratory shall be accredited in those parameters/analytes within the test category(ies) found in LAC 33:I.4705.B and *matrix (matrices)*, as defined in LAC 33:I.4503. The laboratory shall be accredited in those parameters/analytes within the test category(ies) for which the laboratory demonstrates acceptable performance on proficiency samples (when available) and meets all other requirements of these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1439 (July 2000), amended by the Office of the Secretary, Legal Division, LR 43:

Part III. Air

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs

§209. Annual Fees

A. ...

B. Additional Fees for Part 70 Sources. In addition to the annual maintenance fee required by Subsection A of this Section, the department may assess an additional annual fee not to exceed 20 percent of the annual maintenance fee on each *part 70 source*, as defined in LAC 33:III.502. This fee shall be used to fund the department's ambient air monitoring operations and/or other air quality-related activities of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), amended by the Office of the Secretary, Legal Division, LR 43:

§211. Methodology

A. ...

* * *

B. Fee Methodology

1. - 5. ...

6. If a process is not listed in the fee schedule and is not a source type exempted from fees by this regulation, then the department shall assign a fee using the negotiated fee set forth in fee number 1710 or 1712, as applicable. If a process or facility is specifically listed in the fee schedule, then fee number 1710 or 1712 cannot be utilized.

7. - 10. ...

11. Reserved.

12. - 14. ...

15. For permits issued under LAC 33:III.507 (title V permits), the following applies:

a. ...

b. the application fee for renewals of permits where no modifications are being made at the facility shall be the minimum minor modification fee as listed in LAC 33:III.223, or where no such fee is listed in the fee schedule, as calculated in accordance with Subparagraph B.13.d of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:611 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), LR 18:706 (July 1992), LR 19:1419 (November 1993), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:17 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:264 (February 2000), LR 26:2444 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2435 (October 2005), LR 33:2082 (October 2007), LR 33:2620 (December 2007), LR 37:1145 (April 2011), amended by the Office of the Secretary, Legal Division, LR 43:

§215. Methods of Payment

A. - B. ...

1. Persons wishing to make payments using the electronic pay method should access the department's website and follow the instructions provided on the website.

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054, and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:612 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:706 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2179

(October 2009), amended by the Office of the Secretary, Legal Division, LR 43:

§217. Late Payment Fee

A. Payments not received within 15 days of the due date will be charged a late payment fee.

B. Any late payment fee shall be calculated from the due date indicated on the invoice.

C. Payments not received by the department by:

1. the fifteenth day from the due date will be assessed a 5 percent late payment fee on the original assessed fee;

2. the thirtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee; and

3. the sixtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:612 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:706 (July 1992), LR 19:1373 (October 1993), LR 21:781 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 25:426 (March 1999), amended by the Office of the Secretary, Legal Division, LR 43:

§223. Fee Schedule Listing

A. Table 1—Fee Schedule Listing

Table 1 Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0010	Reserved.					
0015 *Note 20*	Iron Ore Processing per Million Dollars in Capital Cost	1011 MIN.	\$58.08 \$250.00	\$290.40 \$500.00	\$173.80 \$500.00	\$58.08 \$500.00
0020	Bituminous Coal and Lignite Mining	1211	\$832.00	\$4,158.00	\$2,497.00	\$832.00
0030	Coal Preparation	1211	\$2,082.00	\$10,401.00	\$6,241.00	\$2,082.00
0040	Crude Oil and Natural Gas Production (Less than 100 T/Yr Source)	1311	\$250.00	\$500.00	\$500.00	\$500.00
0041	Crude Oil and Natural Gas Production (Equal to or Greater than 100 T/Yr and Less than 250 T/Yr Source)	1311	\$250.00	\$832.00	\$500.00	\$500.00
0042	Crude Oil and Natural Gas Production 250 T/Yr to 500 T/Yr Source	1311	\$514.00	\$2,569.00	\$1,540.00	\$514.00
0043	Crude Oil and Natural Gas Production Greater than 500 T/Yr Source	1311	\$855.00	\$3,425.00	\$2,569.00	\$855.00
0050	Natural Gas Liquids per Unit	1321	\$417.00	\$2,082.00	\$1,248.00	\$500.00
0060	Construction Sand and Gravel	1442	\$250.00	\$832.00	\$500.00	\$500.00
0070	Industrial Sand	1446	\$250.00	\$832.00	\$500.00	\$500.00
0080	Salt Mining	1476	\$2,082.00	\$10,401.00	\$6,241.00	\$2,082.00
0090	Sulfur Mining	1477	\$2,082.00	\$10,401.00	\$6,241.00	\$2,082.00
0100	Commercial Rice Milling	2044	\$832.00	\$4,158.00	\$2,497.00	\$832.00
0110	Animal Feed Preparation	2048	\$832.00	\$4,158.00	\$2,497.00	\$832.00
0120	Cane Sugar, Except Refining Only	2061	\$2,082.00	\$10,401.00	\$6,241.00	\$2,082.00
0130	Cane Sugar Refining per 1,000 Lb/Hr Rated Capacity	2062 MIN.	\$16.62 \$2,053.00	\$83.22 \$10,274.00	\$49.92 \$6,164.00	\$16.62 \$2,053.00
0140	Cottonseed Oil Mill	2074	\$417.00	\$2,082.00	\$1,248.00	\$500.00
0150	Soybean Oil Mill	2075	\$292.00	\$1,457.00	\$875.00	\$500.00
0160	Animal and Marine Fats and Oil (Rendering) 10,000 or More Ton/Yr	2077	\$997.00	\$4,992.00	\$2,995.00	\$997.00
0170	Animal and Marine Fats and Oil (Rendering) Less than 10,000 Ton/Yr	2077	\$500.00	\$2,497.00	\$1,499.00	\$500.00
0180	Shortening, Table Oils, Margarine, and Other Edible Fats and Oils	2079	\$250.00	\$1,041.00	\$623.00	\$500.00
0190	Malt Beverages	2082	\$250.00	\$1,041.00	\$623.00	\$500.00
0200	Coffee Roasting per 1,000,000 Lb/Yr Rated Capacity	2095 MIN. MAX.	\$165.53 \$395.00 \$10,445.00	\$832.00 \$1,975.00 \$52,228.00	\$498.04 \$1,185.00 \$31,337.00	\$165.53 \$500.00 \$10,445.00
0210 *Note 9*	Sawmill and/or Planing Less than 25,000 Bd Ft/Shift	2421	\$417.00	\$2,082.00	\$1,248.00	\$500.00
0220 *Note 9*	Sawmill and/or Planing More than 25,000 Bd Ft/Shift	2421	\$1,248.00	\$6,241.00	\$3,745.00	\$1,248.00
0230 *Note 9*	Hardwood Mill	2426	\$748.00	\$3,745.00	\$2,247.00	\$748.00
0240 *Note 9*	Special Product Sawmill N.E.C.	2429	\$748.00	\$3,745.00	\$2,247.00	\$748.00
0250	Millwork with 10 Employees or More	2431	\$748.00	\$3,745.00	\$2,247.00	\$748.00
0260	Hardwood Veneer and Plywood	2435	\$1,665.00	\$8,321.00	\$4,992.00	\$1,665.00
0270	Softwood Veneer and Plywood	2436	\$1,665.00	\$8,321.00	\$4,992.00	\$1,665.00
0280	Wood Preserving	2491	\$417.00	\$2,082.00	\$1,248.00	\$500.00
0290	Particleboard/Waferboard Manufacture (O.S.B.)	2492	\$1,665.00	\$8,321.00	\$4,992.00	\$1,665.00

Table 1
Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0300	Hardboard Manufacture	2499	\$1,248.00	\$6,241.00	\$3,745.00	\$1,248.00
0310	Furniture and Fixtures: A) 100 or More Employees	2511	\$526.00	\$2,634.00	\$1,580.00	\$526.00
0320	Furniture and Fixtures: B) More than 10 and Less than 100 Employees	2511	\$250.00	\$1,248.00	\$748.00	\$500.00
0330	Pulp Mills per Ton Daily Rated Capacity	2611 MIN.	\$6.22 \$4,282.00	\$31.19 \$21,405.00	\$18.73 \$12,843.00	\$6.22 \$4,281.00
0340 *Note 1*	Paper Mill per Ton Daily Rated Capacity	2621 MIN.	\$6.22 \$4,282.00	\$31.19 \$21,405.00	\$18.73 \$12,843.00	\$6.22 \$4,281.00
0350	Paperboard Mills per Ton Daily Rated Capacity	2631 MIN.	\$6.22 \$4,282.00	\$31.19 \$21,405.00	\$18.73 \$12,843.00	\$6.22 \$4,281.00
0360	Paper Coating	2641	\$250.00	\$1,248.00	\$748.00	\$500.00
0365	Paper Bag Manufacture	2643	\$317.00	\$1,580.00	\$949.00	\$500.00
0370	Insulation Manufacture	2649	\$417.00	\$2,082.00	\$1,248.00	\$500.00
0375	Folding Paper Board Boxes per Packaging Press Line	2651 MIN.	\$417.00 \$2,053.00	\$2,082.00 \$10,274.00	\$1,248.00 \$6,164.00	\$417.00 \$2,053.00
0380	Corrugated Boxes: Converters (with Boilers)	2653	\$623.00	\$3,119.00	\$1,874.00	\$623.00
0381	Corrugated Boxes: Sheet Plant	2653	\$263.00	\$1,317.00	\$790.00	\$500.00
0390	Building Board and Tile	2661	\$2,082.00	\$10,401.00	\$6,241.00	\$2,082.00
0400	Commercial Printing: Black and White per Press	2752 MIN.	\$249.00 \$1,198.00	\$1,248.00 \$5,993.00	\$748.00 \$3,595.00	\$249.00 \$1,198.00
0410	Commercial Printing: Color per Press	2752 MIN.	\$415.80 \$2,053.00	\$2,079.00 \$10,274.00	\$1,249.00 \$6,164.00	\$415.80 \$2,053.00
0420 *Note 2*	Caustic/Chlorine per 1,000,000 Lb/Yr Rated Cap Posed on Chlorine	2812 MIN.	\$4.17 \$2,053.00	\$20.81 \$10,274.00	\$12.47 \$6,164.00	\$4.17 \$2,053.00
0440	Industrial Gases	2813	\$832.00	\$4,158.00	\$2,497.00	\$832.00
0450	Inorganic Pigments	2816	\$832.00	\$4,158.00	\$2,497.00	\$832.00
0460	Aluminum Sulfate Production per 100 Ton/Yr Rated Capacity	2819 MIN.	\$2.06 \$1,712.00	\$10.41 \$8,562.00	\$6.22 \$5,137.00	\$2.06 \$1,712.00
0470	Alumina per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	\$8.29 \$1,712.00	\$41.58 \$8,562.00	\$24.95 \$5,137.00	\$8.29 \$1,712.00
0480	Catalyst Mfg. and Cat. Regeneration per Line	2819	\$2,082.00	\$10,401.00	\$6,241.00	\$2,082.00
0490	Fluosilicates	2819	\$1,248.00	\$6,241.00	\$3,745.00	\$1,248.00
0500	Industrial Inorganic Chemicals Mfg. N.E.C. per 1,000,000 Lb/Yr	2819 MIN.	\$2.06 \$1,198.00	\$10.41 \$5,993.00	\$6.22 \$3,595.00	\$2.06 \$1,198.00
0510	Industrial Inorganic Acids N.E.C. per 1,000,000 Lb/Yr Rated Capacity	2819 MIN.	\$20.81 \$2,053.00	\$104.01 \$10,274.00	\$62.40 \$6,164.00	\$20.81 \$2,053.00
0520	Nitric Acid Manufacture per 1,000 Ton/Yr Rated Capacity	2819 MIN.	\$8.29 \$2,053.00	\$41.58 \$10,274.00	\$24.95 \$6,164.00	\$8.29 \$2,053.00
0530	Phosphoric Acid Mfg. per Ton Daily Rated Capacity	2819 MIN.	\$2.06 \$1,712.00	\$10.41 \$8,562.00	\$6.22 \$5,137.00	\$2.06 \$1,712.00
0540	Sulphuric Acid Manufacture per Ton Daily Rated Capacity	2819 MIN.	\$2.06 \$1,712.00	\$10.41 \$8,562.00	\$6.22 \$5,137.00	\$2.06 \$1,712.00
0550	Polyethylene/Polypropylene Manufacture per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	\$16.62 \$2,053.00	\$83.22 \$10,274.00	\$49.92 \$6,164.00	\$16.62 \$2,053.00
0560	PVC Manufacture per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	\$20.81 \$2,053.00	\$104.01 \$10,274.00	\$62.40 \$6,164.00	\$20.81 \$2,053.00
0570	Synthetic Resins Manufacture N.E.C. per 1,000,000 Lb/Yr Rated Capacity	2821 MIN.	\$20.81 \$2,053.00	\$104.01 \$10,274.00	\$62.40 \$6,164.00	\$20.81 \$2,053.00
0580	Rubber Mfg. per 1,000,000 Lb/Yr Rated Capacity	2822 MIN.	\$20.81 \$2,053.00	\$104.01 \$10,274.00	\$62.40 \$6,164.00	\$20.81 \$2,053.00
0585	Paint Manufacturing and Blending	2851	\$775.00	\$3,870.00	\$2,323.00	\$775.00
0590	Charcoal per Oven	2861	\$417.00	\$2,082.00	\$1,248.00	\$500.00
0600	Gum and Wood Chemicals per Unit	2861	\$1,248.00	\$6,241.00	\$3,745.00	\$1,248.00
0610	Styrene Monomer per 1,000,000 Lb/Yr Rated Capacity	2865 MIN.	\$8.29 \$2,053.00	\$41.58 \$10,274.00	\$24.95 \$6,164.00	\$8.29 \$2,053.00
0620	Halogenated Hydrocarbons per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	\$12.47 \$2,053.00	\$62.40 \$10,274.00	\$37.44 \$6,164.00	\$12.47 \$2,053.00
0630	Organic Oxides, Alcohols, Glycols per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	\$8.29 \$2,053.00	\$41.58 \$10,274.00	\$24.95 \$6,164.00	\$8.29 \$2,053.00
0635	Olefins and Aromatics N.E.C. per 1,000,000 Lb/Yr Rated Capacity	2869 MIN.	\$8.29 \$2,053.00	\$41.58 \$10,274.00	\$24.95 \$6,164.00	\$8.29 \$2,053.00
0640	Ammonia Manufacture per Ton Daily Rated Capacity	2873 MIN.	\$4.16 \$2,053.00	\$20.82 \$10,274.00	\$12.47 \$6,164.00	\$4.16 \$2,053.00
0650	Fertilizer Manufacture per 1,000 Ton/Yr Rated Capacity	2873 MIN.	\$2.06 \$1,198.00	\$10.41 \$5,993.00	\$6.22 \$3,595.00	\$2.06 \$1,198.00
0660	Urea and Ureaform per 1,000 Ton/Yr Rated Capacity	2873 MIN.	\$4.16 \$1,198.00	\$20.82 \$5,993.00	\$12.47 \$3,595.00	\$4.16 \$1,198.00
0670	Pesticides Mfg. per Train	2879	\$1,665.00	\$8,321.00	\$4,992.00	\$1,665.00
0680	Carbon Black Manufacture per 1,000,000 Lb/Yr Rated Capacity	2895 MIN.	\$24.95 \$2,053.00	\$124.78 \$10,274.00	\$74.90 \$6,164.00	\$24.95 \$2,053.00

Table 1
Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
0690	Chemical and Chemical Prep. N.E.C. per 1,000,000 Lb/Yr	2899 MIN.	\$20.82 \$1,712.00	\$104.01 \$8,562.00	\$62.40 \$5,137.00	\$20.82 \$1,712.00
0695	Chemical and Chemical Prep. N.E.C. with Output Less than 1,000,000 Lb/Yr	2899	\$1,185.00	\$5,927.00	\$3,557.00	\$1,185.00
0700	Drilling Mud-Storage and Distribution	2899	\$417.00	\$2,082.00	\$1,248.00	\$500.00
0710	Drilling Mud-Grinding	2899	\$1,665.00	\$8,321.00	\$4,992.00	\$1,665.00
715	Salt Processing and Packaging per 1,000,000 Lb/Yr	2899 MIN.	\$0.33 \$514.00	\$1.69 \$2,569.00	\$1.01 \$1,540.00	\$0.33 \$514.00
0720	Petroleum Refining per 1,000 BBL/Day Rated Capacity Crude Throughput	2911 MIN.	\$104.01 \$2,053.00	\$520.05 \$10,274.00	\$312.40 \$6,164.00	\$105.11 \$2,053.00
0730 *Note 4*	Asphaltic Concrete Paving Plants per Ton/Hr Rated Capacity	2951 MIN.	\$3.14 \$855.00	\$15.64 \$4,281.00	\$9.38 \$2,569.00	\$3.14 \$855.00
0740	Asphalt Blowing Plant (Not to be Charged Separately if in Refinery)	2951	\$1,248.00	\$6,241.00	\$3,745.00	\$1,248.00
0760 *Note 5*	Blending, Compounding, or Refining of Lubricants per Unit	2992	\$1,248.00	\$6,241.00	\$3,745.00	\$1,248.00
0770	Petroleum Coke Calcining per 1,000 Ton/Yr Rated Capacity	2999 MIN.	\$16.62 \$2,053.00	\$83.22 \$10,274.00	\$49.92 \$6,164.00	\$16.62 \$2,053.00
0773	Fiberglass Swimming Pools	N/A	\$292.00	\$1,457.00	\$875.00	\$500.00
0775	Plastics Injection Moulding and Extrusion per Line	3079	\$417.00	\$2,082.00	\$1,248.00	\$500.00
0780	Glass and Glass Container Mfg. Natural Gas Fuel per Line	3229	\$623.00	\$3,119.00	\$1,874.00	\$623.00
0790	Cement Manufacture per 1,000 Ton/Yr Rated Capacity	3241 MIN.	\$12.47 \$1,712.00	\$62.40 \$8,562.00	\$37.44 \$5,137.00	\$12.47 \$1,712.00
0800	Glass and Glass Container Mfg. Fuel Oil per Line	3241	\$1,248.00	\$6,241.00	\$3,745.00	\$1,248.00
0810	Brick Manufacture per 1,000 Ton/Yr Rated Capacity	3251 MIN.	\$6.22 \$855.00	\$31.19 \$4,281.00	\$18.73 \$2,569.00	\$6.22 \$855.00
0815	Concrete Products	3272	\$422.00	\$2,107.00	\$1,263.00	\$500.00
0820 *Note 12*	Ready-Mix Concrete	3273	\$1,041.00	\$3162.00	\$2,082.00	\$1,041.00
0830	Lime Manufacture per 1,000 Ton/Yr Rated Capacity	3274 MIN.	\$12.47 \$1,198.00	\$62.40 \$5,993.00	\$37.44 \$3,595.00	\$12.47 \$1,198.00
0840	Gypsum Manufacture per 1,000 Ton/Yr Rated Capacity	3275 MIN.	\$12.47 \$1,198.00	\$62.40 \$5,993.00	\$37.44 \$3,595.00	\$12.47 \$1,198.00
0850	Asbestos Products per Site or per Production Unit	3292	\$2,497.00	\$12,482.00	\$7,490.00	\$2,497.00
0860	Clay Kiln	3295	\$500.00	\$2,499.00	\$1,499.00	\$500.00
0870	Rock Crusher	3295	\$458.00	\$2,288.00	\$1,374.00	\$500.00
0880	Gray Iron and Steel Foundries: A) 3,500 or More Ton/Yr Production	3321	\$667.00	\$3,327.00	\$1,997.00	\$667.00
0890	Gray Iron and Steel Foundries: B) Less than 3,500 Ton/Yr Production	3321	\$332.00	\$1,665.00	\$997.00	\$500.00
0900	Malleable Iron Foundries: A) 3,500 or More Ton/Yr Production	3322	\$667.00	\$3,327.00	\$1,997.00	\$667.00
0910	Malleable Iron Foundries: B) Less than 3,500 Ton/Yr Production	3322	\$332.00	\$1,665.00	\$997.00	\$500.00
0920	Steel Investment Foundries: A) 3,500 or More Ton/Yr Production	3324	\$667.00	\$3,327.00	\$1,997.00	\$667.00
0930	Steel Investment Foundries: B) Less than 3,500 Ton/Yr Production	3324	\$332.00	\$1,665.00	\$997.00	\$500.00
0940	Steel Foundries N.E.C.: A) 3,500 or More Ton/Yr Production	3325	\$667.00	\$3,327.00	\$1,997.00	\$667.00
0950	Steel Foundries N.E.C.: B) Less than 3,500 Ton/Yr Production	3325	\$332.00	\$1,665.00	\$997.00	\$500.00
0960	Primary Smelting and Refining of Copper per 100,000 Lb/Yr Rated Capacity	3331 MIN.	\$8.29 \$2,053.00	\$41.58 \$10,274.00	\$24.95 \$6,164.00	\$8.29 \$2,053.00
0970	Aluminum Production per Pot	3334 MIN.	\$41.58 \$2,053.00	\$208.03 \$10,274.00	\$124.30 \$6,164.00	\$41.58 \$2,053.00
0980	Refining of Non-Ferrous Metals N.E.C. per 1,000 Lb/Yr Rated Capacity	3339 MIN.	\$0.04 \$2,053.00	\$0.40 \$10,274.00	\$0.23 \$6,164.00	\$0.04 \$2,053.00
0990	Secondary Smelting of Non-Ferrous Metals per Furnace	3341 MIN.	\$1,247.40 \$2,569.00	\$6,240.30 \$12,843.00	\$3,745.00 \$7,706.00	\$1,247.40 \$2,569.00
1000	Wire Manufacture	3357	\$832.00	\$4,158.00	\$2,497.00	\$832.00
1010	Aluminum Foundries (Castings) per Unit	3361	\$332.00	\$1,665.00	\$997.00	\$500.00
1020	Brass/Bronze/Copper-Based Alloy Foundry per Furnace	3362	\$417.00	\$2,082.00	\$1,248.00	\$500.00
1030	Metal Heat Treating Including Shotpeening	3398	\$250.00	\$1,248.00	\$748.00	\$500.00
1040	Metal Can Manufacture	3411	\$833.00	\$4,158.00	\$2,497.00	\$832.00
1050	Drum Manufacturing and/or Reconditioning	3412	\$1,248.00	\$6,241.00	\$3,745.00	\$1,248.00
1059	Fabricated Structural Steel with 5 or More Welders	3441	\$832.00	\$4,158.00	\$2,497.00	\$832.00
1060	Fabricated Plate Work with 5 or More Welders	3443	\$1,053.00	\$5,268.00	\$3,162.00	\$1,053.00
1070	Electroplating, Polishing and Anodizing with 5 or More Employees	3471	\$250.00	\$1,248.00	\$748.00	\$500.00

Table 1
Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1080	Sandblasting or Chemical Cleaning of Metal: A) 10 or More Employees	3471	\$1,248.00	\$6,241.00	\$3,745.00	\$1,248.00
1090	Sandblasting or Chemical Cleaning of Metal: B) Less than 10 Employees	3471	\$623.00	\$3,119.00	\$1,874.00	\$623.00
1100	Coating, Engraving, and Allied Services: A) 10 or More Employees	3479	\$458.00	\$2,288.00	\$1,374.00	\$500.00
1110	Coating, Engraving, and Allied Services: B) Less than 10 Employees	3479	\$250.00	\$1,248.00	\$748.00	\$500.00
1120	Galvanizing and Pipe Coating Excluding All Other Activities	3479	\$500.00	\$2,497.00	\$1,499.00	\$500.00
1130	Painting Topcoat per Line	3479	\$417.00	\$2,082.00	\$1,248.00	\$500.00
1140	Potting per Line	3479	\$250.00	\$1,248.00	\$748.00	\$500.00
1150	Soldering per Line	3479	\$250.00	\$1,248.00	\$748.00	\$500.00
1160	Wire Coating per Line	3479	\$832.00	\$4,158.00	\$2,497.00	\$832.00
1170	Oil Field Machinery and Equipment	3533	\$417.00	\$2,082.00	\$1,248.00	\$500.00
1180	Power Chain Saw Manufacture per Line	3546	\$623.00	\$3,119.00	\$1,874.00	\$623.00
1190	Commercial Grain Dryer	3559	\$500.00	\$2,497.00	\$1,499.00	\$500.00
1193	Commercial Laundry, Dry Cleaning, and Pressing Machines	3582	\$623.00	\$3,119.00	\$1,874.00	\$623.00
1195	Electric Transformers per 1,000 Units/Year	3612	\$193.51	\$967.52	\$580.51	\$193.51
		MIN.	\$526.00	\$2,634.00	\$1,580.00	\$526.00
1200	Electrode Manufacture per Line	3624	\$582.00	\$2,910.00	\$1,747.00	\$582.00
1210	Telephone Manufacture per Line	3661	\$1,457.00	\$7,280.00	\$4,369.00	\$1,457.00
1220	Electrical Connector Manufacture per Line	3678	\$748.00	\$3,745.00	\$2,247.00	\$748.00
1230	Battery Manufacture per Line	3691	\$832.00	\$4,158.00	\$2,497.00	\$832.00
1240	Electrical Equipment per Line	3694	\$500.00	\$2,497.00	\$1,499.00	\$500.00
1245	Automobile, Truck, and Van Assembly per 1,000 Vehicles per Year Capacity	3711	\$208.03	\$1,040.05	\$624.03	\$208.03
		MIN.	\$1,317.00	\$6,598.00	\$3,952.00	\$1,317.00
		MAX.	\$41,612.00	\$208,060.00	\$124,836.00	\$41,612.00
1250	Ship and Boat Building: A) 5001 or More Employees	3732	\$6,241.00	\$31,202.00	\$18,722.00	\$6,241.00
1260	Ship and Boat Building: B) 2501 to 5000 Employees	3732	\$4,158.00	\$20,804.00	\$12,482.00	\$4,158.00
1270	Ship and Boat Building: C) 1001 to 2500 Employees	3732	\$2,082.00	\$10,401.00	\$6,241.00	\$2,082.00
1280	Ship and Boat Building: D) 201 to 1000 Employees	3732	\$1,248.00	\$6,241.00	\$3,745.00	\$1,248.00
1290	Ship and Boat Building: E) 200 or Less Employees	3732	\$417.00	\$2,082.00	\$1,248.00	\$500.00
1300	Playground Equipment Manufacture per Line	3949	\$623.00	\$3,119.00	\$1,874.00	\$623.00
1310	Grain Elevators: A) 20,000 or More Ton/Yr	4221	\$1,329.00	\$6,655.00	\$3,993.00	\$1,329.00
1320	Grain Elevators: B) Less than 20,000 Ton/Yr	4221	\$667.00	\$3,328.00	\$1,997.00	\$667.00
1330 *Note 6*	A) Petroleum, Chemical Bulk Storage and Terminal (over 3,000,000 BBL Capacity)	4226	\$12,482.00	\$62,406.00	\$37,444.00	\$12,482.00
	B) Petroleum, Chemical Bulk Storage and Terminal (1,000,000-3,000,000 BBL Capacity)	4226	\$8,321.00	\$41,604.00	\$24,962.00	\$8,321.00
	C) Petroleum, Chemical Bulk Storage and Terminal (500,001-1,000,000 BBL Capacity)	4226	\$4,158.00	\$20,804.00	\$12,482.00	\$4,158.00
1360 *Note 6*	D) Petroleum, Chemical Bulk Storage and Terminal (500,000 BBL Capacity or Less)	4226	\$2,082.00	\$10,401.00	\$6,241.00	\$2,082.00
1361 *Note 8*	Wholesale Distribution of Coke and Other Bulk Goods per 1,000 Ton/Yr Capacity	4463	\$0.85	\$4.17	\$2.46	\$0.85
		MIN.	\$2,053.00	\$10,274.00	\$6,164.00	\$2,053.00
1362	Crude Oil Pipeline: Facility with Less than 100,000 BBLs Storage Capacity	4612	\$922.00	\$4,611.00	\$2,767.00	\$922.00
1363	Crude Oil Pipeline: Facility with 100,000 to 500,000 BBLs Storage Capacity	4612	\$1,317.00	\$6,587.00	\$3,952.00	\$1,317.00
1364	Crude Oil Pipeline: Facility with over 500,000 BBLs Storage Capacity	4612	\$1,844.00	\$9,221.00	\$5,532.00	\$1,844.00
1366	Refined Oil Pipeline: Facility with Less than 100,000 BBLs Storage Capacity	4613	\$790.00	\$3,952.00	\$2,370.00	\$790.00
1367	Refined Oil Pipeline: Facility with 100,000 to 500,000 BBLs Storage Capacity	4613	\$1,053.00	\$5,268.00	\$3,162.00	\$1,053.00
1368	Refined Oil Pipeline: Facility with Over 500,000 BBLs Storage Capacity	4613	\$1,580.00	\$7,904.00	\$4,741.00	\$1,580.00
1370	Railcar/Barge/Tank Truck Cleaning Heavy Fuels Only	4742	\$417.00	\$2,082.00	\$1,248.00	\$500.00
1380	Railcar and Barge Cleaning Other Than Heavy Fuels	4742	\$2,082.00	\$10,401.00	\$6,241.00	\$2,082.00
1390	Tank Truck Cleaning Other Than Heavy Fuels	4742	\$1,248.00	\$6,241.00	\$3,745.00	\$1,248.00
1400	A) Electric Power Gen. per MW (Over 0.7 Percent S in Fuel)	4911	\$19.33	\$96.73	\$58.04	\$19.33
		MIN.	\$3,938.00	\$19,693.00	\$11,816.00	\$3,938.00
1410 *Note 7*	B) Electric Power Gen. per MW (0.7 Percent S or Less in Fuel)	4911	\$11.58	\$58.04	\$34.82	\$11.58
		MIN.	\$1,884.00	\$9,419.00	\$5,651.00	\$1,884.00

Table 1
Fee Schedule Listing

Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1420	C) Electric Power Gen. per MW (Natural Gas Fired)	4911 MIN.	\$5.82 \$1,370.00	\$29.03 \$6,849.00	\$17.41 \$4,110.00	\$5.82 \$1,370.00
1430 *Note 11*	Natural Gas Comp per 100 H.P. (Turbines)	4922	\$8.29	\$41.58	\$24.95	\$8.29
1440 *Note 11*	Recip. Nat Gas Comp per 100 H.P.: A) 50,000 H.P.	4922	\$37.47	\$187.23	\$112.33	\$37.47
1450 *Note 11*	Recip. Nat Gas Comp per 100 H.P.: B) 20,000 to 50,000 H.P.	4922	\$41.58	\$208.03	\$124.78	\$41.58
1460 *Note 11*	Recip. Nat Gas Comp per 100 H.P.: C) 5,000 to 20,000 H.P.	4922	\$49.92	\$249.61	\$149.73	\$49.92
1470 *Note 11*	Recip. Nat Gas Comp per 100 H.P.: D) 2,500 to 5,000 H.P.	4922	\$58.26	\$291.18	\$174.72	\$58.26
1480 *Note 11*	Recip. Nat Gas Comp per 100 H.P.: E) 1,000 to 2,500 H.P.	4922	\$62.40	\$312.02	\$187.23	\$62.40
1490 *Note 11*	Recip. Nat Gas Comp: F) Less than 1,000 H.P.	4922	\$832.00	\$2,082.00	\$832.00	\$832.00
1500 *Note 10*	Coal Gassification per \$100,000 Capital Cost	4925 MIN. MAX.	\$8.29 \$1,317.00 \$66,614.00	\$41.58 \$6,598.00 \$333,067.00	\$24.95 \$3,952.00 \$199,840.00	\$8.29 \$1,317.00 \$66,614.00
1510 *Note 10*	Co-Generation per \$100,000 Capital Cost	4939 MIN. MAX.	\$8.29 \$1,317.00 \$41,612.00	\$41.58 \$6,598.00 \$208,060.00	\$24.95 \$3,952.00 \$124,836.00	\$8.29 \$1,317.00 \$41,612.00
1520	Incinerators: A) 1,000 Lb/Hr and Greater Capacity	4953	\$526.00	\$2,624.00	\$1,580.00	\$526.00
1521	Incinerators: B) Less than 1,000 Lb/Hr Capacity	4953	\$250.00	\$855.00	\$514.00	\$500.00
1525	Sanitary Landfill per Million Mg of Planned Capacity	4953 MIN.	\$145.20 \$291.00	\$726.00 \$1,452.00	\$436.00 \$872.00	\$145.20 \$500.00
1530	Municipal Incinerators	4953	\$4,158.00	\$20,804.00	\$12,482.00	\$4,158.00
1532	Commercial Hazardous Waste Incinerator per 1,000,000 Btu per Hour Thermal Capacity	4953 MIN.	\$239.75 \$5,268.00	\$1,198.70 \$26,345.00	\$719.22 \$15,807.00	\$239.75 \$5,268.00
1533	Noncommercial Hazardous Waste Incinerator (per 1,000,000 Btu/Hr Thermal Capacity)	4953 MIN.	\$119.87 \$3,425.00	\$600.17 \$17,124.00	\$359.60 \$10,274.00	\$119.87 \$3,425.00
1534	Commercial Hazardous Waste Disp. Facility N.E.C.	4953	\$34,249.00	\$171,244.00	\$102,746.00	\$34,249.00
1535	Commercial Hazardous Waste Underground Injection (Surface Facilities) per Location	4953	\$6,849.00	\$34,249.00	\$20,550.00	\$6,849.00
1536	Recoverable/Re-usable Materials Proc. Facility (per 1,000,000 Btu/Hr Thermal Capacity)	4953 MIN. MAX.	\$119.87 \$3,425.00 \$17,124.00	\$599.35 \$17,124.00 \$85,622.00	\$359.60 \$10,274.00 \$51,373.00	\$119.87 \$3,425.00 \$17,124.00
1540	Steam Gen. Units per 1000 Lb/Hr Steam Cap: Natural Gas or Comb Non-Fossil Fuels	4961 MIN.	\$2.06 \$341.00	\$10.41 \$1,711.60	\$6.22 \$1,027.00	\$2.06 \$500.00
1550	Steam Gen. Units per 1000 Lb/Hr Steam Cap: Fuels with 0.7 Percent S or Less	4961 MIN.	\$4.17 \$855.00	\$20.81 \$4,281.00	\$12.47 \$2,569.00	\$4.17 \$855.00
1560	Steam Gen. Units per 1000 Lb/Hr Steam Cap: Fuels with More than 0.7 Percent S	4961 MIN.	\$6.22 \$1,198.00	\$31.19 \$5,993.00	\$18.73 \$3,595.00	\$6.22 \$1,198.00
1570	Cement (Bulk Distribution)	5052	\$1,665.00	\$8,321.00	\$4,992.00	\$1,665.00
1580	Wholesale Distribution of Coal per 1,000 Ton/Yr Throughput	5052 MIN.	\$0.40 \$1,198.00	\$2.06 \$5,993.00	\$1.22 \$3,595.00	\$0.40 \$1,198.00
1590	Automobile Recycling Scrap per 1000 Ton/Yr	5093 MIN. MAX.	\$17.12 \$855.00 \$41,612.00	\$85.61 \$4,281.00 \$208,060.00	\$51.37 \$2,569.00 \$124,836.00	\$17.12 \$855.00 \$41,612.00
1600	Bulk Loader: Over 100,000 Ton/Yr Throughput	5153	\$4,158.00	\$20,804.00	\$12,482.00	\$4,158.00
1610 *Note 14a*	Bulk Loader: Less Than or Equal to 100,000 and More Than 25,000 Ton/Yr Throughput	5153	\$2,082.00	\$10,401.00	\$6,241.00	\$2,082.00
1611 *Note 14a*	Bulk Loader: 25,000 Ton/Yr or Less Throughput	5153	\$1,185.00	\$5,927.00	\$3,557.00	\$1,185.00
1612 *Note 14a*	Bulk Loader: No Grain or Dusty Materials Transfer	5153	\$790.00	\$3,952.00	\$2,370.00	\$790.00
1620	Grain Elevators-Terminal per 10,000 BU/Yr Throughput	5153 MIN.	\$0.40 \$1,884.00	\$2.06 \$9,419.00	\$1.22 \$5,651.00	\$0.40 \$1,884.00
1630	Wholesale Distribution of Chemicals and Allied Products per Facility	5161	\$1,041.00	\$4,158.00	\$3,119.00	\$1,041.00
1640	Petroleum Bulk Plants	5171	\$250.00	\$500.00	\$500.00	\$500.00
1650	Petroleum Bulk Terminal	5171	\$832.00	\$4,158.00	\$2,497.00	\$832.00
1660	Petroleum Bulk Station	5171	\$250.00	\$500.00	\$500.00	\$500.00
1670	Storage Tank	5171	\$250.00	\$832.00	\$500.00	\$500.00
1680	Crude Oil Distribution	5172	\$1,248.00	\$6,241.00	\$3,745.00	\$1,248.00
1690	Tire Recapping Plant	7534	\$250.00	\$855.00	\$514.00	\$500.00
1700	Chemical Waste Disposal Facility for Nonhazardous Waste	9998	\$3,870.00	\$19,352.00	\$11,611.00	\$3,870.00
1710	Negotiated Fee for Minor Sources		\$291.00	\$1,452.00	\$872.00	\$500.00
1711	Research Fee for Alternate Disposal of Hazardous Waste		\$250.00	\$500.00	\$500.00	\$500.00

Table 1 Fee Schedule Listing						
Fee Number	Air Contaminant Source	SICC	Annual Maintenance Fee	New Permit Application Fee	Modified Permit Fees	
					Major	Minor
1712 *Note 21*	Negotiated Fee for Part 70 Sources	MIN.	\$291.00 + \$7.26/ton \$1,452.00	\$1452.00 + \$36.30/ton \$7,260.00	\$872.00 + \$21.78/ton \$4,356.00	\$291.00 + \$7.26/ton \$1,452.00
1720 *Note 15*	Small Business Sources	N/A	\$250.00	\$785.00	\$500.00	\$500.00
1722	Small Source Permit	N/A	\$250.00	\$785.00	\$500.00	\$500.00

B. Table 2—Additional Fees

Table 2 Additional Fees		
Fee Number	Fee Description	Amount
2000	Name and Company Ownership/Operator Changes under LAC 33:I.Chapter 19	\$500.00
2010	The Issuance or Denial of Relocation, Administrative Amendments, Variances, Authorization to Construct, Change of Tank Service, Research & Development, and Exemptions. This fee shall be waived for sources operating under an air permit.	\$500.00
2015	Repealed.	
2016	New, Modified, or Renewed Acid Rain Permits	\$500.00
2020	The Issuance of an Asbestos Disposal Verification Form (ADVF)—(at least 10 working days notification given)—Fee is nontransferable and nonrefundable.	\$73.00
2030	The Issuance of an Asbestos Disposal Verification Form (ADVF)—(less than 10 working days notification given)—Fee is nontransferable and nonrefundable.	\$109.00
2040	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer—Normal Application Processing per Discipline (greater than five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	\$291.00
2050	Agent Accreditation for Asbestos: Includes Contractor/Supervisor, Inspector, Management Planner, or Project Designer—Emergency Application Processing per Discipline (less than or equal to five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	\$436.00
2060	Worker Accreditation for Asbestos—Normal Application Processing (greater than five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	\$73.00
2070	Worker Accreditation for Asbestos—Emergency Application Processing (less than or equal to five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	\$109.00
2080	Duplicate Certificate—Fee is nontransferable and nonrefundable.	\$37.00
2090	Asbestos Training Organization Recognition Plus Trainer Recognition per Trainer—Normal Application Processing (greater than five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	\$436.00 \$73.00
2100	Asbestos Training Organization Recognition Plus Trainer Recognition per Trainer—Emergency Application Processing (less than or equal to five working days after receipt of required documentation and fees)—Fee is nontransferable and nonrefundable.	\$654.00 \$109.00
2200 *Note 13*	Air Toxics Annual Fee per Ton Emitted on an Annual Basis:	
	Class I Pollutants	\$156.82
	Class II Pollutants	\$78.41
	Class III Pollutants	\$39.20
2300 *Note 14*	Criteria Pollutant Annual Fee per Ton Emitted on an Annual Basis (Non-Title V Facility): Nitrogen oxides (NO _x) Sulfur dioxide (SO ₂) Non-toxic organic (VOC) Particulate (PM ₁₀)	\$13.91/ton
2310 *Note 14*	Criteria Pollutant Annual Fee per Ton Emitted on an Annual Basis (Title V Facility): Nitrogen oxides (NO _x) Sulfur dioxide (SO ₂) Non-toxic organic (VOC) Particulate (PM ₁₀)	\$13.91/ton
2400	An application approval fee for Stage II Vapor Recovery An annual facility inspection fee for Stage II Vapor Recovery	\$146.00 \$218.00
2600 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 1	\$291.00
2620 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 2	\$581.00
2630 *Note 16*	Accident Prevention Program Annual Maintenance Fee: Program 3	\$3,630.00
2800	Repealed.	
2810	An application fee for point source emissions banking (not applicable when filing application with a new permit or permit modification)	\$500.00
2900 *Note 19*	Lead Contractor License Evaluation Processing Fee—Fee is nontransferable and nonrefundable.	\$550.00
2901 *Note 19*	Lead Project Supervisor Accreditation Application Processing Fee—Fee is nontransferable and nonrefundable.	\$275.00

Table 2		
Additional Fees		
Fee Number	Fee Description	Amount
2902 *Note 19*	Lead Project Designer Accreditation Application Processing Fee—Fee is nontransferable and nonrefundable.	\$550.00
2903 *Note 19*	Lead Risk Assessor Accreditation Application Processing Fee—Fee is nontransferable and nonrefundable.	\$275.00
2904 *Note 19*	Lead Inspector Accreditation Application Processing Fee—Fee is nontransferable and nonrefundable.	\$165.00
2905 *Note 19*	Lead Worker Accreditation Application Processing Fee—Fee is nontransferable and nonrefundable.	\$55.00
2906 *Note 19*	Recognition Application Processing Fee for In-State Louisiana Lead Training Organizations per Training Organization—Fee is nontransferable and nonrefundable.	\$550.00
2907 *Note 19*	Recognition Application Processing Fee for Louisiana Lead Training Organizations per Instructor—Fee is nontransferable and nonrefundable.	\$55.00
2908 *Note 19*	Recognition Application Processing Fee for Out of State Lead Training Organizations per Out of State Training Organization—Fee is nontransferable and nonrefundable.	\$825.00
2909 *Note 19*	Recognition Application Processing Fee for Out of State Lead Training Organizations per Instructor—Fee is nontransferable and nonrefundable.	\$110.00
2910 *Note 19*	Lead Abatement Project Notification Processing Fee, 2000 Square Feet and under—Fee is nontransferable and nonrefundable.	\$220.00
2911 *Note 19*	Lead Abatement Project Notification Processing Fee for Each Additional Increment of 2000 Square Feet or Portion Thereof—Fee is nontransferable and nonrefundable.	\$110.00
2912 *Note 19*	Lead Abatement Project Notification Processing Fee (Fee Per Revision)—Fee is nontransferable and nonrefundable.	\$55.00
2913 *Note 19*	Soil Lead Abatement Project Notification Processing Fee, Half Acre or Less—Fee is nontransferable and nonrefundable.	\$220.00
2914 *Note 19*	Soil Lead Abatement Project Notification Processing Fee, Each Additional Half Acre or Portion Thereof—Fee is nontransferable and nonrefundable.	\$110.00

Explanatory Notes for Fee Schedule

Note 1. - Note 2.

Note 3. Reserved.

Note 4. - Note 10.

Note 11. The maximum annual maintenance fee for Categories 1430-1490 is not to exceed \$41,612 total for any one gas transmission permit.

Note 12. The maximum annual maintenance fee for one location with two or more plants shall be \$1,883.

Note 13. Fees will be determined by aggregating and rounding (e.g., parts of a ton less than 0.50 are invoiced as zero and parts of a ton equal to or greater than 0.50 are invoiced as one ton) actual annual emissions of each class of toxic air pollutants (as delineated in the tables in LAC 33:III.5112) for a facility and applying the appropriate fee schedule for that class. If a facility emits more than 4000 tons per year of any single toxic air pollutant, fees shall be assessed on only the first 4000 tons. In no case shall the fee for this category be less than \$146.

Note 14. Fees will not be assessed for emissions of a single criteria pollutant over and above 4,000 tons per year from a facility. Criteria fees will be assessed on actual annual emissions that occurred during the previous calendar year. The minimum fee for this category shall be \$146.

Note 14.a. - Note 20.

Note 21. Tons shall refer to the permitted total of criteria pollutants, excluding PM_{2.5}. The minimum fee applies only if the requirement for a Part 70 permit is triggered by criteria pollutant emissions.

Note 22. No fee shall be assessed when only the name of a facility is changed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014, 2054, 2341, and 2351 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1205 (December 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 19:1373 (October 1993), LR 19:1420 (November 1993), LR 19:1564 (December 1993), LR 20:421 (April 1994), LR 20:1263 (November 1994), LR 21:22 (January

1995), LR 21:782 (August 1995), LR 21:942 (September 1995), repromulgated LR 21:1080 (October 1995), amended LR 21:1236 (November 1995), LR 23:1496, 1499 (November 1997), LR 23:1662 (December 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:267 (February 2000), LR 26:485 (March 2000), LR 26:1606 (August 2000), repromulgated LR 27:192 (February 2001), amended LR 29:672 (May 2003), LR 29:2042 (October 2003), LR 30:1475 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2620 (December 2007), LR 34:2560 (December 2008), LR 37:1145 (April 2011), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 3. Regulatory Permits

§307. Regulatory Permit for Oil and Gas Well Testing

A. - F.3.

G. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit shall be \$500 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:457 (March 2009), amended by the Office of the Secretary, Legal Division, LR 43:

§309. Regulatory Permit for Release of Natural Gas from Pipelines and Associated Equipment

A. - H.3....

I. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit shall be \$500 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:458 (March 2009), amended by the Office of the Secretary, Legal Division, LR 43:

§311. Regulatory Permit for Stationary Internal Combustion Engines

A. - L. ...

M. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is \$785. In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be \$250. Applicable surcharges as described in LAC 33:III.211.A shall also be assessed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:459 (March 2009), amended LR 37:3221 (November 2011), amended by the Office of the Secretary, Legal Division, LR 40:780 (April 2014), LR 42:1884 (November 2016), LR 43:

§313. Regulatory Permit for Portable Air Curtain Incinerators

A. - E. ...

F. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is \$2,634 (fee number 1520). If emissions from the ACI are such that it qualifies for a small source permit as described in LAC 33:III.503.B.2, the fee is \$785 (fee number 1722), in accordance with LAC 33:III.211.B.13.e. In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be \$526, if fee number 1520 is applicable, or \$250, if fee number 1722 is applicable.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:460 (March 2009), amended by the Office of the Secretary, Legal Division, LR 43:

§315. Regulatory Permit for Concrete Manufacturing Facilities

A. - G. ...

H. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is \$785 (fee number 1722). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be \$250.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 36:1541 (July 2010), amended by the Office of the Secretary, Legal Division, LR 43:

§317. Regulatory Permit for Rock, Concrete, and Asphalt Crushing Facilities

A. - J.3. ...

K. Fees. In accordance with LAC 33:III.223, Table 1, the new permit application fee for this regulatory permit shall be \$2,288 (fee number 0870). In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be \$458. If potential emissions from the crusher are such that it qualifies for a small source permit as described in LAC 33:III.503.B.2, then fee number 1722 located in LAC 33:III.223, Table 1 shall apply in accordance with LAC 33:III.211.B.13.e.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 38:1955 (August 2012), amended by the Office of the Secretary, Legal Division, LR 43:

§319. Regulatory Permit for Flaring of Materials Other than Natural Gas

A. - H.2.c. ...

I. In accordance with LAC 33:III.223, Table 1, the fee for this regulatory permit shall be \$500 (fee number 1710). There shall be no annual maintenance fee associated with this regulatory permit.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 39:1039 (April 2013), LR 43:

**Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—
Hazardous Waste**

Chapter 51. Fee Schedules

§5109. Application Fees

A. Treaters, Storers, and/or Disposers (TSD)

1. A one-time application fee shall be paid to cover application, evaluation, and other related program costs.

2. Major amendments of applications for operating permits, closure/post-closure permits, and modifications of permits may be considered as separate applications for purposes of calculating fees.

3. The application fee shall be assessed subsequent to the receipt and review of an application or other request for permit action.

4. There shall be no refunds of TSD application fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:676 (October 1986), LR 16:684 (August 1990), LR 18:724 (July 1992), amended by the Office of the Secretary, Legal Division, LR 43:

§5111. Treaters, Storers, and/or Disposers Application Fees

A. ...

B. Application Fee Schedule

Item	Fee
Site Analysis—per acre site size	\$413 ¹
Process and Plan Analysis	\$1,650
Facility Analysis—per facility ²	\$825
Management/Financial Analysis	\$1,650

NOTE: Fee equals total of the four items.

¹ Up to 100 acres, no additional fee thereafter.

² Incinerator, land farm, treatment pond, etc., each counted as a facility.

C. - D. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 18:724 (July 1992), amended

by the Office of Environmental Assessment, Environmental Planning Division, LR 27:288 (March 2001), LR 29:685 (May 2003), LR 29:2048 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2179 (October 2009), amended by the Office of the Secretary, Legal Division, LR 43:

§5117. Annual Monitoring and Maintenance Fees

A. All annual fees provided by this Chapter shall be paid within 30 days from receipt of billing.

B. Annual maintenance fees are not prorated. If a facility operates any part of a year or at a reduced rate during the year, the full annual maintenance fee is still charged.

C. The annual maintenance fee for a new or modified permit shall be paid during the fiscal year (July 1 to June 30) in which the process specified in the permit comes on line.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 14:621 (September 1988), LR 16:684 (August 1990), amended by the Office of the Secretary, Legal Division, LR 43:

§5119. Treaters, Storers, and/or Disposers Annual Maintenance Fees

A. Fee per Site

Off-Site Disposer (Commercial)	\$131,670
Reclaimer (compensated for waste removed)	\$57,750
Reclaimer (uncompensated for waste removed or pays for waste removed)	\$41,250
Off-Site Disposer (Noncommercial)	\$33,000
On-Site Disposer	\$16,500

NOTE: The higher fee for off-site disposal is due to the cost of the manifest system and emergency response to transport spills (neither cost is applicable to on-site disposers).

B. Fee per Hazardous Waste Facility Type

Unit Type	Fee
Storage:	
Container/Tank/Waste Pile/etc.	\$5,400
Treatment:	
Incinerator/Boiler/Industrial Furnace/Filtration Unit/etc.	\$8,695
Disposal:	
Landfill/Miscellaneous Unit/etc.	\$13,645

C. Fee Based on Volume

Less than 1,000 tons	\$3,222
Less than 10,000 tons	\$8,092
Less than 100,000 tons	\$12,963
Less than 1,000,000 tons	\$17,834
More than 1,000,000 tons	\$22,704

D. ...

E. Land Disposal Prohibitions Fee. The land disposal prohibitions fee includes treatment, processing (including use, reuse, recycling), and/or disposal facility annual fee (not on storage facilities). This fee applies to facilities handling wastes subject to the land disposal prohibitions in LAC 33:V.Chapter 22.

On-Site	\$1,650
Off-Site Noncommercial	\$3,300
Reclaimer	\$4,125
Off-Site Commercial	\$8,250

F. Incinerator and Boiler/Industrial Furnace Inspection and Monitoring Fee. This is an annual fee applied to defray the cost of annually inspecting the required continuous monitors and recording devices for each incinerator, boiler, or industrial furnace to determine whether they are being properly maintained and calibrated. This fee will annually be a flat rate of \$1,650.

G. Annual Landfill Inspection and Monitoring Fee. An annual fee shall be charged for the inspection of the regulatory requirement for leak detection and leachate collection systems associated with hazardous waste landfills to determine operational status and degree of proper maintenance. For each landfill unit or cell with a separate leak detection and leachate collection system, the annual fee will be \$165.

H. Annual Land Treatment Unsaturated Zone Monitoring Inspection Fee.

1. Semiannual Zone of Incorporation (ZOI) Inspection Fee. This fee covers the cost of inspection, random sampling and laboratory analysis of the zone of incorporation.

ZOI soil samples	\$1,650 each acre
Soil-pore liquid monitors (Lysimeters)	\$4,125 each monitor

2. Annual Land Treatment Unit Report Review Fee. This fee covers the cost of reviewing the report required by final permits for land treatment. Included in the annual land treatment unit report are the results of the unsaturated zone monitoring, semiannual soil core sample analyses, quarterly soil-pore liquid quality analyses from below the treatment zone, and soil moisture tensiometer readings of the ZOI.

Hazardous Waste Facilities	\$1,650 each report
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I. Formula to Apportion Fees

Annual Maintenance Fee = Fee per Site + Fee per Facility + Fee based on Volume + Administrative Cost Fee + Land Disposal Prohibitions Fee + Groundwater Protection Annual Fee + Incineration Inspection and Monitoring Fee + Boiler/Industrial Furnace Inspection and Monitoring Fee + Annual Landfill Inspection and Monitoring Fee + Annual Land Treatment Unsaturated Zone Monitoring Inspection Fee

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:684 (August 1990), LR 16:1057 (December 1990), LR 18:723 (July 1992), LR 18:1375 (December 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:685 (May 2003), LR 29:2049 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2179

(October 2009), amended by the Office of the Secretary, Legal Division, LR 43:

§5120. Land Disposal Prohibition Petition Fees

A. Petitions submitted in accordance with R.S. 30:2193(E)(2) and/or LAC 33:V.Chapter 22 are subject to additional fees as noted below for each petition submitted. These fees must be submitted at the time a petition is submitted.

Variance	\$16,500
Exemption	\$74,250
Extension	\$8,250
No-Alternatives Determinations:	
Original Petition	\$16,500
Renewal Petition/Request	\$16,500
Request for determination for addition of a hazardous waste(s) not covered by existing determination	\$1,650

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1803 (October 1999), LR 29:686 (May 2003), LR 29:2049 (October 2003), amended by the Office of the Secretary, Legal Division, LR 43:

§5121. Generators and Transporters of Hazardous Waste

A. Registration

1. All generators of hazardous waste must file or have on file a notification of that facility, using Notification Form HW-1 available from the administrative authority (see LAC 33:V.303.A).

2. For generators of hazardous waste, the Notification Form HW-1 shall be deemed a registration upon acceptance and approval by the administrative authority.

B. Application Fees

1. Transfer Facilities

a. Hazardous Waste Transfer Facility Fee. All hazardous waste transfer facilities in Louisiana shall pay an application fee of \$1,900 to the department.

b. Used Oil Transfer Facility Fee. All used oil transfer facilities in Louisiana shall pay an application fee of \$1,300 to the department.

2. 90-day Storage Extension. Application for 30-day Extension of Accumulation Time Limit in LAC 33:V.1109.E.2 and LAC 33:V31109.E.9. All requests for extension of accumulation time limit shall be accompanied by a \$500 application fee.

C. Annual Fees

1. Large Quantity Generators (LQG) or Small Quantity Generators (SQG)

a. Generators Annual Fee. Fee will annually be \$469, plus the prohibited waste fee.

b. Prohibited Waste Fee. Annual prohibited waste fee is \$165 for each generator who generates for land disposal as provided in LAC 33:V.Chapter 22. The generator will be subject to this fee if any waste generated is prohibited from disposal at any time during the year for which the fee is assessed.

2. Conditionally Exempt Small Quantity Generators (CESQG). Conditionally exempt small quantity generators (see LAC 33:V.108) shall pay a fee of \$83 per year to the department.

3. Transporters. All transporters of hazardous waste with a facility in Louisiana shall pay a fee of \$330 per year to the department. There will be only one fee regardless of the number of vehicles in the service of the transporter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:676 (October 1986), LR 14:621 (September 1988), amended by the Office of the Secretary, Legal Division, LR 43:

§5123. Annual Fee for Facilities with Closed Hazardous Waste Units in Post-Closure

A. Post-Closure Annual Fee. This is an annual fee applied to defray the cost of annually inspecting the facilities with closed hazardous waste units in post-closure care. This fee shall be \$4,125 annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 43:

§5125. Annual Monitoring and Maintenance Fee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq. HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:321 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 17:658 (July 1991), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:686 (May 2003), LR 29:2049 (October 2003), repealed by the Office of the Secretary, Legal Division, LR 43:

§5127. Methods of Payment

A. - B. ...

1. Persons wishing to make payments using the electronic pay method should access the department's website and follow the instructions provided on the website.

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:676 (October 1986), LR 18:725 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2180 (October 2009), amended by the Office of the Secretary, Legal Division, LR 43:

§5129. Late Payment Fee

A. Payments not received within 15 days of the due date will be charged a late payment fee.

B. Any late payment fee shall be calculated from the due date indicated on the invoice.

C. Payments not received by the department by:

1. the fifteenth day from the due date will be assessed a 5 percent late payment fee on the original assessed fee;
2. the thirtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee; and
3. the sixtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:676 (October 1986), LR 18:725 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of the Secretary, Legal Division, LR 43:

§5131. Failure to Pay

A. Failure to pay the prescribed application fee or annual fee as provided herein, within 90 days after the due date, will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the Environmental Quality Act including, but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.

AUTHORITY NOTE. Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:321 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 18:725 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 25:427 (March 1999), amended by the Office of the Secretary, Legal Division, LR 43:

§5135. Transporter Fee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 14:622 (September 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:686 (May 2003), LR 29:2050 (October 2003), repealed by the Office of the Secretary, Legal Division, LR 43:

§5137. Conditionally Exempt Small Quantity Generator Fee

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 14:622 (September 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:716 (May 2001), LR 29:687 (May 2003), LR 29:2050 (October 2003), repealed by the Office of the Secretary, Legal Division, LR 43:

§5139. Groundwater Protection Permit Review Fee

A. Permit Review Fee. This fee covers the cost of reviewing permits for geology, geotechnical design, and groundwater protection aspects.

Hazardous Waste Facilities (1 time)	\$8,250 each
Permit Modifications:	
Class 1 and 2	\$330 each
Class 3	\$1,238 each
Solid Waste Facilities (1 time)	\$8,250 each
Permit Modifications:	
Major	\$825 each
Minor	\$330 each

B. Oversight of Abandonment Procedures. This fee covers the cost of reviewing plans to plug and abandon all permitted groundwater monitoring systems (monitoring wells, piezometers, observations wells, and recovery wells) to ensure that they do not pose a potential threat to groundwater.

Casing pulled	\$165 each
Casing reamed out	\$330 each
Casing left in place	\$825 each

C. Groundwater Monitoring Systems Installation Permit. This fee covers the cost of reviewing the geology and design of proposed groundwater monitoring systems to ensure compliance with department specifications for units subject to permitting under these regulations

Each Well	\$825
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AUTHORITY NOTE: Promulgated in accordance with 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Groundwater Division, LR 14:621 (September 1988), amended LR 16:685 (August 1990), amended by the Hazardous Waste Division, LR 18:725 (July 1992), LR 18:1256 (November 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:687 (May 2003), LR 29:2050 (October 2003), amended by the Office of the Secretary, Legal Division, LR 43:

§5141. Incinerator and Boiler/Industrial Furnace Inspection and Monitoring Fee

A. ...

1. This fee will be \$825 for each day of the test burn or trial burn.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 18:1375 (December 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2510 (November 2000), LR 29:687 (May 2003), LR 29:2050 (October 2003), amended by the Office of the Secretary, Legal Division, LR 43:

§5143. Annual Landfill Inspection and Monitoring Fee
Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended LR 18:725 (July 1992), amended by the Office of

Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2050 (October 2003), repealed by the Office of the Secretary, Legal Division, LR 43:

§5145. Annual Land Treatment Unsaturated Zone Monitoring Inspection Fee

A. Permit Review Fee. This fee covers the cost of reviewing permits for geology, geotechnical design, and hydrological separation requirements of these regulations.

Initial Permit	\$8,250 each
Permit Modifications:	
Class 1	\$330 each
Class 2 or 3	\$1,238 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:1057 (December 1990), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2050 (October 2003), amended by the Office of the Secretary, Legal Division, LR 43:

§5147. Fee for NHEM Determination for Contaminated Environmental Media

A. A fee of \$4,125 shall be submitted at the time a request for a review of contaminated environmental media for a NHEM determination is made in accordance with LAC 33:V.106.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq. and, in particular, 2186(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Secretary, Legal Affairs Division, LR 33:455 (March 2007), amended by the Office of the Secretary, Legal Division, LR 43:

§5149. Annual Fee for Facilities with Closed Hazardous Waste Units in Post Closure

A. Post Closure Annual Fee. This is an annual fee applied to defray the cost of annually inspecting the facilities with closed hazardous waste units in post-closure care. This fee shall be \$4,125 annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 43:

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 15. Solid Waste Fees

[Formerly Chapter 5, Subchapter D]

§1501. Standard Permit Application Review Fee [Formerly §525]

A. Applicants for type I, I-A, II, and II-A standard permits shall pay a \$4,125 permit application review fee for each facility. The fee shall accompany each permit application submitted.

B. Applicants for type III standard permits or beneficial-use plans shall pay a permit application review fee of \$825 for each facility. The fee shall accompany each permit application submitted.

C. Permit holders providing permit modifications for type I, I-A, II, and II-A facilities shall pay a \$1,650 permit-modification review fee. The fee shall accompany each modification submitted. Permit holders providing mandatory modifications in response to these regulations shall pay a

\$825 permit-modification fee. The fee shall accompany each mandatory modification submitted. Permit modifications required by LAC 33:VII.805.A will not be subject to a permit modification fee.

D. Permit holders providing permit modifications for type III facilities or beneficial use facilities shall pay a \$413 modification review fee. The fee shall accompany each modification submitted.

E. - E.2. ...

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 Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1108 (June 2007), amended LR 37:3258 (November 2011), amended by the Office of the Secretary, Legal Division, LR 43:

§1503. Closure Plan Review Fee

[Formerly §527]

A. Applicants for type I, I-A, II, and II-A closures shall pay a \$1,650 closure-plan review fee. The fee shall accompany each closure plan submitted.

B. Applicants for type III or beneficial-use facilities closures shall pay a \$413 closure-plan review fee. The fee shall accompany each closure plan submitted.

C. Permit holders providing closure-plan modifications for type I, I-A, II, and II-A facilities shall pay a \$825 closure-plan modification review fee. The fee shall accompany each modification submitted.

D. Permit holders providing closure-plan modifications for type III or beneficial-use facilities shall pay a \$207 closure-plan modification review fee. The fee shall accompany each modification submitted.

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 Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:688 (May 2003), LR 29:2051 (October 2003), repromulgated by the Office of the Secretary, Legal Affairs Division, LR 33:1108 (June 2007), amended by the Office of the Secretary, Legal Division, LR 43:

§1505. Annual Monitoring and Maintenance Fee

[Formerly §529]

A. - A.1. ...

2. No fee is assessed for modifying an existing notification form. The fee shall accompany the notification form at the time of its filing.

Initial Fee	\$165
Fee Per Vehicle	\$42

B. - B.1. ...

a. \$9,900 for type I facilities (including facilities that handle both industrial and non-industrial waste);

b. \$2,475 for type II facilities; and

c. \$825 for type I-A, II-A, III, and beneficial-use facilities.

2. Tonnage fees will be based on the wet-weight tonnage, as reported in the previous year's disposer annual report, and are calculated as follows:

a. for industrial wastes (type I facilities, except surface impoundments), \$0.99/ton;

b. for non-industrial wastes (type II facilities, except surface impoundments), \$0.25/ton for amounts exceeding 25,000 tons;

c. for construction or demolition debris deposited at permitted construction or demolition debris facilities (type III facilities), \$0.25/ton; and the fee is only applicable to construction or demolition debris that is subject to a fee imposed by the facility;

d. - f. ...

3. The maximum annual monitoring and maintenance fee per facility for type I facilities (including facilities that handle both industrial and non-industrial solid wastes) is \$120,000. The maximum fee per facility for type II facilities is \$30,000. Surface impoundments, as noted above, are assessed only the base fee.

C. ...

D. Annual maintenance fees are not prorated. If a facility operates any part of a year or at a reduced rate during the year, the full annual maintenance fee is still charged.

E. The annual maintenance fee for a new or modified permit shall be paid during the fiscal year (July 1 to June 30) in which the process specified in the permit comes on line.

F. The annual fees prescribed herein shall be effective retroactive for the state fiscal year in which these fee regulations are published in the *Louisiana Register* as adopted and each state fiscal year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154, and R.S. 49:316.1(A)(2)(a) and (c).

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 Management and Finance, Fiscal Services Division, LR 22:18 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2051 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 32:2241 (December 2006), repromulgated LR 33:1108 (June 2007), amended LR 35:2180 (October 2009), amended by the Office of the Secretary, Legal Division, LR 43:

§1507. Methods of Payment

A. All payments made by check, draft, or money order shall be made payable to the Louisiana Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

B. Electronic Methods of Payment

1. Persons wishing to make payments using the electronic pay method should access the department's website and follow the instructions provided on the website.

2. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

C. Cash is not an acceptable form of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154, and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 43:

§1509. Late Payment Fee

A. Payments not received within 15 days of the due date will be charged a late payment fee.

B. Any late payment fee shall be calculated from the due date indicated on the invoice.

C. Payments not received by the department by the:

1. fifteenth day from the due date will be assessed a 5 percent late payment fee on the original assessed fee;

2. thirtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee; and

3. sixtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154, and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 43:

§1511. Failure to Pay

A. Failure to pay the prescribed application fee or annual fee as provided herein, within 90 days after the due date, will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the Louisiana Environmental Quality Act including, but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2154, and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 43:

Subpart 2. Recycling

Chapter 105. Waste Tires

§10535. Fees and Fund Disbursement

A. - A.1. ...

a. The transporter authorization application fee is \$125.

b. The transporter maintenance and monitoring fee is \$32 per vehicle annually payable on or before July 31 of each year. This fee is to be paid on each truck listed on the transporter application form, or if the vehicle used to transport tires is a tractor and trailer rig, the vehicle fee must be paid for each tractor.

c. The transporter modification fee is \$32 per vehicle transfer. This fee is charged each time a vehicle is added or substituted on a transporter authorization certificate.

2. The collection center permit application fee is \$1,000.

3. The mobile processor annual application fee is \$750.

4. The standard processor permit application fee is \$1,563.

5. The permit modification fee is \$125.

6. The high volume end use facility application fee is \$313.

B. - E.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 20:1001 (September 1994), amended LR 22:1213 (December 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2781 (December 2000), LR 27:832 (June 2001), LR 27:2228 (December 2001), amended by the Office of Environmental Assessment, LR 31:1324 (June 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2504 (October 2005), LR 33:2160 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:268 (February 2016), LR 43:

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 13. Louisiana Water Pollution Control Fee System Regulation

§1309. Fee System

A. - B.3.a. ...

i. \$162.80 per rating point as of July 1, 2017; and

b. for all other facilities:

i. \$299.16 per rating point as of July 1, 2017.

B.4. - E. ...

1. The minimum annual fee shall be \$380 as of July 1, 2017.

2. The maximum annual fee shall be \$150,000 as of July 1, 2017.

F. - G. ...

H. Late Payment Fee

1. Fee payments not received within 15 days of the due date will be charged a late payment fee.

2. Any late payment fee shall be calculated from the due date indicated on the invoice.

3. Payments not received by the department by:

a. the fifteenth day from the due date will be assessed a 5 percent late payment fee on the original assessed fee;

b. the thirtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee; and

c. the sixtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee.

I. - M.2. ...

a. Persons wishing to make payments using the electronic pay method shall access the department's website and follow the instructions provided on the website.

2.b. - 3....

N. Other Fees

Permit Type	Amount
Gen-LAG 03-Barge Cleaner	I: \$379.50 II: \$2,750 III: \$5,500 IV: \$11,000
Gen-LAG11-Concrete/Asphalt	\$355
Gen-LAG26-Territorial Seas	\$1,750
Gen-LAG30-UST Dewatering	\$109
Gen-LAG33-Coastal	\$1,750
Gen-LAG38-Potable Water	\$380
Gen-LAG42-Short-Term/Emergency	\$550
Gen-LAG47-Auto Repair/Dealers	\$291
Gen-LAG48-Light Commercial	\$380
Gen-LAG49-Sand and Gravel	\$726
Gen-LAG53-Sanitary Class I	\$109
Gen-LAG54-Sanitary Class II	\$291

Permit Type	Amount
Gen-LAG56-Sanitary Class III	\$545
Gen-LAG57-Sanitary Class IV	\$654
Gen-LAG67-Hydrostatic Test	\$330
Gen-LAG75-Exterior Vehicle Wash	\$291
Gen-LAG78-C & D Landfills	\$726
Gen-LAG83- Petroleum UST Remediation	\$1,089
Gen-LAG119-Concrete/Asphalt (SW)	\$426
Gen-LAG309-UST Dewatering (SW)	\$937
Gen-LAG679-Hydrostatic Test (SW)	\$872
Gen-LAG759-Mobile Vehicle/Equipment Wash	\$349
Gen-LAG839-Petroleum UST (SW)	\$2,904
Gen-LAR04-Small MS4	Population: >1000 and <10,000: \$110 >10,000 and <50,000: \$550 >50,000 and <150,000: \$1,650
Gen-LAR05-Multi-Sector	\$109
Gen-LAR06-DOTD Construction	I: \$29,100 II: \$36,375 III: \$50,925 IV: \$58,000
Gen-LAR10-Construction	\$291

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2014(B), and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 11:534 (May 1985), amended LR 14:626 (September 1988), LR 18:731 (July 1992), LR 21:798 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of Water Resources, LR 24:326 (February 1998), amended by the Office of Management and Finance, Fiscal Services Division, LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:689 (May 2003), LR 29:2052 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:1493 (August 2009), LR 35:2181 (October 2009), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 15. Water Quality Certification Procedures

§1507. Procedures for Issuance of Water Quality

Certification

A. - A.2. ...

a. A one-time processing fee will be assessed all applicants to help defray the costs of this expanded program. The fee schedule will be as follows.

Noncommercial Activities	\$37/application
Commercial Activities	\$385/application

A.2.b. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:496 (July 1984), amended by the Office of the Secretary, LR 22:345 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), LR 29:690 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:2027 (September 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2507 (October 2005), LR 33:2163 (October 2007), LR 35:2181 (October 2009), amended by the Office of the Secretary, Legal Division, LR 43:

Subpart 3. Louisiana Sewage Sludge and Biosolids Program

Chapter 73. Standards for the Use or Disposal of Sewage Sludge and Biosolids [Formerly Chapter 69]

Subchapter A. Program Requirements

§7301. General Provisions [Formerly §6901]

A. - F.I.c. ...

d. The fee for registration shall be an annual fee of \$110.

F.I.e. - I.2.k. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1)(c) and (B)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 28:781 (April 2002), repromulgated LR 30:233 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2516 (October 2005), LR 33:2366 (November 2007), repromulgated LR 34:1028 (June 2008), amended LR 35:927 (May 2009), LR 37:2992 (October 2011), amended by the Office of the Secretary, Legal Division, LR 43:

§7315. Fee Schedule

A. Applicability. Fees established by these regulations shall be applicable to all facilities subject to regulation under this Chapter.

B. Annual Fee

1. The annual sewage sludge fee shall be \$2,000.

2. The billing period shall correspond with the state's fiscal year (July 1 through June 30).

C. General Permit Fee. At the discretion of the administrative authority, an annual fee may be assessed for facilities regulated by a general permit. In deciding to establish an annual fee for facilities covered by a general permit, the administrative authority should consider the resources involved in administering the general permit, the economic impact on the regulated community, and the economic impact on the fee program. If the decision is made to assess an annual fee for an activity covered by a general permit, then each facility involved in that activity and covered by the general permit shall be assessed the fee.

D. Other Fees

Permit Type	Amount
Gen-LAJ65- Disposal in Landfill	\$600

E. Due Date. Fees shall be received by the department by the due date indicated on the invoice.

F. Late Payment Fee

1. Payments not received within 15 days of the due date will be charged a late payment fee.

2. Any late payment fee shall be calculated from the due date indicated on the invoice.

3. Payments not received by the department by the:

a. fifteenth day from the due date will be assessed a 5 percent late payment fee on the original assessed fee;

b. thirtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee; and

c. sixtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee.

G. Failure to Pay. Failure to pay the prescribed application fee or annual fee as provided herein, within 90 days after the due date, will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the Louisiana Environmental Quality Act including, but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.

H. Refunds. The fees in this section are nontransferable and nonrefundable.

I. Methods of Payment

1. All payments made by check, draft, or money order shall be made payable to the Louisiana Department of Environmental Quality, and mailed to the department at the address provided on the invoice.

2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay method should access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

3. Cash is not an acceptable form of payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Division, LR 43:

Part XI. Underground Storage Tanks

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§307. Fee Schedule

A. Applicability. These regulations apply to registered UST systems, regardless of their operational status.

B. Annual Fees

1. Fees shall be assessed for the State of Louisiana fiscal year (July 1 through June 30).

2. Any UST system shall be assessed the entire annual monitoring and maintenance fee for the fiscal year in which it is installed or permanently closed, regardless of the date during that year on which such action occurs.

3. The owner of record of the UST system on the date of invoicing by the department is responsible for payment of the annual monitoring and maintenance fees.

4. Fees are assessed according to the following schedule.

Fee Number	Annual Registration Fee	Amount
001	All registered UST systems	\$60
Annual Maintenance and Monitoring Fees		
002	UST systems containing any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under the department's Hazardous Waste Regulations, LAC 33:V.Subpart 1)	\$726
003	UST systems at federal facilities (all categories except USTs defined in Fee Number 002, which shall be assessed the higher fee)	\$174
004	UST systems containing petroleum products not meeting the definition of motor fuels	\$174

Fee Number	Annual Registration Fee	Amount
005	UST systems containing new or used motor oil (except USTs identified in LAC 33:XI.1101.C and D)	\$303

C. Amended Registration Fees. The fee for amending or modifying a registration shall be \$60.

D. Methods of Payment

1. All payments made by check, draft, or money order shall be made payable to the Louisiana Department of Environmental Quality and mailed to the department at the address provided on the invoice.

2. Electronic Methods of Payment

a. Persons wishing to make payments using the electronic pay method should access the department's website and follow the instructions provided on the website.

b. Persons wishing to make payments using the electronic funds transfer (EFT) method shall contact the Office of Management and Finance for further instructions.

3. Cash is not an acceptable form of payment.

E. Late Payment Fee

1. Fee payments not received within 15 days of the due date will be charged a late payment fee.

2. Any late payment fee shall be calculated from the due date indicated on the invoice.

3. Payments not received by the department by:

a. the fifteenth day from the due date will be assessed a 5 percent late payment fee on the original assessed fee;

b. the thirtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee; and

c. the sixtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee.

F. Failure to Pay. Failure to pay the prescribed application fee or annual fee as provided herein, within 90 days after the due date, shall constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the act including, but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001, 2014, 2195, and 2195.3 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18:727 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), LR 25:427 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2400 (December 1999), LR 29:690 (May 2003), LR 29:2052 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2181 (October 2009), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 13. Certification Requirements for Persons Who Install, Repair, or Close Underground Storage Tank Systems

§1305. Categories of Certification and Requirements for Issuance and Renewal of Certificates

A. - D. ...

1. examination fee for individual certification, \$146; and

2. certification renewal fee, \$146.

E. - H. ...

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, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2562 (November 2000), LR 29:691 (May 2003), LR 29:2052 (October 2003), amended by the Office of Environmental Assessment, LR 30:2804 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2522 (October 2005), LR 33:2175 (October 2007), amended by the Office of the Secretary, Legal Division, LR 38:2764 (November 2012), LR 43:

Part XV. Radiation Protection

Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations

Subchapter B. Personal Radiation Safety Requirements for Radiographers

§579. Identification (I.D.) Cards for Radiographers or Radiographer Trainees

A. - A.3. ...

4. Any individual who wishes to replace his/her I.D. card shall submit to the Office of Environmental Compliance a written request for a replacement I.D. card, stating the reason a replacement I.D. card is needed. A non-refundable fee of \$29 shall be paid to the department for each replacement of an I.D. card. The prescribed fee shall be submitted with the written request for a replacement I.D. card. The individual shall maintain a copy of the request in his/her possession while performing industrial radiographic operations until a replacement I.D. card is received from the department.

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 Air Quality and Radiation Protection, Radiation Protection Division, LR 20:1000 (September 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2584 (November 2000), LR 29:36 (January 2003), LR 29:691 (May 2003), LR 29:2053 (October 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2531 (October 2005), LR 33:2184 (October 2007), amended by the Office of the Secretary, Legal Division, LR 43:

Chapter 25. Fee Schedule

§2504. Application Fees

A. ...

B. Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. License renewal applications must be filed in accordance with LAC 33:XV.333.A. The accompanying renewal fee must be submitted with a full license renewal application every nine years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, LR 10:1013 (December 1984), amended by the Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air

Quality and Radiation Protection, Radiation Protection Division, LR 18:718 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:1816 (September 2003), amended by the Office of the Secretary, Legal Division, LR 43:

§2509. Methods of Payment

A. - B. ...

1. Persons wishing to make payments using the electronic pay method shall access the department's website and follow the instructions provided on the website.

B.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and R.S. 49:316.1(A)(2)(a) and (c).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, LR 10:1013 (December 1984), amended by the Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), amended by the Office of the Secretary, Legal Affairs Division, LR 35:2182 (October 2009), amended by the Office of the Secretary, Legal Division, LR 43:

§2510. Late Payment Fee

A. Payments not received within 15 days of the due date will be charged a late payment fee.

B. Any late payment fee shall be calculated from the due date indicated on the invoice.

C. Payments not received by the department by:

1. the fifteenth day from the due date will be assessed a 5 percent late payment fee on the original assessed fee;

2. the thirtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee; and

3. the sixtieth day from the due date will be assessed an additional 5 percent late payment fee on the original assessed fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, LR 10:1013 (December 1984), amended by the Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), amended LR 21:791 (August 1995), amended by the Office of Management and Finance, Fiscal Services Division, LR 25:428 (March 1999), amended by the Office of the Secretary, Legal Division, LR 43:

§2511. Failure to Pay

A. Failure to pay the prescribed application fee or annual fee as provided herein, within 90 days after the due date, will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the Environmental Quality Act including, but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, LR 10:1013 (December 1984), amended by the Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), amended by the Office of Management and Finance, Fiscal Services Division, LR 22:19 (January 1996), LR

25:428 (March 1999), amended by the Office of the Secretary, Legal Division, LR 43:

§2599. Appendix A

A. Appendix A—Radiation Protection Program Fee Schedule

Appendix A—Radiation Protection Program Fee Schedule		
	New/Renewal Application Fee	Annual Maintenance Fee
I. Radioactive Material Licensing		
A. Medical licenses:		
1. Therapy:		
a. Teletherapy	\$807	\$807
b. Brachytherapy	\$807	\$807
2. Nuclear medicine diagnostic only		
3. Nuclear medicine diagnostic/therapy	\$1,067	\$1,067
4. Nuclear pacemaker implantation	\$400	\$400
5. Eye applicators	\$400	\$400
6. In-vitro studies or radioimmunoassays or calibration sources	\$400	\$400
7. Processing or manufacturing and distribution of radiopharmaceuticals	\$1,569	\$1,336
8. Mobile nuclear medicine services	\$1,569	\$1,336
9. "Broad scope" medical licenses	\$1,569	\$1,336
10. Manufacturing of medical devices/sources	\$1,830	\$1,525
11. Distribution of medical devices/sources	\$1,372	\$1,140
12. All other medical licenses	\$444	\$444
B. Source material licenses:		
1. For mining, milling, or processing activities, or utilization which results in concentration or redistribution of naturally occurring radioactive material	\$7,928	\$7,928
2. For the concentration and recovery of uranium from phosphoric acid as "yellow cake" (powered solid)	\$3,965	\$3,965
3. For the concentration of uranium from or in phosphoric acid	\$1,983	\$1,983
4. All other specific "source material" licenses	\$400	\$400
C. Special nuclear material (SNM) licenses:		
1. For use of SNM in sealed sources contained in devices used in measuring systems	\$610	\$610
2. SNM used as calibration or reference sources	\$400	\$400
3. All other licenses or use of SNM in quantities not sufficient to form a critical mass, except as in I.A.4, I.C.1, and 2	\$400	\$400
D. Industrial radioactive material licenses:		
1. For processing or manufacturing for commercial distribution	\$7,841	\$5,903
2. For industrial radiography operations performed in a shielded radiography installation(s) or permanently designated areas at the address listed in the license	\$1,336	\$1,053

Appendix A—Radiation Protection Program Fee Schedule		
	New/Renewal Application Fee	Annual Maintenance Fee
3. For industrial radiography operations performed at temporary jobsite(s) of the licensee	\$3,935	\$2,963
4. For possession and use of radioactive materials in sealed sources for irradiation of materials where the source is not removed from the shield and is less than 10,000 Curies	\$1,983	\$995
5. For possession and use of radioactive materials in sealed sources for irradiation of materials when the source is not removed from the shield and is greater than 10,000 Curies, or where the source is removed from the shield	\$3,935	\$1,968
6. For distribution of items containing radioactive material	\$1,983	\$1,983
7. Well-logging and subsurface tracer studies:		
a. Collar markers, nails, etc. for orientation	\$400	\$400
b. Sealed sources less than 10 Curies and/or tracers less than or equal to 500 mCi	\$1,184	\$1,184
c. Sealed sources of 10 Curies or greater and/or tracers greater than 500 mCi but less than 5 Curies	\$1,983	\$1,983
d. Field flood studies and/or tracers equal to or greater than 5 Curies	\$2,977	\$2,977
8. Operation of a nuclear laundry	\$7,856	\$3,935
9. Industrial research and development of radioactive materials or products containing radioactive materials	\$995	\$995
10. Academic research and/or instruction	\$807	\$807
11. Licenses of broad scope:		
a. Academic, industrial, research and development, total activity equal to or greater than 1 Curie	\$1,983	\$1,983
b. Academic, industrial, research and development, total activity less than 1 Curie	\$1,184	\$1,184
12. Gas chromatographs, sulfur analyzers, lead analyzers, or similar laboratory devices	\$400	\$400
13. Calibration sources equal to or less than 1 Curie per source	\$400	\$400
14. Level or density gauges	\$610	\$610
15. Pipe wall thickness gauges	\$807	\$807
16. Soil moisture and density gauges	\$610	\$610
17. NORM decontamination/maintenance:		
a. at permanently designated areas at the location(s) listed in the license	\$4,574	\$3,812
b. at temporary jobsite(s) of the licensee	\$4,574	\$4,574
18. Commercial NORM storage	\$3,812	\$3,812
19. All other specific industrial licenses except as otherwise noted	\$807	\$807
20. Commercial NORM treatment	\$18,296	\$15,246

Appendix A—Radiation Protection Program Fee Schedule		
	New/Renewal Application Fee	Annual Maintenance Fee
E. Radioactive waste disposal licenses:		
1. Commercial waste disposal involving burial	\$1,029,105	\$1,029,105
2. Commercial waste disposal involving incineration of vials containing liquid scintillation fluids	\$7,841	\$3,935
3. All other commercial waste disposal involving storage, packaging and/or transfer	\$3,935	\$3,935
F. Civil defense licenses	\$480	\$400
G. Teletherapy service company license	\$1,983	\$1,983
H. Consultant licenses:		
1. No calibration sources	\$196	\$114
2. Possession of calibration sources equal to or less than 500 mCi each	\$291	\$196
3. Possession of calibration sources greater than 500 mCi	\$400	\$291
4. Installation and/or servicing of medical afterloaders	\$531	\$458
II. Electronic Product Registration		
1. Medical diagnostic X-ray (per registration)	\$129	\$129
2. Medical therapeutic X-ray (per registration):		
a. below 500 kVp	\$305	\$305
b. 500 kVp to 1 MeV (including accelerator and Van deGraaf)	\$610	\$610
c. 1 MeV to 10 MeV	\$916	\$916
d. 10 MeV or greater	\$1,220	\$1,220
3. Dental X-ray (per registration)	\$115	\$106
4. Veterinary X-ray (per registration)	\$115	\$115
5. Educational institution X-ray (teaching unit, per registration)	\$190	\$115
6. Industrial accelerator (includes Van de Graaf machines and neutron generators)	\$610	\$610
7. Industrial radiography (per registration)	\$305	\$305
8. All other X-ray (per registration) except as otherwise noted	\$138	\$138
III. General Licenses		
A. NORM (Wellhead fee per field shall not exceed \$2,287 per operator. Operators reporting contamination by field will be invoiced for all wellheads in the field. Operators reporting contamination by wellhead will be invoiced only for contaminated units.)		
1. 1-5 contaminated wellheads	\$153	\$153
2. 6-20 contaminated wellheads	\$763	\$763
3. >20 contaminated wellheads	\$2,287	\$2,287
4. Stripper wells-contaminated (\$763 maximum for strippers per field):	\$153	\$153
a. 1 to 5 contaminated stripper wells	\$153	\$153
b. > 5 contaminated stripper wells	\$763	\$763

Appendix A—Radiation Protection Program Fee Schedule		
	New/Renewal Application Fee	Annual Maintenance Fee
5. NORM locations (other than fields):		
a. gas plants, pipeyards, chemical plant, refinery	\$458	\$458
b. warehouses, pipeline, manufacturing plant, NORM equipment storage site, etc.	\$458	\$458
6. Interim container storage per NORM Waste Management Plan of an approved location		\$1,525
7. NORM location as otherwise defined in LAC 33:XV.1403 and not exempted by LAC 33:XV.1404, not included in III.A.1-6 of this Appendix	\$153	\$153
B. Tritium sign	\$109	\$0
C. All other general licenses which require registration	\$153	\$153
IV. Reciprocal Recognition		
The fee for reciprocal recognition of a license or registration from another state or the NRC is the annual fee of the applicable category. The fee covers activities in the state of Louisiana for one year from the date of receipt.		
V. Shielding Evaluation (per room)		
A. Diagnostic	\$153	*
B. Therapeutic (below 500 kVp)	\$230	*
C. Therapeutic (500 kVp to 1 MeV)	\$378	*
D. Therapeutic (1 MeV to 10 MeV)	\$531	*
E. Therapeutic (10 MeV or greater)	\$1,148	*
F. Industrial and industrial radiography	\$531	*
VI. Device, Product, or Sealed Source Evaluation		
A. Device evaluation (each)	\$1,067	*
B. Sealed source design evaluation (each)	\$690	*
C. Update sheet	\$230	*
VII. Testing		
Testing to determine qualifications of employees, per test administered	\$196	*
VIII. Nuclear Electric Generating Station		
Located in Louisiana		\$432,696
Located near Louisiana (Plume Exposure Pathway Emergency Planning Zone—includes area in Louisiana)		\$313,632
Uranium Enrichment Facility		\$76,230
IX. La. Radiation Protection Program Laboratory Analysis Fees—Repealed.		

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, LR 10:1014 (December 1984), amended by the Nuclear Energy Division, LR 11:530 (May 1985), LR 12:674 (October 1986), LR 13:569 (October 1987), LR 14:622 (September 1988), LR 15:737 (September 1989), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:719 (July 1992), repromulgated LR 18:955 (September 1992), amended LR 19:624 (May 1993), LR 21:792 (August 1995), repromulgated LR 21:944 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2607 (November 2000), LR 29:691 (May 2003), LR 29:2053 (October 2003), amended by the Office of the Secretary, Legal Division, LR 43:

Family Impact Statement

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

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by MM018. Such comments must be received no later than March 3, 2017, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of MM018. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on February 24, 2017, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 North Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Fee Increase Authorized by Act 451 of the 2016 Regular Legislative Session

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state governmental units as a result of the proposed rule change. As a result of Act 451 of the 2016 Regular Legislative Session, certain fees within the Department of Environmental Quality (DEQ) were increased between 10 percent and 25 percent and new fees were created across all regulated medias. The increased and new fees are projected to increase annual collections within the Environmental Trust Fund by

approximately \$9.4 M and the Lead Hazard Reduction Fund by approximately \$10,500.

Costs will increase for local governmental units that operate facilities regulated by DEQ as a result of the increased fees. Such facilities include landfills and waste water treatment plants. The exact increase is indeterminable since the fees charges are based on the permit obtained by the local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will result in an increase in revenue collections of state governmental units. According to the DEQ, the department anticipates annual revenue collections for the Environmental Trust Fund will increase by approximately \$9.4 million annually as a result of the fee increase. Current collections are approximately \$50 million annually; therefore, the rule change represents an increase of 18.8 percent. In addition, Lead Hazard Reduction Fund collections will increase by approximately \$10,500 annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will result in costs to industry that are impacted by these fee increases. In general, fees charged were increased between 10 percent and 25 percent and were increased to better align with LDEQ's costs to regulate and oversee each program. Some fees were also added for services that LDEQ previously was not assessing fees for.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment in the public or private sector as a result of the proposed rule change since the fee increases are being implemented across the board and will give no entity a competitive advantage over another. There may be impacts on employment in public or private sectors to the extent changes in employment are necessary to absorb the costs associated with the increase in fees. However, these fees have been discussed with industry participants who are subject to the increases and DEQ does not anticipate any significant impact on public or private sector employment.

Herman Robinson
General Counsel
1701#013

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Coastal Protection and Restoration Authority**

**Natural Resource Damage Restoration Banking
(LAC 43:XXXI.Chapter 1)**

Under the authority of Act 362 of the 2016 Louisiana Legislative Regular Session, and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the chairman of the Louisiana Coastal Protection and Restoration Authority gives notice that rulemaking procedures have been initiated to promulgate the below Rule to establish a Natural Resource Damage (NRD) Restoration Banking Program. The purpose of this Rule is to establish an NRD Restoration Banking Program to fully or partially resolve a responsible party's NRD liability under the Oil Pollution Act of 1990 (OPA), 33 U.S.C. §2701 et seq., and the Oil Spill Prevention and Response Act (OSPR), R.S. 30:2451 et seq. This NRD Restoration

Banking Program is designed to allow, encourage, and incentivize private investors to undertake restoration projects and generate restoration credits that responsible parties can purchase to fully or partially resolve NRD liabilities from oil spills under OPA and OSPRA. This program will provide up-front restoration in the Louisiana coastal area, allow for the implementation of large scale restoration projects, and provide an alternative method to offset injuries to natural resources sustained as a result of oil spills in coastal areas which will result in greater ecosystem benefits in an efficient and cost-effective manner, as compared to spill-by-spill restoration actions.

Title 43

NATURAL RESOURCES

**Part XXXI. Coastal Protection and Restoration
Authority**

**Chapter 1. Natural Resource Damage Restoration
Banking**

Subchapter A. General Provisions

§101. Purpose/Declaration and Intent

A. The release of oil into Louisiana's coastal area presents a real and substantial threat to public health and welfare, the environment, wildlife and aquatic life, and the economy of the state. The Coastal Protection and Restoration Authority (CPRA) Board adopts these regulations pursuant to R.S. 49:214.5.2(H). The purpose of these regulations is to establish a Natural Resource Damage (NRD) Restoration Banking Program to fully or partially resolve a responsible party's NRD liability under the Oil Pollution Act of 1990 (OPA), 33 U.S.C. §2701 et seq., and the Oil Spill Prevention and Response Act (OSPR), R.S. 30:2451 et seq. This Chapter is intended to support and complement OPA and OSPRA. These regulations establish procedures for the certification and operation of NRD restoration banks.

B. This NRD Restoration Banking Program is designed to allow, encourage, and incentivize private investors to undertake restoration projects and generate restoration credits that responsible parties can purchase to fully or partially resolve NRD liabilities from oil spills under OPA and OSPRA. This program will provide up-front restoration in the Louisiana coastal area, allow for the implementation of large scale restoration projects, and provide greater ecosystem benefits in an efficient and cost-effective manner, as compared to spill-by-spill restoration actions. Notwithstanding any provision of this Chapter, the Natural Resource Damage Assessment (NRDA) trustees retain final authority to propose and select the purchase of credits from certified NRD restoration banks as preferred alternatives to restore for injuries resulting from a particular oil spill.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.5.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

§103. Applicability

A. This Chapter applies to any unauthorized discharge of oil, as defined in OPA and OSPRA, occurring in the Louisiana coastal area for which the NRDA trustees determine, pursuant to R.S. 30:2480, to proceed under this Chapter. The NRDA trustees may authorize the purchase of credits from certified NRD restoration banks to restore for injuries from any unauthorized discharge of oil for which a

preferred restoration alternative has not already been selected. This includes, but is not limited to, using settlement funds to purchase credits from an NRD restoration bank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.5.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

§105. Severability

A. If any Section or provision of this Chapter or the application of that Section or provision to any party, situation, or circumstance is determined to be invalid by a court of competent jurisdiction for any reason, such adjudication shall not affect any other Section or provision of this Chapter, or the application of the adjudicated Section or provision to any other party, situation, or circumstance. To this end, the provisions of this Chapter are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.5.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

§107. Definitions

A. Words not defined in these regulations shall have the same definition given to them in OPA and OSPRA and accompanying regulations. In the event of a conflict between the definitions in these regulations and definitions in OPA and/or OSPRA and the accompanying regulations, the definitions in these regulations shall prevail.

B. The following words, terms, and phrases, when used in this Chapter, shall have the following meanings, unless the word, term, or phrase is otherwise defined in the text.

BRT—the natural resource damage banking review team, whose purpose is to facilitate and oversee the NRD Restoration Banking Program.

Coastal Master Plan—the currently applicable version of the *Louisiana Comprehensive Master Plan for a Sustainable Coast*, developed by CPRA and approved by the Louisiana Legislature in accordance with R.S. 49:214.5.3.

Day(s)—refers to calendar days. If the final day of any time period falls on a weekend or legal holiday, the time period must be extended to the next working day.

Louisiana Coastal Area—Louisiana coastal waters, defined in R.S. 49:214.2(4) as “the Louisiana Coastal Zone and contiguous areas subject to storm or tidal surge and the area comprising the Louisiana Coastal Ecosystem as defined in section 7001 of P.L. 110-114”.

NRD Restoration Bank—a site where land or resources are restored, rehabilitated, or replaced in accordance with these regulations for the purpose of restoring natural resources and services equivalent to those injured by oil spills in the Louisiana coastal area.

NRD Restoration Banking Program—a program developed by the state under this Chapter under which a responsible party purchases credits generated by a BRT-certified NRD restoration bank from a restoration bank sponsor to reduce or resolve its liability under OPA and OSPRA for damages to natural resources and services.

Performance Criteria—structural, functional, temporal, and/or other demonstrable factors that are used by the BRT to determine the success of the restoration bank or need for interim corrective action.

Release of Credits—the BRT’s written determination that certain performance standards set forth in a final restoration banking instrument have been met and authorizing a bank sponsor to make a specific quantum of restoration credits available for sale to responsible parties and NRDA trustees.

Restoration Bank Sponsor or Sponsor—the person or entity responsible for developing and operating an NRD restoration bank.

Restoration Credit—a unit of trade generated by a certified NRD restoration bank and representing a defined quantum of ecological benefit generated by the restoration bank, as measured by acreage or other metric.

State—the state of Louisiana.

State Trustees—shall be the Louisiana Coastal Protection and Restoration Authority, the Louisiana Oil Spill Coordinator’s Office, the Louisiana Department of Environmental Quality, the Louisiana Department of Natural Resources, and the Louisiana Department of Wildlife and Fisheries. The definition of *state trustees* may also include other agencies of the state designated by the governor to act on behalf of the public as trustees for natural resources under OPA and OSPRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.5.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

Subchapter B. NRD Restoration Banking Framework

§109. Natural Resource Damage Banking Review

Team (BRT)

A. CPRA shall convene the BRT to implement the NRD Restoration Banking Program. The state trustees, or their designees, shall be standing members of the BRT. CPRA shall serve as the BRT chair. The BRT may consult with or invite other state and federal agencies (including federal NRDA trustees) as appropriate for review and certification of specific NRD restoration banks. The primary duties of the BRT are:

1. to review documents submitted by potential restoration bank sponsors, including the prospectus, restoration bank plan, restoration banking instrument, and other appropriate/requested documents to determine whether proposed NRD restoration banks qualify for the NRD Restoration Banking Program;

2. to work with potential restoration bank sponsors on the development of restoration credits (including establishing the number and types of credits an NRD restoration bank will generate and a credit release schedule), appropriate financial assurances, and required project monitoring and long-term management activities (if such long-term management activities are appropriate for the bank);

3. to seek public review and comment on the restoration bank plan;

4. to certify NRD restoration banks;

5. to review construction, monitoring, and other required reports to determine if corrective actions or adaptive management activities are necessary and to approve the release of credits for an NRD restoration bank; and

6. to ensure compliance with the terms and conditions of NRD restoration bank certification as set forth in the restoration banking instrument.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.5.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

§111. NRD Restoration Banking Program Requirements

A. In determining the eligibility of a proposed NRD restoration bank, the BRT shall consider the following factors:

1. the potential restoration bank sponsor's compliance history, including but not limited to compliance with federal, state, parish, and local laws, rules, regulations, policies, and programs;

2. the proposed financial assurances submitted pursuant to these regulations;

3. the sponsor's proposed actions to restore, rehabilitate, or replace the equivalent of natural resources and services likely to be injured by oil spills in the Louisiana coastal area;

4. how the implementation of the NRD restoration bank will affect (positive or negative) natural resources, cultural resources, land ownership, and encumbrances;

5. whether the NRD restoration bank is consistent with or complimentary to the coastal master plan; and

6. any other information deemed appropriate by the BRT.

B. Coastal Master Plan

1. To be eligible for the NRD restoration banking program, proposed banks must be consistent with the goals and objectives of the coastal master plan. To be considered consistent with the goals and objectives of the coastal master plan, the proposed NRD restoration bank must strive to achieve one or more of the coastal master plan's objectives and must not be detrimental to or conflict with any of the projects contained in the coastal master plan.

2. CPRA prefers proposed NRD restoration banks that are included as projects in the coastal master plan, or that are increments, add-ons, or enhancements of coastal master plan projects. NRD restoration banks implementing coastal master plan projects perform restoration in areas the state has designated as high priority, providing elevated ecological benefit and increased sustainability. To incentivize such banks, the BRT will examine and take advantage of efficiencies in project review for banks that propose to implement coastal master plan projects. For example, the BRT will consider information regarding and analyses of projects the State has already performed through the coastal master plan development process, as well as any engineering, design, and permitting already performed. The BRT may further elect to reduce information required in the prospectus scope of work or provide a more favorable schedule for credit release, contingent on sufficient financial assurance. The BRT shall make decisions regarding the application of these and other incentives on a case-by-case basis and only where consistent with the requirements of OPA and OSPRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.5.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

§113. Landowners

A. Prior to proposing any NRD restoration bank, it is the responsibility of the sponsor to investigate any potential effect on the rights of nearby landowners. Any dealings with landowners carried out by the sponsor, including but not limited to the purchase or acquisition of property or right-of-way, must be detailed in the land rights section of the Prospectus to be submitted by the sponsor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.5.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

§115. Prospectus

A. To begin the process of establishing an NRD restoration bank, potential sponsors must submit a prospectus to the BRT chair that contains the following information:

1. potential sponsor information:

a. identification of submitting party;

b. domiciliary address;

c. name of the agent or contact if applicant is an entity such as an LLC or corporation; and

d. mailing address of the agent, if different from that of the identified applicant;

2. permit statement outlining all federal, state, and local permits necessary for the proposed NRD restoration bank, and timetable for acquisition (the sponsor is responsible for obtaining all required permits and approvals for the construction and establishment of the bank); and

3. a scope of work containing the information outlined in Subsection B or C of this Section.

B. For new NRD restoration banks proposed for construction, the scope of work shall provide information regarding the proposed NRD restoration bank at a sufficient level of detail to support informed BRT comment and evaluation. A complete scope of work must contain, at a minimum, the components listed below:

1. objectives of the proposed NRD restoration bank;

2. identification of the proposed coastal master plan project to be supported or carried out by the proposed NRD restoration bank, or a statement demonstrating how the proposed bank is consistent with the goals and objectives of the coastal master plan;

3. physical characteristics of the proposed NRD restoration bank, including:

a. a detailed description of the existing (pre-construction) site location and conditions, including, but not limited to:

i. soil/sediment information;

ii. drainage patterns/hydrology;

iii. the presence, type, density, and condition of existing vegetation; description of any man-made structures; and

iv. the geographic location;

b. the current on-site habitat loss rates;

c. a description of the proposed construction activities and planting plan, including the work to be performed and the total acreage or footprint of the proposed work; and

d. a summary table of the pre- and post-construction habitat types, associated acreages, and conditions at the bank site;

4. legal characteristics of the proposed NRD restoration bank, including but not limited to a description of the bank site's geographic boundaries and a statement regarding land rights involving the site;

5. technical feasibility of the proposed NRD restoration bank;

6. proposed ownership arrangements and long-term management strategy;

7. qualifications of the sponsor to successfully complete the project, including information describing any past such activities by the sponsor;

8. the form and amount of anticipated financial assurance and evidence of the sponsor's ability to procure financial assurance; and

9. any other information deemed necessary by the BRT.

C. For existing, already-constructed restoration projects in use as a bank pursuant to other (non-NRD) regulatory frameworks, the scope of work shall provide the information identified in Subsection B of this Section, but incorporating actual rather than anticipated post-construction conditions. In addition, the scope of work shall include:

1. identification of the specific regulatory programs under which the bank is authorized to provide credits;

2. map(s) showing the specific areas, habitat types, and acreages for potential use to satisfy obligations pursuant to each authorized regulatory program;

3. identification of all credit sales that have occurred pursuant to any regulatory program and map(s) showing the specific areas for which credits have been sold;

4. identification of the numbers and types of credits and associated locations still available for sale to address the requirements of other regulatory programs;

5. description of a process and internal controls to prevent double counting and ensure that credits for specific portions of the restoration bank site are sold only once, to address the needs of a single regulatory program; and

6. any other information deemed necessary by the BRT.

D. Submittal, Review, and Determination by the BRT

1. Submittal of Prospectus

a. The sponsor shall submit the prospectus to the BRT chair for BRT comment and initial evaluation as to the eligibility of the proposed NRD restoration bank, including whether the proposed NRD restoration bank is:

i. included in or consistent with the goals and objectives of the coastal master plan; and

ii. has the potential to generate NRD restoration credits.

b. The sponsor must provide the BRT chair with the number of copies of the prospectus specified by the BRT chair for distribution to the BRT members for review.

2. BRT Review of Prospectus. The BRT chair will provide copies of the prospectus to BRT members and will provide the BRT's response, including written comments (if any), back to the sponsor within 60 days.

3. BRT Prospectus Determination. The sponsor may revise the prospectus to address the BRT's comments and submit the revised prospectus to the BRT chair. A revised prospectus must be sent within 30 days of receipt of comments from the BRT, and the sponsor must provide the BRT chair with the number of copies of the revisions

specified by the BRT chair for distribution to the BRT members for review. If additional time is needed for the revision, the sponsor shall submit a request to the BRT chair prior to the running of the 30-day period of the amount of additional time needed. Within 30 days of receipt of revisions from the sponsor, the BRT will issue a follow-up evaluation letter responding to the revisions and indicating a decision on the revised prospectus. If additional time is needed for BRT review, the BRT chair shall provide written notification to the sponsor prior to the running of the 30-day period of the amount of additional time needed.

E. BRT/Sponsor Consultation. Once the BRT approves a prospectus, the BRT and the sponsor shall consult on the types and number of restoration credits to be assigned to the NRD restoration bank, the form and amount of financial assurances, the credit release schedule, monitoring activities, and long-term management activities (if long-term management activities are applicable). After consultation with the BRT, the sponsor may elect to proceed with preparation of a restoration bank plan and restoration banking instrument.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.5.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

§117. Restoration Bank Plan

A. A complete restoration bank plan shall, at a minimum, contain the following components:

1. sponsor information;

2. detailed project description and work plan (including items in LAC 43:XXXI.115.B.2-6 above);

3. restoration goals and objectives;

4. determination of credits (includes number and types of credits);

5. financial assurance;

6. credit release schedule;

7. performance criteria;

8. monitoring requirements;

9. long-term management plan (if applicable); and

10. other information deemed necessary by the BRT to determine the appropriateness, feasibility, and practicability of the restoration bank.

B. Submittal and Review by the BRT. The sponsor shall submit a draft restoration bank plan to the BRT chair. The sponsor must provide the BRT chair with the number of copies specified by the BRT chair for distribution to the BRT members for review. The BRT chair will provide the BRT's response, including any written comments from the BRT, to the sponsor within 60 days of the date on which the sponsor submitted the draft restoration bank plan. Specifically, the BRT chair must indicate to the sponsor if the draft restoration bank plan is acceptable and ready for public comment or identify what changes are needed to address the concerns of any BRT members prior to its release for public review and comment. If additional time is needed for BRT review, the BRT chair shall provide written notification to the sponsor prior to the running of the 60-day period of the amount of additional time needed. The sponsor must submit a revised restoration bank plan to the BRT addressing any comments provided by the BRT within 60 days of receipt of the BRT's comments. If additional time is needed for response, the sponsor shall submit a request to the BRT chair

prior to the running of the 60-day period for the amount of additional time requested. After receipt of the revised restoration bank plan, the BRT chair will notify the sponsor in writing within 30 days whether the plan is ready for public comment.

C. Public Review and Comment Period. After the BRT determines that the draft restoration bank plan is ready for public comment, the BRT chair will provide public notice via the *Louisiana Register* of the restoration bank plan and invite public review and comment. The public notice will, at a minimum, include a summary of the restoration bank plan and indicate that the full restoration bank plan is available to the public for review. The public comment period will be 30 days, unless the BRT determines that a longer comment period is appropriate. The sponsor shall be notified in writing if the comment period is extended beyond 30 days, including an explanation of why the longer comment period is necessary and how much additional time is needed. Copies of all comments received during the public comment period must be distributed by the BRT chair to the BRT members and to the sponsor within 15 days of the close of the public comment period.

D. Final Restoration Bank Plan. Within 30 days of receipt of public comments from the BRT chair, the sponsor must submit a final restoration bank plan to the BRT for approval, with supporting documentation that explains how the final restoration bank plan addresses the comments provided by the public. The BRT will have 30 days from receipt of the final restoration bank plan to indicate whether it is approved. If additional time for review is warranted, the BRT chair shall notify the sponsor in writing prior to the completion of the 30-day period of the amount of additional time needed for final approval. The BRT chair shall provide written notice to the sponsor of the BRT's decision to deny or approve the final restoration bank plan. Upon approval, the final restoration bank plan must be made available to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.5.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

§119. Restoration Banking Instrument

A. Components of Restoration Banking Instrument. The restoration banking instrument shall, at a minimum, contain the following components:

1. restoration bank plan;
2. provision stating that the legal responsibility for providing restoration lies with the sponsor once credits are secured by the responsible party;
3. accounting and reporting requirements;
4. risk management, indemnity, and insurance requirements;
5. default and closure provisions;
6. force majeure clause (identification of sponsor responsibilities in the event of catastrophic events that are beyond the sponsor's control); and
7. any other information deemed necessary by the BRT.

B. Review by the BRT. The sponsor shall provide timely submission of the restoration banking instrument ("instrument") to the BRT chair, and must provide the BRT chair with the number of copies specified by the BRT chair

to distribute to the BRT members for review. The BRT chair will provide the BRT's response, including any written comments, to the sponsor within 30 days of the date on which the BRT chair received the draft Instrument. Specifically, the BRT chair must indicate to the sponsor if the draft Instrument is acceptable or identify what changes are needed to address the concerns of any BRT members. If additional time is needed for review, the BRT chair shall provide written notification to the sponsor prior to the running of the 30-day period of the amount of additional time needed.

C. Final Instrument. Within 30 days of receipt of comments from the BRT, the sponsor must submit a final restoration banking instrument to the BRT chair for BRT approval. If additional time is needed, the sponsor shall submit a request to the BRT chair prior to the running of the 30-day period for the amount of additional time needed. The final restoration banking instrument must contain supporting documentation that explains how the sponsor addresses the BRT's comments. The sponsor must provide the BRT chair with the number of copies specified by the BRT chair for distribution to the BRT members for review. Within 30 days of receipt of the final Instrument, the BRT chair will notify the sponsor in writing whether the Instrument is approved and, if the restoration banking instrument is approved, arrange for it to be signed by the appropriate parties. The final restoration banking instrument must be made available to the public upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.5.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

§121. NRD Restoration Credits

A. Determining and Establishing Credits. The principal units for restoration credits are anticipated to be acres, reflecting the anticipated post-construction number of acres by habitat type and minimum performance criteria compared to pre-construction acres by habitat type and key measures of habitat condition. The BRT will consider other units of restoration credits on a case-by-case basis.

B. Release of Restoration Credits Schedule

1. The BRT shall determine the release of restoration credits schedule for each individual NRD restoration bank, in coordination with the sponsor. Release of restoration credits must be tied to achievement of performance-based milestones (e.g., construction, planting, or establishment of specified plant and animal communities). After a prospectus is approved, the BRT will work with the bank sponsor to develop a proposed release of restoration credit release schedule for inclusion in the restoration bank plan.

2. The terms of the release of restoration credits schedule will be finalized after review of public comments to the restoration bank plan and must be specified in the restoration banking instrument. When an NRD restoration bank is implemented and is achieving the performance-based milestones specified in the release of restoration credits schedule, restoration credits shall be released in accordance with the approved release of restoration credits schedule. If the NRD restoration bank fails to meet, or substantially exceeds, those performance-based milestones, the BRT may modify the release of restoration credits schedule, as well as reduce or increase the total number of restoration credits, as appropriate.

3. A limited number of restoration credits (no more than 20 percent) may be available for sale by NRD restoration banks prior to initiating construction provided the following requirements are met:

- a. resolution of any land rights issues;
- b. compliance with any and all pre-construction regulatory requirements, including obtaining permits;
- c. establishment and maintenance of adequate and current financial assurance;
- d. execution of the restoration banking instrument;
- e. achievement of 60 percent engineering and design, including feasibility studies and/or alternative(s) analyses; and
- f. any other pre-construction requirements set forth in the restoration banking instrument.

C. Release of Restoration Credits Determination. Release of restoration credits for NRD restoration banks must be approved by the BRT. In order for restoration credits to be released, the sponsor must submit documentation to the BRT chair demonstrating that the appropriate milestones for release of restoration credits have been achieved and requesting the release of restoration credits. The sponsor must provide the BRT chair with the number of copies of this documentation specified by the BRT chair for distribution to the BRT members for review. BRT members must provide any comments to the BRT chair within 30 days of the BRT chair's receipt of this documentation. If the BRT determines that a site visit is necessary, the BRT members must provide any comments to the BRT chair within 30 days of the site visit. The BRT chair must schedule the site visit so that it occurs as soon as it is practicable, but the site visit may be delayed by seasonal considerations that affect the ability of the BRT members to assess whether the applicable credit release milestones have been achieved. If additional time is needed at any point in the release of restoration credits determination process, the BRT chair shall provide written notification to the sponsor prior to the running of the time-period with the amount of additional time needed. The BRT chair must provide written notice of final release of restoration credits determinations to the sponsor within 60 days of receipt by the BRT chair of the sponsor's request for release of credits or 60 days of the site visit, whichever is later.

D. Transfer or Sale to RP or Trustee. Once released, restoration credits may only be purchased to resolve NRD liability for a specific release of oil if such purchase has been approved by the appropriate NRDA trustees. The cost of restoration credits provided by an NRD restoration bank is to be negotiated by the responsible party and the sponsor of the NRD restoration bank from which the restoration credits are to be purchased. Within seven days of the sale or transfer of any NRD credits, the sponsor must provide a written report to the BRT detailing each sale/transfer of restoration credits. At a minimum, the notification must specify the number and type of restoration credits sold or transferred.

E. Multi-Use Restoration Banks. For NRD restoration banks also authorized to sell credits to satisfy the requirements of other regulatory programs, the sponsor must provide written notification to the BRT chair within seven days of any sale or transfer of credits pursuant to other

regulatory programs. At a minimum, the notification must specify the number and type of credits sold or transferred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.5.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

§123. Monitoring NRD Restoration Banks

A. The restoration bank plan must address the monitoring requirements for the NRD restoration bank, including those objectives and factors set out in 15 CFR §990.55(b)(2) and (3), as well as the parameters to be monitored, the length of the monitoring period, the party responsible for conducting the monitoring and submitting reports, and the frequency for submitting monitoring reports to the BRT. Performance criteria for an NRD restoration bank will be determined during the consultation between the BRT and the sponsor following the submittal of the prospectus and must be specified in the restoration bank plan. The performance criteria will be used to assess whether the NRD restoration bank is achieving its restoration objectives, including to determine release of restoration credits and release of financial assurances consistent with these regulations.

B. The submission of monitoring reports to assess the development and condition of the NRD restoration bank is required. Monitoring the NRD restoration bank is necessary to determine if the NRD restoration bank is accomplishing its restoration objectives, if performance criteria are being met, and, if not, what corrective action is necessary to ensure that those criteria are met. The content and level of detail for monitoring reports will be determined during the consultation period following the submittal of the prospectus and must be commensurate with the scale and scope of the NRD restoration bank. The monitoring reports may include plans (such as as-built plans), maps, and photographs to illustrate site conditions. Monitoring reports may also include the results of structural, functional, temporal, and other assessments used to provide quantitative or qualitative measures of the functions provided by the bank. The sponsor is responsible for submitting monitoring reports at a frequency determined by the BRT. Monitoring reports must be provided by the BRT chair to interested federal, tribal, state, and local resource agencies, and the public, upon request. The BRT may conduct site inspections upon providing notice to the bank sponsor to evaluate NRD restoration bank performance.

C. The restoration bank plan must provide for a monitoring period that is sufficient to demonstrate that the NRD restoration bank has met its restoration objectives and performance criteria. Following project implementation, the BRT may reduce or waive the remaining monitoring requirements upon a determination that the NRD restoration bank has achieved its objectives and performance criteria. Conversely, the BRT may extend the original monitoring period upon a determination that performance criteria have not been met or the bank is not on track to meet them. The BRT may also revise monitoring requirements when corrective action is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.5.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

§125. Financial Assurance Requirements

A. General Provisions

1. Financial assurance in accordance with this Section is required for NRD restoration banks under the NRD restoration banking program, except that financial assurance is not required for an NRD restoration bank proposed by a government agency, or an entity, that is exempt from the requirement to provide financial assurance under federal law.

2. The sponsor shall establish and maintain financial assurance in accordance with this Section.

3. The sponsor shall establish and maintain financial assurance in the form and amount approved by the BRT, until the BRT determines that the NRD restoration bank has satisfied all applicable performance criteria and other requirements of the restoration banking instrument.

4. Financial assurance that meets the requirements of this Section shall be provided at least 30 days prior to undertaking restoration activities approved under a restoration banking instrument.

5. The amount of financial assurance shall be based on an itemized estimate provided by an independent contractor and shall include the following:

a. construction costs, equal to 100 percent of the estimated cost of completing the creation, restoration, or enhancement;

b. maintenance costs, equal to 100 percent of the estimated cost of monitoring and maintaining the site, to meet the performance criteria and other requirements of the restoration banking instrument;

c. corrective action or adaptive management costs, equal to 10 percent of the estimated cost of construction, unless otherwise determined by the BRT to meet the requirements of this Section;

d. an independent contractor is defined here as a licensed contractor with no existing business relationship with the sponsor. The contractor must be approved by the BRT.

6. The sponsor shall update the face value of its financial assurance on the anniversary date of the instrument to reflect adjustments for inflation. On the fifth anniversary of the financial assurance instrument, the sponsor shall update the amount of financial assurance based on updated itemized estimates pursuant to Paragraph 5 of this Subsection.

7. The BRT shall require additional financial assurance if additional construction or monitoring is required to ensure success of the NRD restoration bank.

8. The portion of the financial assurance required under Subparagraph 5.a of this Subsection above shall be released upon the BRT determination that construction (including grading and planting) of the NRD restoration bank has been successfully completed in accordance with the restoration banking instrument.

9. The portion of the financial assurance required under Subparagraphs 5.b and c of this Subsection above shall be released when the BRT determines that the NRD restoration bank has met its restoration objectives and performance criteria, as applicable, or the BRT approves in writing the sponsor's request to permanently cease banking activities.

10. The sponsor may request, and the BRT may approve, the substitution of a financial assurance instrument. The form and content of any financial assurance instrument must be approved in advance by the BRT before a substitution can be used to satisfy the financial assurance obligations of this Section.

11. Acceptable forms of financial assurance shall comprise one or more of the following financial instruments:

a. a fully funded trust fund in accordance with §125.B below;

b. a letter of credit in accordance with Subsection C of this Section below;

c. a surety bond in accordance with Subsection D of this Section below; and/or

d. other forms of financial assurance, other than self-insurance or self-guarantee, as determined by the BRT to meet the requirements of this Section.

B. Financial Assurance Instrument—Fully Funded Trust Fund

1. A sponsor who chooses to establish a fully funded trust fund as financial assurance shall submit to the BRT chair the trust fund agreement evidencing that the trust fund is fully funded. The trust fund agreement shall:

a. be executed by an entity that has the authority to act as trustee, is an FDIC-regulated financial institution, and whose trust operations are regulated and examined by the state;

b. include any applicable file number and the name, street address, lot, block, municipality, and parish of the NRD restoration bank;

c. specify that the fully funded trust fund cannot be revoked or terminated without the prior written approval of the executive director of CPRA, or his/her designee;

d. specify that the trustee may only disburse funds with the written approval of the executive director of CPRA, or his/her designee;

e. specify that the funds shall be used solely for the purposes of conducting the NRD restoration bank as approved by the BRT;

f. specify that CPRA may access the fully funded trust fund to pay for the cost of the NRD restoration bank, pursuant to LAC 43:XXXI.127.B.2 below; and

g. identify CPRA as the sole beneficiary of the fully funded trust fund.

2. Any sponsor responsible for operating an NRD restoration bank that uses a fully funded trust fund to satisfy the requirements of this Chapter shall annually, at least 30 days prior to the anniversary date of when that sponsor was obligated to establish the financial assurance instrument, submit to the executive director of CPRA (or his/her designee) a written statement from the trustee confirming the value of the trust in the amount that the BRT has approved, and confirming that the trust shall continue for the next consecutive 12-month period.

C. Financial Assurance Instrument—Letter of Credit. A sponsor who chooses to provide a letter of credit as financial assurance to guarantee the availability of funds shall submit to the BRT chair the originally signed and certified letter of credit. The letter of credit shall:

1. be issued by an entity that is FDIC-regulated and licensed to transact business in the state;

2. include an applicable file number and the name, street address, lot, block, municipality, and parish of the NRD restoration bank;

3. specify that the letter of credit is irrevocable and issued for a period of at least one year, and that it will be automatically extended thereafter for a period of at least one year;

4. specify that, if the issuer of the letter of credit decides not to extend the letter of credit beyond the then current expiration date, the issuer shall notify the sponsor providing the letter of credit and the executive director of CPRA (or his/her designee) by certified mail of that decision at least 120 days before the current expiration date, beginning from the date of receipt by executive director of CPRA (or his/her designee) as shown on the signed return receipt;

5. specify that CPRA may access the letter of credit to pay for the cost of the restoration bank pursuant to LAC 43:XXXI.127.B.2; and

6. identify CPRA as the sole beneficiary of the letter of credit.

D. Financial Assurance Instrument—Surety Bond. A sponsor who chooses to provide a surety bond as financial assurance to guarantee the availability of funds pursuant to this Section shall submit to the BRT chair the originally signed and certified surety bond. The surety bond shall:

1. be issued by an entity that is licensed to transact business in the State, is listed as an approved surety on Department Circular 570 of the U.S. Department of the Treasury, and maintains a financial strength rating of at least BBB+ or equivalent assigned by a nationally recognized statistical rating organization;

2. include any applicable file number and the name, street address, lot, block, municipality, and parish of the NRD restoration bank;

3. specify that, if the issuer of the surety bond decides not to extend the surety bond beyond the then current expiration date, the issuer shall notify the sponsor providing the surety bond, and shall separately notify the executive director of CPRA (or his/her designee), by certified mail of that decision at least 120 days before the current expiration date, beginning from the date of receipt by the executive director of CPRA (or his/her designee) as shown on the signed return receipt; and

4. specify that CPRA may access the surety bond to pay for the cost of the NRD restoration bank pursuant to LAC 43:XXXI.127.B.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.5.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

§127. Compliance

A. General

1. It is the sponsor's obligation to comply with the terms of NRD restoration bank certification as set forth in the restoration banking instrument. If the BRT believes that a sponsor is out of compliance with a restoration banking instrument, it must notify the sponsor in writing and set forth the corrective actions that the sponsor must undertake to bring a bank in compliance and the time within which the sponsor must perform such actions.

2. If the sponsor fails to come into compliance in the period specified in the BRT's written notice, the BRT may suspend the sale of restoration credits to bring an NRD restoration bank in compliance with the terms and conditions of the restoration banking instrument. If the BRT suspends the sale of restoration credits, restoration credits may not be debited until the BRT lifts the suspension and notifies the sponsor in writing that the sale of credits may be resumed.

3. If the BRT is made aware of any action to suspend or bar the sponsor from participation in any other regulatory program, the BRT may in its discretion suspend the sponsor from the sale of credits for the duration of the non-conformity with the other program, or such shorter time as it deems appropriate.

B. Financial Assurance

1. If the BRT determines that the sponsor responsible for restoration and providing financial assurance has failed to complete an NRD restoration bank, including satisfying restoration objectives and performance criteria, as required by the restoration banking instrument, the BRT chair shall:

a. provide written notice of this determination to the sponsor; and

b. require that the NRD restoration bank be brought into conformance with the restoration banking instrument within 30 days of receipt of the notice, unless the timeframe is otherwise extended by the BRT.

2. No sooner than 30 days from the date the sponsor receives notice under Subparagraph 1.a of this Subsection above, CPRA may, at its discretion, complete the NRD restoration bank by drawing on the funds available in the financial assurance instrument(s).

3. In the event CPRA draws on the funds available in the financial assurance instrument(s) and accomplishes the objectives and performance criteria of the NRD restoration bank, the BRT may award restoration credits for sale, use, or transfer by the sponsor in a quantity that reflects the objectives and performance criteria achieved as a result of BRT intervention, net of administrative expenses incurred by the BRT to complete the NRD restoration bank.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.5.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

§129. Reconsideration of Final Decisions

A. An NRD bank sponsor may file an application for reconsideration with the executive director of CPRA. An application for reconsideration must be received by the executive director within 15 days of the mailing of the final decision. Applications of reconsideration shall be limited to final decisions regarding a restoration bank plan or credit release determination.

B. An application for reconsideration shall be in writing, set forth the grounds that justify reversal of the original decision, and include all evidence or argument the applicant wants considered.

C. The executive director shall consider the application for reconsideration and render a decision, in writing, within 30 days of its receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.5.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Coastal Protection and Restoration Authority, LR 43:

Family Impact Statement

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

Poverty Impact Statement

The proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.5.

Provider Impact Statement

The proposed Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule. Persons commenting should reference the proposed Rule by using the term "Natural Resource Damage Restoration Banking." Such comments must be received no later than February 9, 2017, at 4:30 p.m., and should be sent to the Louisiana Coastal Protection and Restoration Authority, c/o Liz Williams, 150 Terrace Avenue, Baton Rouge, LA 70802 or to fax (225) 342-4674 or by e-mail to mitigation.banking@la.gov. This Rule is available on the internet at www.coastal.la.gov.

Johnny B. Bradberry
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Natural Resource Damage Restoration Banking

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not anticipated to result in increased costs or savings to state or local governmental entities. As a result of Act 362 of the 2016 Regular Legislative Session, Coastal Protection and Restoration Authority (CPRA) will establish a Natural Resource Damage (NRD) Restoration Banking Program. The NRD Restoration Banking Program is designed to allow, encourage, and incentivize private investors to undertake restoration projects in the Louisiana coastal area. These projects are expected to generate restoration credits that a responsible party can purchase to fully or partially resolve NRD liabilities for oil spills under state and federal law.

This program will be implemented by the Natural Resource Damage Banking Review Team (BRT) which consists of the following State agencies: CPRA, the Louisiana Oil Spill Coordinator's Office (LOSCO), the Louisiana Department of Environmental Quality (DEQ), the Louisiana Department of Natural Resources (DNR), and the Louisiana Department of Wildlife and Fisheries (DWF). At this time, the agencies anticipate utilizing existing staff to evaluate proposals by prospective sponsors for projects. In the event proposals exceed the workload of current staff, additional staff and resources may be required. However, since this program is new, it is unknown how many proposals will be submitted and what the size of the projects will be.

To the extent private entities fund coastal restoration projects that are aligned with the state's master plan for coastal restoration as a result of this program, future resources utilized by CPRA could be used for additional coastal projects or may result in completion of future projects earlier than anticipated.

It is unknown at this time what projects or timelines would be effected by the Restoration Banking Program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The NRD Restoration Banking program is not anticipated to result in any revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The NRD Restoration Banking Program is designed to allow, encourage, and incentivize private investors to undertake restoration projects in the Louisiana coastal area. These projects are expected to generate restoration credits that a Responsible Party can purchase to fully or partially resolve NRD liabilities for oil spills under the Oil Pollution Act of 1990 (OPA), 33 U.S.C. §2701 et seq., and the Louisiana Oil Spill Prevention and Response Act (OSPR), La. R.S. 30:2451 et seq. This program may provide for expedited restoration projects in the Louisiana coastal area, allow for the implementation of larger scale restoration projects, and provide an alternative method to offset damages to natural resources sustained as a result of oil spills in coastal areas.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

As this program is the first of its kind in Louisiana and the United States, it is expected to encourage and incentivize private investors to undertake restoration projects in the Louisiana coastal area. This new market is estimated to result in increased competition in the coastal restoration industry which will, in turn, have a positive impact on employment in coastal Louisiana.

Michael Ellis
Executive Director
1701#038

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Real Estate Commission

Broker Responsibilities (LAC 46:LXVII.Chapter 18)

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 adopt LAC 46:LXVII.Chapter 18. The purpose of the proposed Rule is to promote broker responsibility in the areas of supervision, record keeping, and compensation. The Rule is proposed to ensure that brokers are taking the task of supervising their agents seriously to ensure that practicing agents are serving the public to the best of their abilities.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Subpart 1. Real Estate

Chapter 18. Broker Responsibilities

§1801. Broker Supervision

A. A broker must provide a sponsored licensee with written notice and acknowledgement of the activities that the broker authorizes the sponsored licensee to engage in under R.S. 37:1431(24).

B. A broker who sponsors licensees or is a qualifying broker for a corporation shall have written policies and procedures to ensure the following:

1. each sponsored licensee maintains their license in the active status at all times while they are engaging in real estate activities as described in R.S. 37:1431(24).

2. each sponsored licensee complies with the advertising and team rules;

3. a method and process for the sponsored licensee to provide documents to the broker for compliance with record keeping

C. Listings and other agreements for real estate brokerage services must be solicited under the name of the broker corporation or supervising broker. These agreements shall be signed by the broker or by a sponsored licensee acting under written authority of the sponsoring broker.

D. A broker must maintain the rental trust account, the sales escrow account, and the security deposits trust account with appropriate controls for deposits and disbursements of funds received on behalf of consumers; and

E. When the broker is a business entity, the qualifying broker is the person responsible for the broker responsibilities under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 43:

§1803. Record Keeping

A. In a format that is readily available to the commission and for a period of no less than five years a broker must maintain at minimum the following records:

1. disclosures;
2. listing agreements, buyer representation agreements, other written agreements that authorize licensees to advertise or represent property for sale or lease, other written agreements that authorize licensees to receive compensation;
3. contracts and related addenda;
4. receipts and disbursements of compensation for services as defined under R.S. 37:1431(24);
5. property management agreements;
6. appraisal, broker price opinions, and comparative market analyses;
7. sponsorship agreements and termination paperwork; and
8. independent contract agreements between brokers and sponsored salespersons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 43:

§1805. Compensation

A. Any and all compensation paid to a sponsored licensee for acts or services subject to R.S. 37:1431(24) shall be paid by, through, or with the written consent of the sponsoring broker. If written consent of the sponsoring broker is received it must specifically state the name(s) of the licensee(s) and the individual amount of compensation being paid.

B. Licensees who are part of a group or team shall not receive compensation for acts or services subject to R.S. 37:1431(24) from anyone within their team.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Commission, LR 43:

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 January 20, 2017 *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.

Provider Impact Statement

The proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

Interested parties may submit written comments on the proposed regulations to Ryan Shaw, Louisiana Real Estate Commission, P.O. Box 14785, Baton Rouge, LA 70898-4785 or 9071 Interline Avenue, Baton Rouge, LA 70809 or rshaw@lrec.state.la.us, through February 10, 2017 at 4:30 p.m.

Public Hearing

If it becomes a necessary to convene a public hearing to receive comments, in accordance with the Administrative Procedures Act, a hearing will be held on March 1, 2017 at 9 a.m. at the office of the Louisiana Real Estate Appraisers Board, 9071 Interline Avenue, Baton Rouge, LA 70809.

Bruce Unangst
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Broker Responsibilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs or savings to state or local governmental units associated with the proposed rule change. The proposed rule change provides for experience requirements of individuals seeking licensure as real estate brokers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may prohibit or delay the acquisition of licensure as a real estate broker for individuals that have not held an active real estate licensure for four years, with two of the four immediately preceding application for a broker licensure.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may prohibit or delay the acquisition of licensure as a real estate broker for individuals that have not held an active real estate licensure for four years, with two of the four immediately preceding application for a broker licensure.

Bruce Unangst
Executive Director
1701#041

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Marijuana Pharmacy (LAC 46:LIII.Chapter 24)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to adopt a new Subchapter of rules; more specifically, Chapter 24, Limited Service Providers, Subchapter E, Marijuana Pharmacy. The proposed Rule was prepared in response to Act 261 of the 2015 Legislature and Act 96 of the 2016 Legislature, and it establishes standards for the packaging and labeling of marijuana products as well as the dispensing of such products in pharmacies licensed by the board.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter E. Marijuana Pharmacy

§2440. Preamble; Warning; Consultation Suggested

A. Pursuant to Act 261 of the Regular Session of the 2015 Louisiana Legislature as well as the subsequent amendment found in Act 96 of the Regular Session of the 2016 Louisiana Legislature, the Board of Pharmacy was directed to:

1. develop an annual, nontransferable specialty license for a pharmacy to dispense recommended marijuana for therapeutic use, to limit the number of such licenses to a maximum of 10, and to adopt rules regarding the geographical locations of dispensing pharmacies in the state; and

2. adopt rules relating to the dispensing of recommended marijuana for therapeutic use, with such rules to include, at a minimum, the following:

a. standards, procedures, and protocols for the effective use of recommended marijuana for therapeutic use as authorized by state law and related rules;

b. standards, procedures, and protocols for the dispensing and tracking of recommended therapeutic marijuana;

c. procedures and protocols to provide that no recommended therapeutic marijuana may be dispensed from, produced from, obtained from, sold to, or transferred to a location outside of this state;

d. standards, procedures, and protocols for determining the amount of usable recommended therapeutic marijuana that is necessary to constitute an adequate supply to ensure uninterrupted availability for a period of one month, including amount for topical treatments;

e. standards, procedures, and protocols to ensure all recommended therapeutic marijuana dispensed is consistently pharmaceutical grade;

f. standards and procedures for the revocation, suspension, and nonrenewal of licenses;

g. other licensing, renewal, and operational standards deemed necessary by the Board of Pharmacy;

h. standards and procedures for testing recommended therapeutic marijuana samples for levels of

tetrahydrocannabinols (THC) or other testing parameters deemed appropriate by the Board of Pharmacy;

i. standards for the protection of health, safety, and security for dispensers of recommended therapeutic marijuana;

j. standards for the licensure of dispensers of recommended therapeutic marijuana; and

k. standards for financial capacity to operate a marijuana pharmacy.

B. Marijuana is classified as a schedule I controlled substance by the U.S. Department of Justice, Drug Enforcement Administration.

1. As provided by the federal Controlled Substances Act, the procurement, possession, prescribing, distribution, dispensing, or administering of any schedule I controlled substance, including marijuana, is a violation of federal law.

2. Neither Louisiana law nor the board's rules can preempt federal law. Therefore, the provisions of this Subchapter notwithstanding, persons engaged in the activities described herein remain subject to the full force of federal law enforcement, including arrest and prosecution of criminal charges, the assessment of civil fines and forfeitures, as well as administrative consequences such as forfeiture of federal controlled substance registrations and exclusion from Medicare and other federal payer programs.

C. For the foregoing reasons, pharmacists and other persons credentialed by the board may wish to consult with their own legal counsel as well as any health care facility, private or governmental payor with which they are affiliated, professional liability insurers, and financial institutions with which they maintain depository relationships before engaging in the activities described herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:

§2441. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section:

Administer—the direct application of marijuana to the body of a qualifying patient by ingestion or any other means.

Advertisement—all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of marijuana.

Agent—an authorized person who acts on behalf of or at the direction of another person. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

Approved Safe—a safe which conforms to or exceeds all of the following standards:

a. shall have the following specifications or the equivalent: 30 man-minutes against surreptitious entry, 10 man-minutes against forced entry, 20 man-hours against lock manipulation, and 20 man-hours against radiological techniques;

b. if it weighs less than 750 pounds, is bolted or cemented to the floor or wall in such a way it cannot be readily removed; and

c. depending upon the quantities stored, is equipped with an alarm system which, upon attempted unauthorized entry, shall transmit a signal directly to a central protection company or a local or state police agency which has a legal

duty to respond, or a 24-hour control station operated by the licensee, or such other protection as the board or its designee may approve.

Approved Vault—

a. a vault constructed before, or under construction on, September 1, 1971, which is of substantial construction with a steel door, combination or key lock, and an alarm system; or

b. a vault constructed after September 1, 1971:

i. the walls, floors, and ceilings of which are constructed of at least 8 inches of reinforced concrete or other substantial masonry, reinforced vertically and horizontally with one-half inch steel rods tied 6 inches on center, or the structural equivalent to such reinforced walls, floors, and ceilings;

ii. the door and frame unit of which vault shall conform to the following specifications or the equivalent: 30 man-minutes against surreptitious entry, 10 man-minutes against forced entry, 20 man-hours against lock manipulation, and 20 man-hours against radiological techniques;

iii. which vault, if operations require it to remain open for frequent access, is equipped with a “day gate” which is self-closing and self-locking or the equivalent, for use during the hours of operation in which the vault door is open;

iv. the walls or perimeter of which are equipped with an alarm which, upon unauthorized entry, shall transmit a signal directly to a central station protection company, or a local or state police agency which has a legal responsibility to respond, or a 24-hour control station operated by the licensee, or such other protection as the board or its designee may approve, and if necessary, alarm buttons at strategic points of entry to the perimeter area of the vault;

v. the door of which shall be equipped with one or more contact switches; and

vi. which vault has one of the following:

(a). complete electrical lacing of the walls, floor and ceiling;

(b). sensitive ultrasonic equipment within the vault;

(c). sensitive sound accumulator system; or

(d). such other device designed to detect illegal entry as may be approved by the board.

Board—the Louisiana Board of Pharmacy.

CFR—*Code of Federal Regulations*.

Deliver or *Delivery*—the actual, constructive or attempted transfer from one person to another of marijuana, whether or not there is an agency relationship.

Financial Interest—any actual, or a future right to, ownership or investment, either directly or indirectly, through business, investment or immediate family. Financial interest does not include ownership of investment securities in a publicly-held corporation that is traded on a national exchange or over-the-counter market, provided the investment securities held by such person do not exceed 5 percent of the total number of shares issued by the corporation.

Immediate Family—R.S. 42:1102; i.e., his children and the spouses of his children, his brothers and their spouses, his sisters and their spouses, his parents, his spouse, and the parents of his spouse.

LDAF—the Louisiana Department of Agriculture and Forestry.

LDH—the Louisiana Department of Health.

Louisiana Medical Marijuana Tracking System (LMMTS)—the required seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the product is sold to a pharmacy or is destroyed.

Marijuana—all parts of plants of the genus *Cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds or resin, but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of such plant which is incapable of germination.

Marijuana Pharmacy—that area within a facility where marijuana is stored, dispensed, and sold. If a facility does not offer any products or services other than marijuana and/or related supplies, the entire facility is a marijuana pharmacy for the purposes of this Subchapter.

Marijuana Pharmacy Owner—any person with an ownership interest in a marijuana pharmacy, except the term does not include a person with an investment interest through a publicly-held company provided the interest held by such person does not exceed five per cent of the total ownership or interest rights in such pharmacy and such person does not participate directly or indirectly in the control, management, or operation of the pharmacy.

Marijuana Product—any product containing marijuana, including raw materials, that requires no further processing and that is packaged for sale to pharmacies, qualifying patients and primary caregivers.

Owner's Managing Officer—the person designated by the organization owning the pharmacy to be responsible to the board for the proper operation of the pharmacy in compliance with all applicable laws and regulations.

Pharmaceutical Grade Marijuana—marijuana or marijuana products that are not adulterated and are:

a. processed, packaged and labeled according to the United States Food and Drug Administration's “Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements,” as found in 21 CFR 111 or its successor;

b. labeled with the results of an active ingredient analysis, a microbiological contaminants analysis, a mycotoxin analysis, a heavy metal analysis, and a pesticide chemical residue analysis which have been completed on a batch basis by a laboratory; and

c. where each step of the production, cultivating, trimming, curing, manufacturing, processing, and packaging method has been documented by using standard operation procedures approved by the commissioner of the Department of Agriculture and Forestry.

Pharmacist—an individual currently licensed by the board to engage in the practice of pharmacy.

Pharmacy Technician—an individual who assists in the practice of pharmacy under the direct and immediate

supervision of a licensed pharmacist and is currently certified to do so by the board.

Physician—an individual currently licensed by the state Board of Medical Examiners to engage in the practice of medicine.

Prescription Monitoring Program (PMP)—the electronic prescription drug monitoring program established by R.S. 40:1001 et seq.

Producer—a person licensed by the Department of Agriculture and Forestry to cultivate marijuana for therapeutic use.

Production or *Produce*—the manufacture, planting, preparation, cultivation, growing, harvesting, propagation, compounding, conversion or processing of marijuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance and labeling or relabeling of its container, except that this term does not include the preparation or compounding of marijuana by a patient or caregiver for the patient's use.

Production Facility—a secure facility where the production of marijuana occurs and that is operated by a person to whom the Department of Agriculture and Forestry has issued a producer license.

Sale—any form of delivery, which includes barter, exchange or gift, or offer therefor, and each such transaction made by any person whether as principal, proprietor, agent, servant, or employee.

Usable Marijuana—the dried leaves and flowers of the marijuana plant, and any mixtures or preparations of such leaves and flowers that are appropriate for the therapeutic use of marijuana, but does not include the seeds, stalks, and roots of the marijuana plant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:

§2443. Marijuana Products

A. Exclusive Source

1. The exclusive source of marijuana products shall be the producer licensed for that activity by the Department of Agriculture and Forestry (LDAF).

2. That producer shall prepare pharmaceutical grade marijuana products for distribution to the marijuana pharmacies licensed by the board.

3. Marijuana products from any other source shall be deemed misbranded and/or adulterated and shall not be distributed to any marijuana pharmacy, nor may such misbranded and/or adulterated products be dispensed by any marijuana pharmacy.

B. Laboratory Testing

1. Prior to manufacturing any marijuana product, the producer shall segregate all harvested marijuana into homogenized batches.

2. A producer shall make available each such batch at the production facility for testing by a laboratory approved by LDAF. The laboratory employee shall select a random sample from each batch. The laboratory shall test each sample for microbiological contaminants, mycotoxins, heavy metals, pesticide chemical residue, residual solvents,

homogeneity, and for the purpose of conducting an active ingredient analysis.

3. From the time that a batch of marijuana has been homogenized for sample testing and eventual packaging and sale to a pharmacy until the laboratory provides the results from its tests and analyses, the producer shall segregate and withhold from use the entire batch with the exception of the samples removed by the laboratory for testing. During this period of segregation, the producer shall maintain the marijuana batch in a secure, cool and dry location so as to prevent the marijuana from becoming contaminated or losing its efficacy. Under no circumstances shall a producer include marijuana in a marijuana product or sell it to a pharmacy prior to the time the laboratory has completed its testing and analysis and provided those results, in written or electronic form, to the producer or the producer's designated employee.

4. The laboratory shall immediately return or dispose of any marijuana upon the completion of any testing, use, or research. When the laboratory disposes of marijuana, the laboratory shall comply with the marijuana disposal rules promulgated by LDAF.

5. In the event a sample of marijuana does not pass the microbiological, mycotoxin, heavy metal, pesticide chemical residue, residual solvent, or homogeneity test based on the standards set forth in this Section, the producer shall dispose of the entire batch from which the sample was taken, in compliance with the marijuana disposal rules promulgated by LDAF.

a. With respect to the microbiological test, a marijuana sample shall be deemed to have passed if it satisfies the standards set forth in *Chapter IIII—Microbiological Examination of Nonsterile Products: Acceptance Criteria for Pharmaceutical Preparations and Substances for Pharmaceutical Use of the United States Pharmacopeia* (USP), available at www.usp.org.

b. With respect to the mycotoxins test, a marijuana sample shall be deemed to have passed if it meets the following standards:

- i. aflatoxin B1: < 20 parts per billion (ppb);
- ii. aflatoxin B2: < 20 ppb;
- iii. aflatoxin G1: < 20 ppb;
- iv. aflatoxin G2: < 20 ppb; and
- v. ochratoxin A: < 20 ppb.

c. With respect to the heavy metals test, a marijuana sample shall be deemed to have passed if it meets the following standards:

- i. arsenic: < 10 parts per million (ppm);
- ii. cadmium: < 4.1 ppm;
- iii. lead: < 10 ppm; and
- iv. mercury: < 2 ppm.

d. With respect to the pesticide chemical residue test, a marijuana sample shall be deemed to have passed if it satisfies the most stringent acceptable standard for a pesticide chemical residue in any food item as set forth in subpart C of the United States Environmental Protection Agency's "Tolerances and Exemptions for Pesticide Chemical Residues in Food", as found in 40 CFR 180 or its successor.

e. With respect to the residual solvent test, a marijuana sample shall be deemed to have passed if the following solvents are below the listed limits:

- i. butanes: < 800 ppm;
- ii. heptanes: < 500 ppm;
- iii. benzene: < 1 ppm;
- iv. toluene: < 1 ppm;
- v. hexanes: < 10 ppm; and
- vi. total xylenes: < 1 ppm.

f. With respect to the test for homogeneity, a marijuana sample shall be deemed to have failed if ten percent of the sample contains more than twenty percent of the total active ingredient.

g. With respect to the analysis of active ingredients, the following substances, when present, shall be identified and measured. The maximum variance permitted is fifteen percent from the labeled amount. For example, a product labeled as containing 10 milligrams of tetrahydrocannabinol (THC) shall contain no less than 8.5 milligrams THC and no more than 11.5 milligram THC:

- i. THC (tetrahydrocannabinol);
- ii. THCA (tetrahydrocannabinolic acid);
- iii. CBD (cannabidiol); and
- iv. CBDA (cannabidiolic acid).

6. If a sample of marijuana passes the microbiological, mycotoxin, heavy metal, pesticide chemical residue, residual solvent, and homogeneity tests, the laboratory shall release the entire batch for immediate manufacturing, packaging, and labeling for sale to a marijuana pharmacy.

7. In the event of any test failure, the laboratory shall transmit to LDAF an electronic copy of such test result at the same time it transmits those results to the producer.

8. The laboratory shall comply with all rules applicable to the testing of marijuana promulgated by LDAF.

9. A producer shall provide the laboratory test results to the marijuana pharmacy for each batch of marijuana used in a product acquired by the marijuana pharmacy. The pharmacy shall make such testing results available upon request to their patients, caregivers, and physicians who recommended such marijuana products dispensed to their patients.

C. Product Dosage Forms

1. The producer shall limit their production of pharmaceutical grade marijuana products to the following dosage forms:

- a. oils, extracts, tinctures, or sprays;
- b. solid oral dosage forms, e.g., capsules or pills;
- c. liquid oral dosage forms, e.g., solutions or suspensions;
- d. edible dosage forms;
- e. topical applications, oils or lotions;
- f. transdermal patches; or
- g. suppositories.

2. No marijuana product shall:

- a. include alcoholic liquor, dietary supplements, or any drug, except for pharmaceutical grade marijuana. For purposes of this provision, alcoholic liquor does not include any liquid or solid containing less than one-half of one percent of alcohol by volume, or ethanol-based tinctures;
- b. be manufactured or sold as a beverage;
- c. be manufactured or sold in a form or with a design that:

- i. is obscene or indecent;
- ii. may encourage the use of marijuana for recreational purposes;
- iii. may encourage the use of marijuana for a condition other than a debilitating medical condition; or
- iv. is customarily associated with persons under the age of 18; or

d. have had pesticide chemicals or organic solvents used during the production or manufacturing process other than those which may be approved by the commissioner of LDAF.

3. Any marijuana product not in compliance with the provisions of this Paragraph shall be deemed adulterated.

D. Packaging and Labeling Requirements

1. Packaging

a. The producer shall ensure every product intended for dispensing to a patient is placed within a child-resistant, light-resistant, tamper-evident container prior to sale or transport to the pharmacy.

i. A package shall be deemed child-resistant if it satisfies the standard for ‘special packaging’ as set forth in the United States Consumer Product Safety Commission’s poison prevention packaging as found in 16 CFR 1700.1(b)(4) or its successor.

ii. A package shall be deemed light-resistant if it satisfies the standard set forth in Chapter 671—Containers: Performance Testing of the United States Pharmacopeia (USP).

iii. A package shall be deemed tamper-evident if it clearly indicates prior access to the container.

b. Any product containing pharmaceutical grade marijuana or its principal psychoactive constituent tetrahydrocannabinol (THC) shall be packaged so that one dose contains no more than 10 milligrams of THC.

c. If it is not intended for the entire product to be used at a single time, the packaging must be re-sealable in a manner that maintains its child-resistant property for multiple openings. Single doses may be placed in a package with other single doses; however, the total amount of active THC contained within the larger packaging shall not exceed 100 milligrams.

d. No single container shall contain more than a one month supply of marijuana.

e. Packaging selected by the producer shall be subject to the following restrictions:

- i. shall not specifically target individuals under the age of 21 years;
- ii. shall not bear any resemblance to a trademarked, characteristic or product-specialized packaging of any commercially available candy, snack, baked good or beverage;
- iii. shall not use the words “candy” or “candies”;
- iv. shall not use a cartoon, color scheme, image, graphic or feature that might make the package attractive to children; and
- iv. shall not use a seal, flag, crest, coat of arms or other insignia that could reasonably lead any person to believe the product has been endorsed, manufactured by, or used by any state, parish, municipality, or any agent thereof.

2. Labeling

a. Each product shall be labeled by the producer prior to its sale to the marijuana pharmacy. Each label shall be securely affixed to the package and shall include, at a minimum:

i. the batch or lot number assigned by the producer to the marijuana plant(s) from which the marijuana used in the product was harvested;

ii. a complete list of solvents, chemicals, and pesticides used in the creation of any marijuana concentrate;

iii. a complete list of all ingredients used to manufacture the product, which may include a list of any potential allergens contained within, or used in the manufacture of, a product;

iv. the potency of the THC and CBD in the product, expressed in milligrams for each cannabinoid;

v. The net weight, using a standard of measure compatible with the LMMTS, of the product prior to its placement in the shipping container;

vi. a product expiration date, upon which the product will no longer be fit for use. Once a label with an expiration date has been affixed to a product, the producer shall not alter that date or affix a new label with a later date; and

vii. a statement the product has been tested for contaminants, that there were no adverse findings, and the date of such testing.

b. The labeling text on any marijuana product shall not make any false or misleading statements regarding health or physical benefits to the consumer. Further, each label shall include all of the following statements:

i. "Contains Marijuana. For Medical Use Only. KEEP OUT OF THE REACH OF CHILDREN.";

ii. "Marijuana can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";

iii. "There may be additional health risks associated with the consumption of this product for women who are pregnant, breastfeeding, or planning to become pregnant.";

iv. a statement that it is illegal for any person to possess or consume the contents of the package other than the patient for whom it was recommended.

c. The labeling text required by this Section shall be no smaller than 1/16 of an inch, shall be printed in English, and must be unobstructed and conspicuous.

E. Distribution of Marijuana Products to Marijuana Pharmacies

1. The producer shall maintain complete inventory records in the Louisiana medical marijuana tracking system (LMMTS), as required and delineated in rules promulgated by LDAF.

2. The producer shall maintain comprehensive records in LMMTS of all marijuana products distributed to the marijuana pharmacies, whether by transport and delivery to the pharmacy or by transfer to the agent of the pharmacy at the production facility.

3. In the event the producer delivers the products to the pharmacy, such activities must be in compliance with the rules for that activity promulgated by LDAF.

4. In the event the pharmacy elects to send an agent to the production facility to retrieve products ordered by the pharmacy, the personnel at the production facility shall verify the identity and credentials of the pharmacy's agent before releasing the products to the agent.

a. The producer shall provide a copy of the transport manifest generated by LMMTS, which shall contain the following information:

i. the name and address of the producer selling the product;

ii. the name and address of the pharmacy purchasing the product;

iii. the name and quantity (by weight or unit) of marijuana products included in the delivery;

iv. the date of transport and time of departure from the production facility;

v. the make, model, and license plate number of the delivery vehicle;

vi. the date and time of arrival at the pharmacy; and

vii. the name and signature of the pharmacy's agent.

b. The pharmacy's agent shall compare the transport manifest to the products transferred to his possession, and when correct, shall return a signed copy of the manifest to the producer before departing from the production facility.

c. The pharmacy's agent shall place the products in a locked, safe, and secure storage compartment that is part of the motor vehicle, or in the alternative, in a locked storage container that has a separate key or combination pad, and further, the product shall not be visible or recognizable from outside the vehicle, and further, the vehicle shall not bear the name of the pharmacy or any markings to indicate the vehicle contains marijuana.

d. The pharmacy's agent shall maintain physical control of the vehicle at all times during the transport, and shall not leave the vehicle unattended at any time.

e. The pharmacy's agent shall have access to a secure form of communication with the pharmacy as well as the ability to contact law enforcement through the 911 emergency system.

f. Upon arrival at the pharmacy, the pharmacy's agent shall deliver the product to a pharmacist for verification of receipt; the pharmacist shall time, date, and sign the delivery manifest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:

§2445. Marijuana Pharmacy Permit

A. The board shall develop and configure a pharmacy permit designated as a marijuana pharmacy permit.

B. The dispensing of marijuana for therapeutic purposes shall be restricted to those pharmacies holding a marijuana pharmacy permit issued by the board, and only when that permit is in active or restricted status.

C. When issued to a successful applicant, the permit will authorize the operation of a marijuana pharmacy in compliance with the provisions of this Subchapter.

D. When the permit is issued, it shall be valid only for the owner and the specific location noted on the application and recorded on the permit.

E. A marijuana pharmacy permit is non-transferable from one owner to another owner, and moreover, in the event the ownership of the organization that acquired the permit changes by 50 percent or more, then the ownership will be deemed sufficiently different as to require a new marijuana pharmacy permit. A marijuana pharmacy permit owner continuing to operate a marijuana pharmacy after its ownership has changed by 50 percent or more without obtaining a new marijuana pharmacy permit shall be deemed guilty of operating a pharmacy without a valid permit, in violation of R.S. 37:1221.

F. Although a change of ownership of less than 50 percent shall not require a new pharmacy permit, any proposed change of ownership shall require prior notice to the board, and further, approval by the board.

G. The board shall not have more than 10 active marijuana pharmacy permits at any given time. To facilitate compliance with that legislative restriction, the board recognizes the nine regions previously declared by the Department of Health, to wit:

1. metropolitan, composed of the parishes of Jefferson, Orleans, Plaquemines, and St. Bernard;

2. capitol, composed of the parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge, and West Feliciana;

3. Teche, composed of the parishes of Assumption, Lafourche, St. Charles, St. James, St. John, St. Mary, and Terrebonne;

4. Acadian, composed of the parishes of Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, and Vermilion;

5. southwest, composed of the parishes of Allen, Beauregard, Calcasieu, Cameron, and Jefferson Davis;

6. central, composed of the parishes of Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Vernon, and Winn;

7. northwest, composed of the parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine, and Webster;

8. northeast, composed of the parishes of Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll; and

9. southeast, composed of the parishes of Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington.

H. To achieve an equitable distribution of the marijuana pharmacy permits across the state, the board shall reserve one marijuana pharmacy permit for each of the nine regions identified above. In the event the board is convinced of the need for a second permit in one region, it may issue that permit following the procedures identified in this Subchapter. Further expansion will require a legislative amendment of the original restriction.

I. When the board is prepared to receive and process applications for and issue marijuana pharmacy permits, it shall publish on its internet web site, and in such other places as the board deems appropriate, a notice to that effect. Such notice shall include, but not be limited to:

1. the maximum number of permits to be awarded;
2. information on how to obtain an application;
3. the deadline for receipt of applications;
4. acceptable methods for submitting an application;

5. the preferred locations, if any, for the marijuana pharmacy permits; and

6. the criteria that shall be considered in awarding the marijuana pharmacy permits.

J. Following the deadline for receipt of applications, the board shall evaluate each complete and timely submitted application and award marijuana pharmacy permits on a competitive basis based on the criteria set out in the notice for applications. In the event the board determines there are an insufficient number of qualified applicants to award all of the marijuana pharmacy permits the board has determined are desirable, the board may republish, in accordance with this Section, a notice of open applications for marijuana pharmacy permits.

K. The board shall have the right to amend the notice of open applications prior to the deadline for submitting an application. Such amended notice shall be published in the same manner as the original notice of open applications.

L. The board shall have the right to cancel a notice of open applications prior to the award of a marijuana pharmacy permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:

§2447. Licensing Procedures

A. Application for Initial Issuance of Permit

1. The board shall develop an application form suitable for the marijuana pharmacy permit. The board may revise that application form on its own initiative in order to collect the information it deems necessary to properly evaluate an applicant.

2. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fee.

3. The applicant shall fully disclose the ownership of the entity that will own the permit as well as any additional holding companies that may exist, such that any natural person with any ownership interest shall be fully identified.

4. In the event any person holding any ownership interest in the entity submitting an application for a marijuana pharmacy permit has engaged in any of the following activities, the entity shall be disqualified and the board shall not issue a marijuana pharmacy permit to that applicant:

a. within the two-year period preceding the date of the application, has made a contribution to a candidate in a Louisiana election for a statewide elected official or state legislative election governed by the provisions of the Campaign Finance Disclosure Act (R.S. 14:1481); or

b. within the two-year period preceding the date of the application, the person or any member of the person's immediate family held a position in state service in Louisiana, including but not limited to, a legislator, statewide public official, state employee, or member of the board.

5. The applicant shall provide a complete street address reflecting the location at which the applicant proposes to operate the marijuana pharmacy.

6. The applicant shall provide the following information and records in the application process:

a. a detailed description of any other services or products to be offered by the marijuana pharmacy;

b. details regarding the applicant's plans to maintain adequate control against the diversion, theft, or loss of marijuana;

c. documents or information sufficient to establish the applicant is authorized to conduct business in Louisiana and that all applicable state and local building, fire and zoning requirements, and local ordinances will be met;

d. text and graphic materials showing the exterior appearance of the proposed marijuana pharmacy and its site compatibility with commercial or residential structures already constructed or under construction within the immediate neighborhood;

e. a blueprint of the proposed marijuana pharmacy which shall, at a minimum, show and identify:

i. the square footage of the area which will constitute the prescription department;

ii. the square footage of the overall marijuana pharmacy;

iii. the square footage and location of areas used as storerooms or stockrooms;

iv. the size of the counter that will be used for the dispensing and sale of marijuana;

v. the location of the marijuana pharmacy sink and refrigerator, if any;

vi. the location of all approved safes and vaults that will be used to store marijuana;

vii. the location of the toilet facilities;

viii. the location of the break room and location of lockers for personal belongings;

ix. the location and size of the patient counseling area(s);

x. the location(s) where any other products or services will be offered; and

xi. the location of all areas that may contain marijuana showing the location of walls, partitions, counters, and all areas of ingress and egress.

f. Such other documents and information reasonably required by the board to determine the applicant's suitability for permitting or to protect the public's health and safety.

7. The owner's managing officer and the pharmacist-in-charge shall be fully identified within the application and they both shall sign and date the application form.

8. The applicant shall direct the following persons to submit to the criminal history record check process used by the board, at the applicant's expense:

a. the owner's managing officer;

b. the pharmacist-in-charge; and

c. any person holding any share of ownership in the entity; provided however that any person not holding any share of ownership but holding a corporate officer position in the entity may be required to submit to the criminal history record check.

9. The requirement for a criminal history record check may be waived by the board in the event the person has already completed that process for the board within the two-year period prior to the date of the application.

10. The applicant shall supplement the application form with sufficient documentation of the applicant's financial capacity to properly operate a marijuana pharmacy,

including but not limited to, evidence of his escrow account, letter of credit, or surety bond of at least \$1,000,000 in a financial institution headquartered in Louisiana.

a. The pharmacy's \$1,000,000 escrow account, letter of credit, or surety bond shall be payable to the board in the event the board determines after a due process hearing that the pharmacy has failed to timely and successfully complete the construction of the pharmacy or to operate such pharmacy in compliance with the provisions of this Subchapter.

b. The board shall permit the pharmacy's escrow account, letter of credit, or surety bond to be reduced by \$250,000 upon the successful achievement of each of the following milestones:

i. a determination by the board that the pharmacy is fully operational and able to commence and has begun dispensing of marijuana as provided in this Subchapter;

ii. a determination by the board that the pharmacy remained operational and without substantial interruption and without any violation of law or regulation for a one-year period; and

iii. a determination by the board that the pharmacy remained operational and without substantial interruption and without any violation of law or regulation for a second one-year period;

iv. the pharmacy shall maintain the escrow account, letter of credit, or surety bond for a minimum of \$250,000 for the remainder of its operation.

c. In the event a pharmacy voluntarily chooses not to renew the pharmacy permit and follows proper closure procedures, the board shall extinguish the obligations under the escrow account, letter of credit, or surety bond at the end of the permit's term.

11. In the event any information contained in the application or accompanying documents changes after being submitted to the board, the applicant shall immediately notify the board in writing and provide corrected information in a timely manner so as not to disrupt the application processing or permit selection process.

12. The board may verify information contained in each application and accompanying documentation in order to assess the applicant's character and fitness to operate a marijuana pharmacy. The board may verify the information and assess the applicant's character and fitness by, among other actions:

a. contacting the applicant by telephone, electronic mail, mail, or such other means as is reasonable under the circumstances;

b. conducting one or more on-site visits of the location for the proposed marijuana pharmacy, or other pharmacies associated with the applicant or any of the applicant's owners;

c. conducting background checks or contacting references of the applicant, its managing officer, any of the corporate officers, or any shareholder, as well as the pharmacist-in-charge;

d. contacting state regulators in any other states where the applicant, the applicant's owners or corporate officers, or its pharmacist-in-charge are engaged in, or have sought to be engaged in, any aspect of that state's medical marijuana program; or

e. requiring a personal meeting with the owner's managing officer and the pharmacist-in-charge and the submission of additional information or documents.

13. The application shall be accompanied by payment of the permit fees and administrative hearing fee authorized by R.S. 37:1184 and 40:1013.

14. When the staff has determined an entity's application package is complete, the application shall be referred to the board's application review committee, and further, the applicant shall be properly notified at least 30 days prior to the committee's hearing during which their application will be considered.

15. During the hearing held by the board's application review committee, the members shall consider, but are not limited to, the following criteria when evaluating an application for a marijuana pharmacy permit:

a. the character and fitness of the owner's managing officer, the pharmacist-in-charge, any of the owners and any other person who may have control or influence over the operation of the proposed marijuana pharmacy;

b. the location for the proposed marijuana pharmacy including, but not limited to:

i. its proximity to previously approved marijuana pharmacies or locations of proposed marijuana pharmacies with pending applications;

ii. whether the patient population in the area proposed by the marijuana pharmacy permit applicant justifies the need for a marijuana pharmacy, or an additional marijuana pharmacy, in that area;

iii. whether the proximity of the proposed marijuana pharmacy will have a detrimental effect upon any place used primarily for religious worship, public or private school, convent, charitable institution, whether supported by private or public funds, hospital or veterans' home or any camp or military establishment; or

iv. whether the number of marijuana pharmacies in the locality is such that the granting of a permit is detrimental to the public interest. In reaching a conclusion in this respect, the board may consider the population of, the number of like permits and number of all permits existent in, the particular municipality and the immediate neighborhood concerned, the effect that a new permit may have on such town or neighborhood or on like permits existent in such municipality or neighborhood;

c. the applicant's ability to maintain adequate control against the diversion, theft and loss of marijuana;

d. the applicant's ability to maintain the knowledge, understanding, judgment, procedures, security controls and ethics to ensure optimal safety and accuracy in the dispensing and sale of marijuana; and

e. the extent to which the applicant or any of the applicant's owners have a financial interest in any other permittee, licensee, registrant, or other applicant currently or previously credentialed by the board; and

f. any other reason provided by any federal law or rule or state law or rule that is not inconsistent with the Act.

16. Following their evaluation of the applications for a marijuana pharmacy permit, the committee shall develop a recommendation for presentation to the board at the board's next meeting. The board may accept the committee's recommendation, select an alternative applicant, reject all of

the applicants, or return all the applicants to the committee for their reconsideration.

17. The board may disqualify any applicant who:

a. submits an incomplete, false, inaccurate, or misleading application;

b. fails to submit an application by the published deadline; or

c. fails to pay all applicable fees.

18. The decision of the board to award or not to award a marijuana pharmacy permit to an applicant shall be final.

19. Upon the approval of an application, the board shall issue the marijuana pharmacy permit and state controlled dangerous substance license to the applicant.

20. If an applicant has been awarded a marijuana pharmacy permit and has not commenced operation of such pharmacy within 180 days of being notified of the marijuana pharmacy permit award, the board may, in the board's discretion, rescind such marijuana pharmacy permit, unless such delay was caused by force majeure. A marijuana pharmacy shall be deemed to have commenced operation if the pharmacy is capable of operating in accordance with the applicant's approved application. In the event a marijuana pharmacy permit is rescinded pursuant to this subsection, the board shall award a marijuana pharmacy permit by selecting among the qualified applicants who applied for the marijuana pharmacy permit that was rescinded. If no other qualified applicant applied for such marijuana pharmacy permit or satisfied the criteria for awarding a permit, the board shall publish, in accordance with this Section, a notice of open applications for marijuana pharmacy permits.

B. Application for Renewal of Permit

1. All marijuana pharmacy permits expire at midnight on December 31 of every year, regardless of the date of its initial issuance.

2. The owner's managing officer and pharmacist-in-charge of the marijuana pharmacy permit shall complete, sign and date a permit renewal application form supplied by the board, and further, shall include all information requested on the form and include the pharmacy permit renewal fee and state controlled dangerous substance license renewal fee authorized in R.S. 37:1184 prior to the expiration of the pharmacy permit.

3. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fees.

4. In the event the pharmacy does not submit a properly completed renewal application form and fee to the board prior to the expiration of the permit, the permit shall be rendered null and void. A marijuana pharmacy shall not operate with an expired permit. Evidence it has done so will provide sufficient basis for the board to discipline the permit for violation of R.S. 37:1241(12).

5. An application for the late renewal of an expired (lapsed) marijuana pharmacy permit that is received in the board office no later than thirty days after the expiration date of the permit may be processed by the board staff, provided the appropriate delinquent fee authorized in R.S. 37:1184 is included with the application.

6. A marijuana pharmacy permit not renewed by thirty days after the expiration date shall be automatically terminated by the board.

7. An application for the reinstatement of a terminated marijuana pharmacy permit shall be referred to the board's reinstatement committee for its consideration.

C. Application for Reinstatement of Terminated, Suspended, or Revoked Marijuana Pharmacy Permits

1. The applicant shall complete an application form for this specific purpose supplied by the board; the application shall require the inclusion of the annual renewal fee, the delinquent fee, the administrative hearing fee, and the reinstatement fees authorized in R.S. 37:1184 and the program fee authorized in R.S. 40:1013.

2. An application for the reinstatement of a marijuana pharmacy permit previously terminated, suspended or revoked by the board may only be approved following a preliminary hearing to determine whether the reinstatement of the permit is in the public's best interest.

D. Maintenance of Marijuana Pharmacy Permit

1. A marijuana pharmacy permit is valid only for the entity or person to whom it is issued and shall not be subject to sale, assignment or other transfer, voluntary or involuntary, nor shall the permit be valid for any premises other than the business location recorded thereon.

2. A duplicate or replacement permit shall be issued upon the written request of the licensee and payment of the fee authorized in R.S. 37:1184. A duplicate or replacement license shall not serve or be used as an additional or second license.

3. Prior to any person affiliating with a marijuana pharmacy, including any change in the ownership of the permit, such person shall comply with the credentialing requirements of the board. No person shall commence their affiliation with a marijuana pharmacy until approved by the board.

4. Prior to making any change in the marijuana pharmacy's name or trade name, the owner of the permit shall notify the board and request approval of the contemplated name or trade name. The board shall reasonably accommodate such requests, unless there is cause not to do so (e.g., duplicative or misleading names). The marijuana pharmacy shall not change its name or trade name until approved by the board.

5. Prior to any modification, remodeling, expansion, reduction, other physical, non-cosmetic alteration of the marijuana pharmacy, the owner of the permit shall notify the board and request approval of the contemplated change(s). The board shall reasonably accommodate such request, unless there is cause not to do so (e.g., inconsistent with operating requirements). The marijuana pharmacy shall not make such changes until approved by the board.

6. Prior to any change in the location of a marijuana pharmacy, the owner of the permit shall submit an application form for that purpose supplied by the board and pay the appropriate fee authorized in R.S. 37:1184. The board may require an inspection of the new location prior to the issuance of the permit for the new location. No marijuana pharmacy shall commence operation in a new location until approved by the board.

7. The owner of the pharmacy permit shall notify the board no later than ten days following a change in the pharmacist-in-charge for the marijuana pharmacy permit.

8. The owner of the pharmacy permit shall notify the board no later than 10 days following a change in the

owner's managing officer for the marijuana pharmacy permit.

9. In the event a marijuana pharmacy contemplates permanent closure, the pharmacist-in-charge shall notify the board in accordance with the rules governing the permanent closure of a pharmacy as described in Chapter 11 of the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:

§2449. Marijuana Pharmacy Personnel; Therapeutic Marijuana Designation

A. No person shall be employed by, or affiliated with, a marijuana pharmacy prior to their eighteenth birthday.

B. The owner's managing officer and all persons holding a professional credential from the board shall first obtain a therapeutic marijuana (TM) designation from the board before affiliating with a marijuana pharmacy.

C. The board may issue a TM designation to a person who has filed the application for that designation supplied by the board and has completed a criminal background check for the board within the two year period prior to the date of the application for the TM designation, and that person:

1. has been listed as an owner's managing officer on an application for a marijuana pharmacy permit, or on a request to become a replacement owner's managing officer for an existing marijuana pharmacy permit; or

2. holds one of the following professional credentials issued by the board (pharmacist, pharmacy intern, or certified pharmacy technician) and further, that professional credential was issued by the board at least two years prior to the date of the application for the TM designation, is in active status and has not been disciplined by the board within the two-year period prior to the date of the application for the TM designation.

D. The board may restrict, suspend, or revoke a TM designation for cause, but only pursuant to the Administrative Procedure Act.

E. No pharmacist, pharmacy intern, or certified pharmacy technician may practice within a marijuana pharmacy in the absence of an active professional credential, an active TM designation, as well as access privileges to the state prescription monitoring program. A pharmacist may elect to not allow a pharmacy intern or pharmacy technician to function as his delegate with respect to access privileges to the state prescription monitoring program, but the pharmacist shall have such access. A pharmacy technician candidate shall not practice in a marijuana pharmacy.

F. A pharmacist shall first acquire a pharmacist-in-charge (PIC) privilege, as described in §1105 of the board's rules, and the TM designation, as described in this Section, before accepting an appointment as the PIC of a marijuana pharmacy.

1. The PIC of the marijuana pharmacy shall comply with the requirements of §1105 of the board's rules.

2. The PIC shall be responsible for notice to the board of all pharmacists, pharmacy interns, and pharmacy technicians practicing at the marijuana pharmacy. The PIC shall cause such notice to be received in the board office in written form (mail, fax, or electronic mail) no later than ten days after the arrival or departure of the pharmacist, pharmacy intern, or pharmacy technician.

G. The PIC shall insure and document the initial and continuing competency of the entire professional staff to provide the pharmacy care services rendered at the marijuana pharmacy. At a minimum, the PIC shall provide access to education and training in the following domains:

1. policies and procedures of the pharmacy, especially those relating to the tasks and functions that employee is expected to perform;

2. professional conduct, ethics, and patient confidentiality; and

3. developments in the therapeutic use of marijuana. Further, the PIC shall document such education and training, provide such records to the board when requested, and retain such records for at least two years after the employee disassociates with the pharmacy.

H. The PIC shall comply with the professional supervision rules and ratios found in Chapter 7 (pharmacy interns) and Chapter 9 (pharmacy technicians) of the board's rules.

I. In addition to the scope of practice limitations found in Chapter 9 of the board's rules, pharmacy technicians practicing in a marijuana pharmacy shall not:

1. consult with a patient or the patient's caregiver regarding marijuana or other drugs, either before or after marijuana has been dispensed, or regarding any medical information contained in a patient medication record;

2. consult with the physician who issued the recommendation/prescription/order for marijuana to the patient, or the physician's agent, regarding a patient or any medical information pertaining to the patient's marijuana or any other drug the patient may be taking;

3. interpret the patient's clinical data or provide medical advice;

4. perform professional consultations with physicians, nurses, or other health care professionals or their authorized agents; or

5. determine whether a different brand or formulation of marijuana should be dispensed for the marijuana product or formulation recommended/prescribed/ordered by the physician or requested by the patient or his caregiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:

§2451. Operation of Marijuana Pharmacy

A. No person may operate a marijuana pharmacy without a marijuana pharmacy permit issued by the board, and further, that permit shall be in active or restricted status. A pharmacist shall be on duty at all times during the regular open hours of the marijuana pharmacy.

B. A marijuana pharmacy shall not dispense marijuana from, obtain marijuana from, or transfer marijuana to, a location outside of the state of Louisiana.

C. A marijuana pharmacy shall not obtain, cultivate, deliver, transfer, transport, sell or dispense marijuana except:

1. it may acquire marijuana from an authorized producer pursuant to the provisions of R.S. 40:1046; and

2. it may dispense and sell marijuana to a patient with a recommendation/prescription/order for such marijuana or the patient's caregiver.

D. No person at a marijuana pharmacy shall provide marijuana samples.

E. A marijuana pharmacy shall sell marijuana products only in the original sealed containers or packaging as delivered by the producer, except that a pharmacist may remove the marijuana product from the producer's child-resistant container or package and place the marijuana product in a non-child-resistant, secure and light-resistant container upon a written request from the patient or caregiver so long as all original labeling is maintained with the product.

F. Only a pharmacist may dispense marijuana, and only a pharmacist, pharmacy intern, or pharmacy technician may sell marijuana to patients and caregivers. A pharmacy intern or pharmacy technician may assist, under the direct supervision of a pharmacist, in the dispensing of marijuana.

G. A marijuana pharmacy shall place all products sold to the patient or caregiver in an opaque package that shall not indicate the contents of the package, the originating facility or in any other way cause another person to believe that the package may contain marijuana.

H. A marijuana pharmacy shall not permit any person to enter the prescription department unless that person's responsibilities necessitate access to the department and then for only as long as necessary to perform the person's job duties.

I. While inside the pharmacy, all pharmacy employees shall wear name tags or similar forms of identification that clearly identify them to the public, including their position at the pharmacy.

J. A marijuana pharmacy shall be open for qualifying patients and primary caregivers to purchase marijuana products for a minimum of 10 hours per week.

1. A marijuana pharmacy that closes during its normal hours of operation shall implement procedures to notify patients and caregivers of when the marijuana pharmacy will resume normal hours of operation. Such procedures may include, but are not limited to, telephone system messages and conspicuously posted signs.

2. In the event the pharmacist on duty leaves the prescription department, the prescription department shall comply with the provisions of §1109 (temporary absence) or §1111 (closure) of the board's rules.

K. A marijuana pharmacy shall provide information to patients and caregivers regarding the possession and use of marijuana. Such informational material shall include information related to:

1. limitations on the right to possess and use marijuana pursuant to R.S. 40:1046;

2. safe techniques for proper use of marijuana and paraphernalia;

3. alternative methods and forms of consumption by which one can use marijuana;

4. signs and symptoms of substance abuse; and

5. opportunities to participate in substance abuse programs.

L. The marijuana pharmacy shall establish, implement and adhere to a written alcohol-free, drug-free and smoke-free work place policy, which shall be available to the board upon request.

M. The receipt of all deliveries from producers shall be carried out under the direct supervision of a pharmacist who shall be present to accept the delivery. Upon delivery, the marijuana shall immediately be placed in an approved safe or approved vault within the pharmacy where marijuana is stored.

N. No marijuana pharmacy shall sell anything other than marijuana products; however, the pharmacy may elect to sell over-the-counter (OTC) medications and/or durable medical equipment (DME) from the same premises but outside the prescription department.

O. No marijuana shall be administered on the premises of a marijuana pharmacy, except during patient counseling, education or training.

P. No person associated with a marijuana pharmacy shall enter into any agreement with a physician or health care facility concerning the provision of services or equipment that may adversely affect any person's freedom to choose the marijuana pharmacy at which the patient or caregiver will purchase marijuana.

Q. No marijuana shall be sold, dispensed or distributed via a delivery service or any other manner outside of a marijuana pharmacy, except that a caregiver may deliver marijuana to the caregiver's patient.

R. No marijuana shall be sold when the marijuana pharmacy is closed and not open for business.

S. Board representatives, local law enforcement or other federal, state or local government officials may enter any area of a marijuana pharmacy if necessary to perform their governmental duties.

T. Right of inspection. The board, or its agent, representative, or designee, is authorized:

1. to enter a marijuana pharmacy at any time during its hours of operation, or any other place, including a vehicle, wherein marijuana is held, dispensed, sold, or otherwise disposed of;

2. to inspect within reasonable limits and in a reasonable manner, such place and all pertinent equipment, finished and unfinished material, containers and labeling, and all things therein, including records, files, financial data, sales data, shipping data, pricing data, employee data, research, papers, processes, controls and facilities; and

3. to inventory any stock of marijuana therein and obtain samples of any marijuana or marijuana product, any labels or containers for marijuana, paraphernalia, and of any finished and unfinished material.

U. Inspection of Records. Every person required to prepare, obtain or keep records, logs, reports or other documents, and every person in charge, or having custody, of such documents shall maintain such documents in an auditable format for no less than two years. Upon request, such person shall make such documents immediately available for inspection and copying by the board or its authorized representative. In complying with this Section, no person shall use a foreign language or codes or symbols to designate marijuana types or persons in the keeping of any required document.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:

§2453. Security Requirements for Marijuana Pharmacies

A. A marijuana pharmacy shall:

1. store all marijuana in an approved safe or vault, as defined in this Subchapter, and in such a manner as to prevent diversion, theft, or loss;

2. maintain all marijuana in a secure area or location accessible only to specifically authorized employees, which shall include only the minimum number of employees essential for efficient operation;

3. not permit any person less than eighteen years of age to enter the prescription department, with the exception of patients being counseled by the pharmacist;

4. keep all approved safes and vaults securely locked and protected from entry, except for the actual time required to remove or replace marijuana;

5. keep all locks and security equipment in good working order;

6. not allow keys to be left in the locks and not store or place keys in a location accessible to persons other than specifically authorized employees;

7. not allow other security measures, such as combination numbers, passwords or electronic or biometric security systems, to be accessible to persons other than specifically authorized employees;

8. keep the pharmacy securely locked and protected from entry by unauthorized employees;

9. keep the outside perimeter of the pharmacy premises well-lit; and

10. post a sign at all entry ways into any area of the pharmacy containing marijuana, including a room with an approved safe or vault, which sign shall be a minimum of 12 inches in height and 12 inches in width which shall state: "Do Not Enter—Limited Access Area—Access Limited to Authorized Employees Only" in lettering no smaller than 1/2 inch in height.

B. All pharmacies shall have an adequate security system to prevent and detect diversion, theft or loss of marijuana utilizing commercial grade equipment, which shall include at a minimum:

1. a perimeter alarm;

2. motion detector;

3. video cameras in all areas that may contain marijuana and at all points of entry and exit, which shall be appropriate for the normal lighting conditions of the area under surveillance. The pharmacy shall direct cameras at all approved safes and vaults, dispensing areas, marijuana sales areas and any other area where marijuana is being stored or handled. At entry and exit points, the pharmacy shall angle cameras so as to allow for the capture of clear and certain identification of any person entering or exiting the pharmacy;

4. 24-hour recordings from all video cameras, which the pharmacy shall make available for immediate viewing by the board or its authorized representative upon request and shall retain for at least 30 days. If a pharmacy is aware of a pending criminal, civil, or administrative investigation or legal proceeding for which a recording may contain relevant information, the pharmacy shall retain an unaltered copy of the recording until the investigation or proceeding is closed

or the entity conducting the investigation or proceeding notifies the pharmacy that it is not necessary to retain the recording:

a. all video recordings shall allow for the exporting of still images in an industry standard image format, including .jpg, .bmp, and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that can be played on a standard computer operating system. A pharmacy shall erase all recordings prior to disposal or sale of the pharmacy;

5. *duress alarm*, which for purposes of this Subsection means a silent security alarm system signal generated by the entry of a designated code in into an arming station in order to signal that the alarm user is being forced to turn off the system.

6. *panic alarm*, which for purposes of this Subsection means an audible security alarm system signal generated by the manual activation of a device intended to signal a life-threatening or emergency situation requiring a law enforcement response;

7. *holdup alarm*, which for purposes of this Subsection means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress;

8. *automatic voice dialer*, which for purposes of this Subsection means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system, to a law enforcement, public safety or emergency services agency requesting dispatch;

9. a failure notification system that provides an audible, text or visual notification of any failure in the surveillance system. The failure notification system shall provide an alert to the pharmacy within five minutes of the failure, either by telephone, email, or text message;

10. the ability to immediately produce a clear color still photo that is a minimum of 9600 dpi from any camera image (live or recorded);

11. a date and time stamp embedded on all recordings. The date and time shall be synchronized and set correctly and shall not significantly obscure the picture; and

12. the ability to remain operational during a power outage.

C. A pharmacy shall maintain all security system equipment and recordings in a secure location so as to prevent theft, loss, destruction, or alterations.

1. A pharmacy shall keep all on-site surveillance rooms locked and shall not use such rooms for any other function.

2. A pharmacy shall limit access to surveillance areas to persons that are essential to surveillance operations, law enforcement agencies, security system service employees, and the board's authorized representative.

3. A pharmacy shall make available to the board upon request a current list of authorized employees and service employees that have access to the surveillance room.

D. A pharmacy shall keep all security equipment in good working order and shall test such equipment no less than two times per year.

E. When a pharmacy presents special security issues, such as an extremely large stock of marijuana, exposed handling or unusual vulnerability to, or actual, diversion, theft or loss, the board may require additional safeguards, including but not limited to, a supervised watchman service.

F. Any marijuana not stored in compliance with this Section, or stored at a location other than that for which the pharmacy permit was issued, shall be subject to embargo or seizure by the board.

G. In the event any marijuana pharmacy permit is revoked, suspended, or not renewed, the pharmacy shall dispose of its entire stock of marijuana in accordance with the disposal provisions in this Subchapter.

H. If a pharmacy has provided other safeguards which can be regarded in total as an adequate substitute for some element of protection required of the pharmacy, such added protection may be taken into account by the board in evaluating overall required security measures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:

§2455. Reportable Security Events

A. Upon becoming aware of discrepancies identified during inventory, diversion, theft, loss, or unauthorized destruction of any marijuana, or of any loss or unauthorized alteration of records related to marijuana or patients, a pharmacy shall immediately notify:

1. appropriate law enforcement authorities; and
2. the board.

B. A pharmacy shall provide the written notice to the board by way of a signed statement which details the circumstances of the event, including an accurate inventory of the quantity and brand names of the marijuana diverted, stolen, lost, destroyed, or damaged, along with confirmation that the local law enforcement authorities were notified. A pharmacy shall make such notice no later than 24 hours after discovery of the event.

C. A pharmacy shall notify the board no later than the next business day, followed by written notification no later than 10 business days, of any of the following:

1. an alarm activation or other event that requires response by public safety personnel;
2. a breach of security;
3. the failure of the security alarm system due to a loss of electrical support or mechanical malfunction that is expected to last longer than eight hours; and
4. corrective measures taken, if any.

D. A pharmacy shall maintain and shall make available all documentation related to an occurrence that is reportable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:

§2457. Standards of Practice

A. Environmental Standards

1. The prescription department shall be of sufficient size commensurate with the nature and scope of practice.

The space occupied by the prescription department shall be restricted to authorized personnel only, as determined by the pharmacist-in-charge, and shall not be accessible to the general public.

2. The prescription department shall contain sufficient fixtures, equipment, and supplies commensurate with the nature and scope of practice for that pharmacy.

3. The prescription department shall include a sink with a hot and cold water supply, exclusive of restroom facilities, with approved sewage disposal.

4. All areas where drugs and devices are stored shall be dry, well-lighted, well-ventilated, and maintained at temperatures which will ensure the integrity of drugs during their storage and prior to their dispensing as stipulated by the United States Pharmacopeia and/or manufacturer's or distributor's product labeling unless otherwise indicated by the board.

5. The prescription department shall be secured by one or more physical barriers with suitable locks and a monitored alarm system capable of detecting unauthorized entry, and further, complies with security requirements identified elsewhere in this Subchapter.

6. Prescription and other patient healthcare information shall be maintained in a manner that protects the integrity and confidentiality of such information.

B. Minimum Staffing Requirements

1. There shall be at least one pharmacist on duty at all times the pharmacy is open for business.

2. Every pharmacist practicing in the pharmacy shall possess a Louisiana pharmacist license in active status, a therapeutic marijuana designation, and access privileges to the state prescription monitoring program.

3. A pharmacy intern may assist the pharmacist in the prescription department, but only when in possession of a Louisiana pharmacy intern registration in active status as well as a therapeutic marijuana designation. The supervising pharmacist may establish a delegate credential for the pharmacy intern in the state prescription monitoring program.

4. A pharmacy technician may assist the pharmacist in the prescription department, but only when in possession of a Louisiana pharmacy technician certificate in active status as well as a therapeutic marijuana designation. The supervising pharmacist may establish a delegate credential for the pharmacy technician in the state prescription monitoring program.

5. No pharmacy technician candidate may practice in a marijuana pharmacy.

6. Additional clerical personnel may also be present at the pharmacy.

C. Operational Standards

1. The marijuana pharmacy shall comply with the provisions of Chapters 11, 25, 27, 29, and 31 of the board's rules except when this Subchapter grants exceptions or imposes more stringent requirements.

2. In the event the marijuana pharmacy intends to close permanently, the pharmacist-in-charge (PIC) shall comply with the pharmacy closure procedures described in Chapter 11 of the board's rules, and further, the owner of the pharmacy permit shall not prevent or interfere with the PIC's performance of those tasks.

a. In addition to the other closure requirements, the closing pharmacy shall include in its notice to the board and to the public the identification of the destination pharmacy where the closing pharmacy's prescription records will be transferred. That destination pharmacy shall be the marijuana pharmacy nearest the closing pharmacy, unless otherwise approved by the board.

D. Recordkeeping Requirements

1. Prescription/Recommendation/Order (hereinafter, "Request") for Marijuana

a. The pharmacy shall not accept a verbal request.

b. In the event the pharmacy receives a request in written form by facsimile, the pharmacy may begin the preparation of the product to be dispensed, but the pharmacist shall not dispense the product until the original form of the request is delivered to him in the pharmacy and he has compared it to the product prepared for dispensing.

c. The written request shall bear the manual signature of the authorized prescriber. No other form of signature shall be valid, including (but not limited to) stamps, computer generated signatures, or signatures of anyone other than the authorized prescriber.

d. A request generated, signed, and transmitted in electronic format which is compliant with the standards for electronic prescribing of controlled substances identified in 21 CFR 1311 (or its successor) shall be construed as a validly formatted request.

2. When the pharmacy receives a request for marijuana from an authorized prescriber in written form, the pharmacist shall cause the form to be scanned and filed using an electronic imaging system in compliance with §1123 of the board's rules.

3. Request forms (and electronic images thereof) shall be retained on the pharmacy's premises for at least two years after the date of dispensing, and further, shall be readily retrievable upon request by the board.

4. Inventory of Marijuana Product

a. The pharmacist-in-charge shall develop and maintain a perpetual inventory of all marijuana products acquired, held, dispensed, and disposed by the pharmacy.

b. The pharmacy shall access the LMMTS and enter all inventory-related transactions in that system.

c. In the event the pharmacist-in-charge designates an agent to retrieve new marijuana product inventory from the production facility, the pharmacist shall verify the agent is at least 21 years of age and is eligible to drive on public roadways.

d. The pharmacist-in-charge shall conduct an annual inventory of all marijuana products in the possession of the pharmacy on any date which is within one year of the previous annual inventory, and further, shall conduct additional inventory counts on the following occasions:

i. arrival of a new pharmacist-in-charge;

ii. discovery of any significant loss, disappearance, or theft of marijuana product;

iii. departure of a pharmacist-in-charge; and

iv. permanent closure of the pharmacy.

e. Inventory records shall be retained on the pharmacy's premises for at least two years after the most recent entry.

5. The pharmacy shall develop and maintain sufficient records to fully reveal the business transactions related to marijuana products, including their procurement and sale, for the current tax year as well as the two immediately preceding tax years, all of which shall be made available to the board upon request.

6. The board may require any pharmacy or its owners to furnish such information as the board considers necessary for the proper administration of R.S. 40:1046, and may require a financial audit of the business of any marijuana pharmacy, and the expense thereof shall be paid by the marijuana pharmacy.

E. Professional Practice Standards

1. Prior to dispensing any marijuana product to a patient, the pharmacist shall review that patient's records in the state prescription monitoring program. The pharmacist shall resolve any concerns identified in that review by consultation with the recommending physician.

2. Labeling of Marijuana Product Dispensed

a. The pharmacist shall not dispense any marijuana product that does not bear the producer label required by the LDAF, and further, the pharmacy dispensing label shall not overlay or obscure the producer label in any way.

b. The pharmacy's dispensing label shall contain, at a minimum, the following data elements:

- i. name and address of the pharmacy dispensing the product;
- ii. telephone number or other contact information of the pharmacy dispensing the product;
- iii. name of the authorized prescriber;
- iv. name of the patient;
- v. date the product was dispensed;
- vi. prescription number, which shall be a unique identifier for that specific transaction;
- vii. name of the marijuana product, including any concentration, strength, or other identifiers of the marijuana product;
- viii. quantity of marijuana dispensed;
- ix. directions for use of the product as included in the prescriber's request;
- x. expiration date of the product, which shall not exceed the expiration date determined by the producer of the product; and
- xi. other information selected by the dispensing pharmacist to inform the patient as to the best use of the product for the intended purpose.

3. The pharmacist shall perform prospective drug utilization review and shall counsel every patient receiving marijuana product every time it is dispensed, in compliance with the rules on drug utilization review and patient counseling in Chapter 5 of the board's rules.

4. Reporting transactions to state prescription monitoring program. The pharmacy shall comply with the reporting requirements as found in Chapter 29 of the board's rules.

5. Disposal of Marijuana Product.

a. A pharmacy may refuse to accept the delivery of marijuana product from a producer when it is determined to be misbranded, adulterated, expired, deteriorated, undesired, excess, unauthorized, or unfit for dispensing; however, once accepted by the pharmacy, no marijuana product may be returned to any producer.

b. When the pharmacist determines a marijuana product is no longer suitable for dispensing, the product shall be removed from active dispensing stock and quarantined in the pharmacy pending its disposal, and further, the removal from active dispensing stock shall be recorded in the LMMTS.

c. The pharmacist-in-charge shall render the waste unusable by grinding and incorporating the waste with other ground materials so the resulting mixture is at least 50% non-marijuana waste by volume. Material used to grind with the waste may include:

- i. yard waste;
- ii. paper waste;
- iii. cardboard waste;
- iv. plastic waste; or
- v. soil or sand.

d. Waste shall be rendered unusable prior to leaving the pharmacy. Waste rendered unusable shall be disposed of by delivery to an approved solid waste facility for final disposition.

i. Examples of acceptable permitted solid waste facilities include:

- (a). compost; anaerobic digester;
- (b). landfill, incinerator; or
- (c). waste-to-energy facility.

e. The pharmacist-in-charge shall prepare a record of each disposal, and that record shall contain, at a minimum, the following information:

- i. brand name and other specific identifiers of the marijuana product disposed;
- ii. quantity of product disposed;
- iii. manner of disposal; and
- iv. signatures of the pharmacist-in-charge disposing the product plus at least one witness who is either a credentialed staff member of that pharmacy or an agent of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:

§2459. Advertising

A. The marijuana pharmacy shall not advertise through any public medium, including but not limited to newspapers, billboards, television, radio, internet, social media, or any other means designed to market its products to the general public.

B. The marijuana pharmacy may market its products through direct mail, brochures, or other means to Louisiana-licensed physicians, but only when such advertising is directed solely to the practitioner and is not available to the general public.

C. Any advertisement permitted in Subsection B of this Section shall not:

1. make any deceptive, false, or misleading assertions or statements regarding any product; or
2. assert that its products are safe because they are regulated by LDAF or the board. The pharmacy may advertise that its products have been tested by an approved laboratory, but shall not assert that its products are safe because they are tested by an approved laboratory.

D. The marijuana pharmacy may attach a maximum of two separate signs to the exterior of the building which

identify the business by its business or trade name, provided that neither sign exceeds the size limit of 1,600 square inches.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:

Family Impact Statement

In accordance with section 953 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.

1. The effect on the stability of the family. We anticipate no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. We anticipate no effect on the functioning of the family.

4. The effect on family earnings and family budget. We anticipate no effect on family earnings and the family budget.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. We anticipate no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

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, repeal, or amendment.

1. The effect on household income, assets, and financial security. We anticipate no impact on household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. We anticipate no impact on early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. We anticipate no impact on employment and workforce development.

4. The effect on taxes and tax credits. We anticipate no impact on taxes or tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. We anticipate no impact on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with section 965 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses.

1. The establishment of less stringent compliance or reporting requirements for small businesses. The proposed

rule does not exempt small businesses from compliance with any of the requirements.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. The reporting deadlines are the same for all marijuana pharmacies.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. The reporting requirements are the same for all marijuana pharmacies.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed rule. There are minimal design standards in the proposed rule.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate no impact on the total direct and indirect effect on the cost to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule. The deadline for the receipt of all comments is 4 p.m. that same day.

Public Hearing

A public hearing on this proposed rule is scheduled for Thursday, March 2, 2017 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing.

Malcolm J. Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Marijuana Pharmacy

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation costs to the Louisiana Board of Pharmacy are approximately \$5,000 (\$2,500 in FY 17 and \$2,500 in FY 18) for the notice and rule publication costs.

There are no estimated implementation savings to the state or local government units through promulgation of the proposed rule change. The proposed rule establishes standards for the testing, labeling, and packaging of marijuana products, and for the dispensing of those products in pharmacies licensed by the Board. Any additional costs to the Board of Pharmacy associated with inspections are anticipated to be absorbed using current resources.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The anticipated revenue collections by the Board of Pharmacy from marijuana permits is \$1,750 per year. The proposed rule states no more than ten marijuana pharmacy permits can be active at any given time. The credential renewal fees for a pharmacy total \$175 per pharmacy per year, therefore, the Board estimates a maximum receipt of approximately \$1,750 per year. To the extent these marijuana pharmacies are required to pay sales taxes or municipal licensing fees, there may be an indeterminable amount of sales tax revenue and municipal licensing fees collected by governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The persons directly affected by the proposed rule are those persons/businesses selected to open and operate a marijuana pharmacy. The security requirements for these marijuana pharmacies have been enhanced compared to other pharmacies. However, the minimum facility square foot requirement for marijuana pharmacies can be less than the 300 square foot requirement that governs other pharmacies. Any cost associated with these requirements will have to be absorbed by the persons/businesses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since marijuana products may only be dispensed in specially licensed pharmacies, those pharmacies will not be in competition with other pharmacies. To the extent the marijuana pharmacy hires personnel to administer and staff its operations, there may be a positive impact on the local employment rate.

Malcolm J. Broussard
Executive Director
1701#033

Evan Brousseau
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Pharmacy**

Pharmacy Technicians (LAC 46:LIII.Chapter 9)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend Chapter 9, Pharmacy Technicians, of its rules. In particular, the board proposes to require pharmacy technician candidates demonstrate proof of enrollment in a training program to qualify for the pharmacy technician candidate registration. Further, the proposed Rule requires the training program selected by the pharmacy technician candidate to be accredited by a national accreditation organization approved by the board. The proposed Rule also requires the applicant for a pharmacy technician certificate to demonstrate successful completion of a nationally-accredited pharmacy

technician training program. Finally, the proposed Rule offers technical changes relative to records of continuing education as well as to the scope of practice for pharmacy technicians.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 9. Pharmacy Technicians

§901. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.

* * *

CPE Monitor—a collaborative service from the National Association of Boards of Pharmacy (NABP) and the Accreditation Council for Pharmacy Education (ACPE) that provides an electronic system for pharmacists and pharmacy technicians to record and track their completed CPE activities.

* * *

Pharmacy Technician Candidate—an individual, registered by the board, training to become a pharmacy technician, who assists in the practice of pharmacy under the direct and immediate supervision of a Louisiana-licensed pharmacist.

Training Program—a pharmacy technician training program that is currently nationally-accredited and has been approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2485 (November 2004), effective January 1, 2005, amended LR 39:1777 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 43:

§903. Pharmacy Technician Candidates

A. Registration

1. All pharmacy technician candidates shall obtain a registration from the board prior to performing any professional functions in a pharmacy; failure to do so may result in disciplinary action by the board.

2. Qualifications

a. The applicant shall be at least 18 years of age, as evidenced by a valid and legible copy of a birth certificate or other appropriate credential.

b. The applicant shall be of good moral character and non-impaired.

c. The applicant shall satisfy one of the following eligibility criteria:

i. proof of enrollment in a nationally-accredited and board-approved pharmacy technician training program; or

ii. proof of successful completion of the board-approved technician certification examination, and further, proof of successful completion of a high school approved by a state department of education or an equivalent degree of education, as evidenced by a valid and legible copy of a diploma, transcript, or other appropriate credential; or

iii. proof of credentialing as a pharmacy technician by another state board of pharmacy as well as evidence of practice as a pharmacy technician for at least one year in that state, and further, proof of successful completion of the board-approved technician certification examination.

d. Exceptions

i. A pharmacist or pharmacist intern whose board credential has been denied, suspended, revoked, or restricted for disciplinary reasons by any board of pharmacy shall not be a pharmacy technician candidate or pharmacy technician.

ii. A pharmacist or pharmacist intern whose board credential is lapsed shall not be a pharmacy technician candidate or pharmacy technician until such lapsed credential is recalled through non-disciplinary board action.

3. Issuance and Maintenance

a. - b. ...

c. The registration shall expire 24 months after the date of issuance, and it shall not be renewable.

d. - e. ...

B. Training Programs

1. All training programs approved by the board shall maintain their national accreditation.

2. The training program shall notify the board when a pharmacy technician candidate is no longer satisfactorily progressing in the program. Evidence of a program's failure to comply with this Rule shall constitute sufficient basis for the withdrawal of the board's approval for the program.

3. The training program shall provide an appropriate credential to the pharmacy technician candidate who has successfully completed the program, provided, however, that such credential shall not be formatted in such a manner to lead anyone to believe that credential resembles a document providing legal authority to practice as a pharmacy technician.

C. Practical Experience

1. The candidate shall possess a registration prior to performing any permitted professional function or earning any practical experience in a pharmacy.

2. The candidate shall wear appropriate attire and be properly identified as to name and candidate status while on duty in the prescription department.

3. A candidate shall not work in a permitted site that is on probation with the board, or with a pharmacist who is on probation with the board.

4. The candidate's registration shall evidence his authority to earn practical experience in a pharmacy, under the supervision of a pharmacist, in satisfaction of the requirements for pharmacy technician certification.

a. In the event the registration was issued to an applicant enrolled in a nationally-accredited and board-approved training program, the candidate shall earn the amount of experience prescribed by the curriculum of that program; or

b. In the event the registration was issued to an applicant by any other method, the candidate shall earn at least 600 hours of practical experience in a pharmacy in Louisiana, provided however, that a candidate may receive board credit for a maximum of 50 hours per week.

5. Hours of practical experience earned by a candidate shall expire two years after the expiration date of the registration.

D. Examination

1. A board-approved technician examination shall consist of integrated pharmacy subject matter and any other disciplines the board may deem appropriate in order to permit the candidate to demonstrate his competency. The

candidate shall achieve a passing score, as determined by the board.

2. Re-Examination

a. Following the first or second unsuccessful attempt of an examination, the candidate may be permitted to retake that examination.

b. Following the third unsuccessful attempt of an examination, the candidate shall wait one year after the date of the last examination to retake that examination. If the candidate fails to wait the prescribed one-year period, the board may delay any future certification until that one-year period has elapsed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, repromulgated LR 19:1025 (August 1993), amended LR 23:1307 (October 1997), LR 30:2485 (November 2004), effective January 1, 2005, LR 39:1777 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 43:

§905. Pharmacy Technician Certificate

A. Qualifications

1. - 2. ...

3. An applicant shall demonstrate one of the following educational competencies.

a. In the event the applicant obtained their technician candidate registration on the basis of their enrollment in a nationally-accredited and board-approved pharmacy technician training program, the applicant shall demonstrate successful completion of that training program, or in the alternative, another nationally-accredited and board-approved pharmacy technician training program.

b. In the event the applicant obtained their technician candidate registration by any other method, the applicant shall demonstrate the acquisition of at least 600 hours of practical experience under the supervision of a pharmacist, using a form supplied by the board.

4. An applicant shall demonstrate successful completion of a board-approved technician examination, as evidenced by a valid and legible copy of the appropriate credential.

B. Issuance and Maintenance

1. Upon receipt of a properly completed application, copies of valid and legible credentials, the appropriate fee, and any other documentation required by the board, and following verification that all requirements have been satisfied, the board may issue a pharmacy technician certificate to the applicant for the current renewal period.

2. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, repromulgated LR 19:1025 (August 1993), LR 30:2486 (November 2004), effective January 1, 2005, amended LR 38:1235 (May 2012), amended LR 39:1777 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 43:

§907. Scope of Practice

A. - B.5. ...

C. Pharmacy technicians shall not:

1. - 2. ...

3. counsel patients.

AUTHORITY NOTE Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2486 (November 2004), effective January 1, 2005, amended LR 32:1049 (June 2006), amended by the Department of Health, Board of Pharmacy, LR 43:

§909. Continuing Education

A. ...

B. Certified pharmacy technicians shall maintain copies of their individual records of personal CPE activities with CPE monitor and shall authorize the board's access to their file by recording their Louisiana pharmacy technician certificate number within that file, and shall present a copy of their CPE monitor transcript when requested by the board.

C. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 17:779 (August 1991), repromulgated LR 19:1025 (August 1993), amended LR 23:1308 (October 1997), LR 30:2487 (November 2004), effective January 1, 2005, amended LR 39:1778 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 43:

Family Impact Statement

In accordance with section 953 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.

1. The effect on the stability of the family. We anticipate no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. We anticipate no effect on the functioning of the family.

4. The effect on family earnings and family budget. We anticipate no effect on family earnings and the family budget.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. We anticipate no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

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, repeal, or amendment.

1. The effect on household income, assets, and financial security. We anticipate no impact on household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. We anticipate no impact on early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. We anticipate no impact on employment and workforce development.

4. The effect on taxes and tax credits. We anticipate no impact on taxes or tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. We anticipate no impact on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with section 965 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The establishment of less stringent compliance or reporting requirements for small businesses. The proposed Rule does not contain any reporting requirements for businesses.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no reporting deadlines for businesses in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements for businesses in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. There are no design or operational standards required in the proposed Rule.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate no impact on the total direct and indirect effect on the cost to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA

70809-1700. He is responsible for responding to inquiries regarding this proposed Rule. The deadline for the receipt of all comments is 12 p.m. that same day.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, March 1, 2017 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing.

Malcolm J. Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pharmacy Technicians**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation costs to the Louisiana Board of Pharmacy are approximately \$1,500 (\$750 in FY 17 and \$750 in FY 18) for the notice and rule publication costs. There are no estimated implementation savings to the state or local government units through promulgation of the proposed rule. The proposed rule change will require pharmacy technicians to complete a nationally-accredited and board-approved pharmacy technician training program to qualify for their pharmacy technician certificate.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated impact on revenue collections of the Board of Pharmacy. To the extent candidates receive this training at public higher education institutions, these institutions may receive an indeterminable amount of additional revenue.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is anticipated to affect persons who seek to become pharmacy technicians. The estimated cost to these candidates will depend on the training program that is available to the candidate. Pharmacy technician candidates will be required to enroll in and complete a nationally-accredited pharmacy technician training program in order to qualify for their pharmacy technician certificate. The currently nationally-accredited training programs are found in many universities, community colleges, technical colleges, and proprietary schools. The estimated cost for these programs ranges from \$1,200 to over \$15,000 depending on the institution. However, there are national chain pharmacies that have internal accredited training programs that do not charge tuition to the students and students can earn income while attending school.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may have an initial slowing effect on the number of pharmacy technician candidates. However, the accredited educational programs should help a greater percentage of candidates pass the national certification examination and increase the number of pharmacy technicians available for employment.

Malcolm J. Broussard
Executive Director
1701#030

Evan Brousseau
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Pharmacy**

Reinstatement of CDS License
(LAC 46:LIII.2707)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend §2707.C.4 of its rules. The amended Rule will streamline the process for the reinstatement of controlled dangerous substance (CDS) licenses for those medical practitioners whose primary professional licenses have been disciplined.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 27. Controlled Dangerous Substances

Subchapter B. Licenses

§2707. Licensing Procedures

A. - C.3. ...

4. An application for the reinstatement of a CDS license for a pharmacy which was suspended or revoked by the board may only be approved by the full board following a hearing to determine whether the reinstatement of the license is in the public's best interest. For all other CDS licenses, the reinstatement may be approved by the joint consent of the chair of the reinstatement committee and the board president without the necessity of a hearing; when such approvals are issued, staff shall prepare a reinstatement order for the president's signature.

C.5. - D.5.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2131 (October 2008), amended LR 43:

Family Impact Statement

In accordance with section 953 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.

1. The effect on the stability of the family. We anticipate no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. We anticipate no effect on the functioning of the family.

4. The effect on family earnings and family budget. We anticipate no effect on family earnings and the family budget.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. We

anticipate no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

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, repeal, or amendment.

1. The effect on household income, assets, and financial security. We anticipate no impact on household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. We anticipate no impact on early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. We anticipate no impact on employment and workforce development.

4. The effect on taxes and tax credits. We anticipate no impact on taxes or tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. We anticipate no impact on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with section 965 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The establishment of less stringent compliance or reporting requirements for small businesses. The proposed Rule does not contain any reporting requirements for businesses.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no reporting deadlines for businesses in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements for businesses in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. There are no design or operational standards required in the proposed Rule.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service.

We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate no impact on the total direct and indirect effect on the cost to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule. The deadline for the receipt of all comments is 12 p.m. that same day

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, March 1, 2017 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing.

Malcolm J. Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Reinstatement of CDS License

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation costs to the Louisiana Board of Pharmacy are approximately \$500 for the notice and rule publication costs. There are no estimated implementation savings to the state or local government units through promulgation of the proposed rule change. The proposed rule change will allow the board to streamline the current process for the reinstatement of a controlled dangerous substance (CDS) license of a medical practitioner who was disciplined by the primary licensing agency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections of state or local governmental units from the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is anticipated to affect medical practitioners holding a controlled dangerous substance (CDS) license from the board who were disciplined by their primary professional licensing agency. The proposed rule change will streamline the reinstatement process by allowing the board's leadership to waive the currently required hearing and authorize the reinstatement of the CDS license.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no impact on competition or employment.

Malcolm J. Broussard
Executive Director
1701#032

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Standing Orders for Distribution of Naloxone (LAC 46:LIII.2541)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to add §2541 to its rules. As authorized by Act 370 of the 2016 Legislature, the proposed Rule will authorize pharmacists to distribute naloxone and other opioid antagonists pursuant to non-patient specific standing orders issued by any medical practitioner with prescriptive authority for naloxone.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter D. Prescription Drugs

§2541. Standing Orders for Distribution of Naloxone and Other Opioid Antagonists

A. Given the current public health emergency relative to the misuse and abuse of opioid derivatives, public health officials have strongly recommended the widespread availability of naloxone and other opioid antagonists to addicts and their caregivers as well as first responders in the community.

B. For as long as naloxone and other opioid antagonists remain classified as prescription drugs by the federal Food and Drug Administration, pharmacists must secure a prescription or order from a prescriber with the legal authority to prescribe the drug product in order to dispense or distribute the drug product.

C. The Louisiana Legislature has adopted a number of laws designed to facilitate the distribution and dispensing of naloxone and other opioid antagonists beyond the person who would need the medication on an emergent basis to manage an opioid-related drug overdose, more specifically to first responders as well as caregivers and family and friends of potential patients.

1. Act 253 of the 2014 Legislature authorized prescribers to issue prescriptions for naloxone and other opioid antagonists to first responders, and further, authorized pharmacists to recognize such prescriptions as legitimate orders for the dispensing and distribution of naloxone and other opioid antagonist drug products, and further, authorized first responders to have and hold those drug products ready for administration in emergent conditions to manage opioid-related drug overdoses.

2. Act 192 of the 2015 Legislature authorized medical practitioners to prescribe naloxone or another opioid antagonist without having previously examined the individual to whom the medication would be administered, but only under certain conditions specified in the legislation, including the requirement for the prescriber to provide the recipient of the drug with all training and education required for the safe and proper administration of the drug product.

3. Act 370 of the 2016 Legislature authorized medical practitioners to issue nonpatient-specific standing orders to

pharmacists authorizing the distribution of naloxone and other opioid antagonists to anyone who might be in a position to assist a patient in the emergent management of an opioid-related drug overdose, but only in compliance with these rules.

a. A nonpatient-specific standing order for the facilitated distribution of naloxone or other opioid antagonist issued by a medical practitioner licensed by the state of Louisiana shall expire one year after the date of issuance.

b. A Louisiana-licensed pharmacist may distribute naloxone or other opioid antagonist according to the terms of the nonpatient-specific standing order issued by a Louisiana-licensed medical practitioner until the expiration date of the standing order. No pharmacist shall distribute naloxone or other opioid antagonist pursuant to a standing order more than one year after the date of issuance of the standing order.

c. Before releasing the naloxone or other opioid antagonist drug product to the recipient, the pharmacist shall verify the recipient's knowledge and understanding of the proper use of the drug product, including, at a minimum:

i. techniques on how to recognize signs of an opioid-related drug overdose;

ii. standards and procedures for the storage and administration of the drug product; and

iii. emergency follow-up procedure including the requirement to summon emergency services either immediately before or immediately after administering the drug product to the individual experiencing the overdose.

d. To comply with the recordkeeping requirements found elsewhere in the board's rules, the pharmacist shall attach a copy of the standing order to the invoice or other record of sale or distribution, and further, shall store these transaction documents with the other distribution records in the pharmacy.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:

Family Impact Statement

In accordance with section 953 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.

1. The effect on the stability of the family. We anticipate no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. We anticipate no effect on the functioning of the family.

4. The effect on family earnings and family budget. We anticipate no effect on family earnings and the family budget.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. We anticipate no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

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, repeal, or amendment.

1. The effect on household income, assets, and financial security. We anticipate no impact on household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. We anticipate no impact on early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. We anticipate no impact on employment and workforce development.

4. The effect on taxes and tax credits. We anticipate no impact on taxes or tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. To the extent a child or other dependent has an addiction to opiates and is at risk of an opioid-related overdose, and to the extent the caregiver acquires naloxone to keep close at hand, the proposed Rule may improve the opportunity for positive outcomes from an opiate-related overdose event.

Small Business Analysis

In accordance with section 965 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The establishment of less stringent compliance or reporting requirements for small businesses. The proposed Rule does not contain any reporting requirements for small businesses.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no reporting deadlines for businesses in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements for businesses in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. There are no design or operational standards required in the proposed Rule.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or

the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate no impact on the total direct and indirect effect on the cost to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule. The deadline for the receipt of all comments is 12 p.m. that same day.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, March 1, 2017 at 9 a.m. in the Board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing.

Malcolm J. Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Standing Orders for Distribution of Naloxone**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation costs to the Louisiana Board of Pharmacy are approximately \$1,500 (\$750 in FY 17 and \$750 in FY18) for the notice and rule publication costs. There are no estimated implementation savings to the state or local government units through promulgation of the proposed rule change. The proposed rule change will allow pharmacists to distribute naloxone and other opioid antagonists pursuant to non-patient specific standing orders issued by medical practitioners with prescriptive authority for naloxone.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections of state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is anticipated to affect persons with an addiction to opioid drug products and that do not currently have access to naloxone. Naloxone is an effective antidote medication that reverses the respiratory depression resulting from an opioid overdose event. Currently, naloxone can be dispensed with a prescription however many addicts do not have primary care providers. The proposed rule change will allow anybody with an opioid addiction to receive naloxone from a pharmacy pursuant to a standing order.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no impact on competition or employment.

Malcolm J. Broussard
Executive Director
1701#031

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for Persons
with Intellectual Disabilities
Supplemental Payments
(LAC 50:VII.32917)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:VII.32917 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing provides Medicaid reimbursement to non-state intermediate care facilities for persons with intellectual disabilities (ICFs/ID) for services rendered to Medicaid recipients.

The Department of Health and Hospitals, Bureau of Health Services Financing, promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID in order to adopt provisions to establish supplemental Medicaid payments for services provided to Medicaid recipients residing in privately-owned facilities that enter into a cooperative endeavor agreement with the department (*Louisiana Register*, Volume 41, Number 8).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the August 1, 2015 Emergency Rule to establish upper payment limits for supplemental payments to private intermediate care facilities entering into a cooperative endeavor agreement with the department to provide a privately operated living setting to residents discharging from Pinecrest Supports and Services Center, hereafter referred to as Pinecrest (*Louisiana Register*, Volume 42, Number 7). This proposed Rule is being promulgated to continue the provisions of the August 1, 2015 and July 20, 2016 Emergency Rules.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32917. Supplemental Payments

A. Effective for dates of service on or after August 1, 2015, monthly supplemental payments shall be made to qualifying privately-owned intermediate care facilities for persons with intellectual disabilities.

1. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department.

B. Effective for dates of service on or after August 1, 2016, monthly supplemental payments shall be made to qualifying privately-owned intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to provide a

privately operated living setting to residents discharging from Pinecrest Supports and Services Center.

1. In order to qualify for the supplemental payment, the private entity must enter into a cooperative endeavor agreement with the department to provide a privately operated living setting, with an end goal of increased community placement opportunities, to residents of Pinecrest who desire to discharge and have been deemed ready for discharge by their interdisciplinary teams, and meet the admission protocol/criteria of the contracted party but have not been successful in securing a placement with a private provider.

C. Supplemental payments for services rendered to Medicaid recipients shall not exceed the facility's upper payment limit (UPL) pursuant to 42 CFR 447.272. The UPL will be based on the Centers for Medicare and Medicaid Services' approved ICF transitional rate of \$329.26 including provider fee.

D. The supplemental payment will be the difference between the actual Medicaid payment and what would have been paid if the ICF/ID was paid up to the UPL 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, Bureau of Health Services Financing, LR 43:

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.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

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.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule establishes supplemental payments to providers for the same services they already render.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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 Monday, February 27, 2017 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.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Intermediate Care Facilities for Persons with Intellectual Disabilities—Supplemental Payments

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 increase of approximately \$2,421,106 for FY 16-17 and \$2,821,871 for FY 17-18 and \$2,821,871 for FY 18-19. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 16-17 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 federal revenue collections will increase by approximately \$3,993,944 for FY 16-17, \$4,875,541 for FY 17-18 and \$4,875,541 for FY 18-19. It is anticipated that \$270 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule is being promulgated to continue the provisions of the August 1, 2015 and July 20, 2016 Emergency Rules which amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with intellectual disabilities (ICFs/ID) in order to adopt provisions to establish supplemental Medicaid payments for services provided to Medicaid recipients residing in privately-owned facilities that enter into a cooperative endeavor agreement with the department and established upper payment limits for supplemental payments to private intermediate care facilities entering into a cooperative endeavor agreement with the department. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for services rendered by intermediate care facilities for persons with intellectual disabilities by approximately \$6,414,510 for FY 16-17, \$7,697,412 for FY 17-18 and \$7,697,412 for FY 18-19.

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 may have a positive effect on employment as it will increase payments for ICF/ID services. The increase in payments may improve the financial standing of providers and could possibly cause an increase in employment opportunities.

Jen Steele
Medicaid Director
1701#062

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Managed Care for Physical and Behavioral Health
Louisiana Health Insurance Premium Payment Program
(LAC 50:I.3103)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:I.3103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services amended the provisions governing managed care for physical and behavioral health to provide clarification regarding the inclusion of non-emergency medical transportation services (*Louisiana Register*, Volume 42, Number 9).

The Department of Health, Bureau of Health Services Financing promulgated a Notice of Intent to reinstate the Louisiana Health Insurance Premium Payment Program (LaHIPP) in order to reduce Medicaid costs by establishing or maintaining a third party resource as the primary payer of the Medicaid beneficiary's medical expenses (*Louisiana Register*, Volume 43, Number 1). The LaHIPP population will not be included in managed care. This proposed Rule is being promulgated in order to exclude LaHIPP participants from participation in managed care for physical and behavioral health.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 31. General Provisions

§3103. Recipient Participation

A. - G. ...

H. Participation Exclusion

1. The following Medicaid and/or CHIP recipients are excluded from participation in an MCO and cannot voluntarily enroll in an MCO. Individuals who:

a. - c. ...

d. have a limited period of eligibility and participate in either the Spend-Down Medically Needy Program or the Emergency Services Only program;

e. receive services through the Take Charge Plus program; or

f. are enrolled in the Louisiana Health Insurance Premium Payment (LaHIPP) program.

I. ...

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), LR 40:1096 (June 2014), LR 40:2258 (November 2014), LR 41:929 (May 2015), LR 41:2363 (November 2015), LR 42:754 (May 2016), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:

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.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

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.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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 Monday, February 27, 2017 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.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Managed Care for Physical and Behavioral Health—Louisiana Health Insurance Premium Payment Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in estimated state general fund programmatic savings due to the transition of enrollees from managed care organizations by approximately \$57,146 for FY 17-18, \$2,994,818 for FY 17-18 and \$5,507,857 for FY 18-19. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be

expended in FY 16-17 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 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 for the projected non-expansion population, and a blended FMAP rate of 97.5 percent in FY 16-17, 94.5 percent in FY 17-18 and 93.5 percent in FY 18-19 for the projected expansion population.

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 \$144,002 for FY 16-17, \$7,763,401 for FY 17-18 and \$14,624,645 for FY 18-19. It is anticipated that \$216 will be collected in FY 16-17 for the federal share of the 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 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 for the projected non-expansion population, and a blended FMAP rate of 97.5 percent in FY 16-17, 94.5 percent in FY 17-18 and 93.5 percent in FY 18-19 for the projected expansion population.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing managed care for physical and behavioral health in order to exclude Louisiana Health Insurance Premium Payment (LaHIPP) recipients from participation in a managed care organization. It is anticipated that implementation of this proposed rule will result in a reduction in managed care expenditures by approximately \$201,580 in FY 16-17, \$10,758,219 in FY 17-18 and \$20,132,502 in FY 18-19 due to the transition of some enrollees from managed care organizations which will result in a reduction in the per member per month (PMPM) costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on employment, but may impact competition. LaHIPP enrollees will transition out of their current Medicaid managed care health plan into their employee-sponsored health insurance plan which may result in Medicaid managed care organizations losing members.

Jen Steele
Medicaid Director
1701#063

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Medicaid Eligibility
Louisiana Health Insurance Premium Payment Program
(LAC 50:III.2311)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:III.2311 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 terminated the Louisiana Health Insurance Premium Payment Program (LaHIPP) due to a budgetary shortfall which resulted in funding being removed

from the executive budget in state fiscal year 2016. The department repealed the provisions of the June 20, 2009 Rule governing LaHIPP in order to facilitate the program termination (*Louisiana Register*, Volume 41, Number 11).

The Department of Health, Bureau of Health Services Financing has now determined that it is necessary to reinstate the LaHIPP program in order to reduce Medicaid costs by establishing or maintaining a third party resource as the primary payer of the Medicaid recipient's medical expenses.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 23. Eligibility Groups and Medicaid Programs

§2311. Louisiana Health Insurance Premium Payment Program

A. Section 1906 of Title XIX of the Social Security Act mandates that Medicaid recipients enroll, and maintain their enrollment, in cost-effective group health insurance plans as a condition of Medicaid eligibility if such a plan is available. In compliance with section 1906, the department hereby establishes the Louisiana Health Insurance Premium Payment (LaHIPP) Program to provide Medicaid payment of the costs associated with the enrollment of recipients in cost-effective group health insurance plans.

B. Medicaid recipients shall be enrolled in LaHIPP when cost-effective health plans are available through the recipient's employer or a responsible party's employer-based health plan if the recipient is enrolled or eligible for such a health plan.

1. The enrollment period for the LaHIPP Program shall be no less than six months.

C. When coverage for eligible family members is not possible unless ineligible family members are enrolled, the Medicaid Program will pay the premiums for the enrollment of other family members when it is cost-effective.

D. The recipient, or the individual acting on behalf of the recipient, shall cooperate to establish the availability and cost effectiveness of group health insurance.

1. Medicaid benefits of the parent may be terminated for failure to cooperate unless good cause for non-cooperation is established. Medicaid benefits for a child shall not be terminated due to the parent's or authorized representative's failure to cooperate.

E. Continued eligibility for this program is dependent upon the individual's ongoing eligibility for Medicaid.

F. LaHIPP recipients shall be entitled to coverage of the patient responsibility amounts for services covered under the group health insurance to the extent allowed under the Medicaid state plan and for all services that are not covered by the group health insurance but are provided for under the Medicaid state plan and rendered by Medicaid providers.

G. The department shall be entitled to any rate refund made when the health insurance carrier determines a return of premiums to the policy holder is due because of lower than anticipated claims for any period of time in which the department paid the premiums.

H. The Medicaid Program will make the determination whether the group health insurance plan(s) available to the recipient is cost effective.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

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.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 as it will provide greater access to affordable healthcare.

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 a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as this program may result in cost savings to the family by providing affordable insurance premiums to the insured.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, and may reduce the total direct and indirect cost to the provider to provide the same level of service and enhance the provider's ability to provide the same level of service since this proposed Rule establishes payment to providers for the same services they already render.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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 Monday, February 27, 2017 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.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Medicaid Eligibility

Louisiana Health Insurance Premium Payment Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in estimated net state general fund programmatic costs of approximately \$80,195 for FY 16-17 and net state general fund programmatic savings of approximately \$346,924 for FY 17-18 and \$546,915 FY 18-19. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 16-17 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 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 for the projected non-expansion population, and a blended FMAP rate of 97.5 percent in FY 16-17, 94.5 percent in FY 17-18 and 93.5 percent in FY 18-19 for the projected expansion population.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately \$43,737 for FY 16-17 and reduce federal revenue collections by approximately \$1,909,791 for FY 17-18 and \$3,039,927 for FY 18-19. It is anticipated that \$270 will be expended in FY 16-17 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 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule reinstates the Louisiana Health Insurance Premium Payment (LaHIPP) program in order to reduce Medicaid costs by establishing or maintaining a third party resource as the primary payer of the Medicaid recipient's medical expenses. It is anticipated that implementation of this proposed rule will increase programmatic expenditures in the Medicaid program by approximately \$123,392 for FY 16-17 and will reduce programmatic expenditures by approximately \$2,256,715 for FY 17-18 and \$3,586,842 for FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1701#064

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

Pharmacy Benefits Management Program
(LAC 50:XXIX.Chapters 1-9)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XXIX.Chapters 1-9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the

provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, 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). Upon further consideration and consultation with the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) on the corresponding Medicaid State Plan Amendment, the department determined that it was necessary to rescind the provisions of the November 1, 2012 Emergency Rule governing the reimbursement methodology for services rendered in the Pharmacy Benefits Management Program, and to return to the reimbursement rates in effect on September 5, 2012, along with an increase in the dispensing fee, which is consistent with the currently approved Medicaid State Plan (*Louisiana Register*, Volume 40, Number 10).

The Department now proposes to amend the provisions governing the Pharmacy Benefits Management Program in order to clarify requirements regarding 340B-covered entities, and to revise the reimbursement methodology to include federal upper limits (FUL), new copayment exemptions and over-the-counter medications added for expansion benefits pursuant to CMS recently released regulations.

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. The Louisiana Department of Health reserves the right for ultimate decision making relative to certain drug class information and drug contraindications or interactions.

C. Covered Drug List. The list of covered drugs is managed through multiple mechanisms. Drugs in which the manufacturer entered into the Medicaid Drug Rebate Program with CMS are included in the list of covered drugs. Average acquisition costs, federal upper payment limits (FUL) and usual and customary charges assist in managing costs on the covered drug list. Federal Upper Limits provide for dispensing of multiple source drugs at established limitations unless the prescribing practitioner specifies that the brand product is medically necessary for a patient. Establishment of co-payments also provides for management.

D. Reimbursement Management. The cost of pharmaceutical care is managed through Average Acquisition Cost (AAC) of the ingredient or through Wholesale Acquisition Cost (WAC) when no AAC is assigned, and compliance with FUL regulations, and the establishment of the professional dispensing fee, drug rebates and copayments. Usual and customary charges are compared to other reimbursement methodologies and the “lesser of” is reimbursed.

E. ...

F. Pharmacy Program Integrity. Program integrity is maintained through the following mechanisms:

1. - 2. ...

3. Surveillance and Utilization Review Systems (SURS) Program processes which provide for on-going review for mis-utilization, abuse and fraud and audits of the pharmacy providers.

G. ...

H. Point-of-Sale Prospective Drug Utilization Review System. This on-line point-of-sale system provides electronic claims management to evaluate and improve drug utilization quality. Information about the patient and the drug will be analyzed through the use of eight therapeutic modules in accordance with the standards of the National Council of Prescription Drug Programs. The purpose of prospective drug utilization review is to reduce in duplication of drug therapy, prevent drug-to-drug interactions, and assure appropriate drug use, dosage and duration. The prospective modules may screen for drug interactions, therapeutic duplication, improper duration of therapy, incorrect dosages, clinical abuse/misuse and age restrictions. Electronic claims submission inform pharmacists of potential drug-related problems and pharmacists document their responses by using interventions codes. By using these codes, pharmacists will document prescription reporting and outcomes of therapy for Medicaid recipients.

I. - I.2. ...

I.3. - I.4. Repealed.

5. Eligibility verification is determined at the point of sale.

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

7. Prescribers and pharmacy providers will be required to participate in the educational and intervention features of the Pharmacy Benefits Management System.

J. Recipient Participation. Pharmacy patients are encouraged to take an active role in the treatment or management of their health conditions through participation in patient counseling efforts with their prescribing providers and pharmacists.

K. - 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, Bureau of Health Services Financing, LR 43:

§107. Prior Authorization

A. The medication must be prescribed by a practitioner who is authorized to prescribe under state law. The National Drug Code (NDC) must be identified on each pharmacy claim for reimbursement. Prescription drugs considered for payment are subject to rebates from manufacturers as mandated by federal law and regulations.

B. Covered Drugs. Coverage of drugs shall be limited to specific drug products authorized for reimbursement by therapeutic category and listed by generic name, strength/unit, NDC, and brand name. Those drug products subject to mandatory coverage as a result of a rebate agreement with the federal government will be covered until written notice is received from the Centers for Medicare and Medicaid Services that coverage will be terminated. Providers will be given notice of termination of coverage.

C. Prior Authorization with a Preferred Drug List

1. A prior authorization process is established which utilizes a preferred drug list (PDL) for selected therapeutic classes. Drugs in selected therapeutic classes that are not included on the PDL shall require prescribers to obtain prior authorization. Lists of covered drug products, including those that require prior authorization, will be maintained on the Louisiana Medicaid web site.

2. The prior authorization process provides for a turn-around response by either telephone or other telecommunications device within 24 hours of receipt of a prior authorization request. In emergency situations, providers may dispense at least a 72-hour supply of medication.

3. ...

D. Drugs Excluded from Coverage. As provided by §1927(d)(2) of the Social Security Act, the following drugs are excluded from program coverage:

1. experimental drugs and investigational drugs;

2. drugs used to treat weight loss, except Orlistat;

3. cough and cold preparations, except some prescription antihistamine/decongestant combination products;

4. cosmetic drugs, except Isotretinoin;

- 5. - 8. ...
- 9. vaccines covered in other programs, except influenza vaccine; and
- 10. ...

E. DESI Drugs. Those drugs that are subject to a Notice of Opportunity for Hearing, as prescribed by Section 1927(k)(2)(A) of the Social Security Act for which the Food and Drug Administration has proposed to withdraw from the market.

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 32:1054 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§109. Medicare Part B

A. The Department of Health, Bureau of Health Services Financing pays the full co-insurance and the Medicare deductible on pharmacy claims for services reimbursed by the Medicaid Program for Medicaid recipients covered by Medicare Part B.

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 32:1055 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§111. Copayment

A. Payment Schedule

- 1. ...

* * *

2. The pharmacy provider shall collect a copayment from the Medicaid recipient for each drug dispensed by the provider and covered by Medicaid. The following pharmacy services are exempt from the copayment requirements.

- a. services furnished to pregnant women;
- b. emergency services;
- c. family planning services; and
- d. preventive medications as designated by the U.S. Preventive Services Task Force's A and B recommendations;
- e. Repealed.

B. The following population groups are exempt from copayment requirements:

- 1. individuals under the age of 21;
- 2. individuals residing in a long-term care facility;
- 3. individuals receiving hospice care;
- 4. Native Americans;
- 5. Women whose basis for Medicaid eligibility is breast or cervical cancer; and
- 6. waiver recipients.

C. In accordance with federal regulations, the following provisions apply.

1. The provider may not deny services to any eligible individual on account of the individual's inability to pay the copayment amount. However, this service statement does not apply to an individual who is able to pay, nor does an individual's inability to pay eliminate his or her liability for the copayment.

2. Providers shall not waive the recipient copayment liability.

3. Departmental monitoring and auditing will be conducted to determine provider compliance.

4. Violators of this §111 will be subject to a penalty such as suspension from the Medicaid Program.

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, LR 32:1055 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§113. Prescription Limit

A. - B.3. ...

C. The four prescriptions per month limit can be exceeded when the prescriber determines an additional prescription is medically necessary and communicates the following information to the pharmacist in his own handwriting or by telephone or other telecommunications device:

- 1. ...

2. a valid diagnosis code that is directly related to each drug prescribed that is over the four prescription limit (literal descriptions are not acceptable).

D. - E. ...

F. An acceptable statement and ICD-10-CM, or its successor, diagnosis code are required for each prescription in excess of four per calendar month.

G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 14:88 (February 1988), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 16: 313 (April 1990), LR 29:2115 (October 2003). Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1055 (June 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1901 (September 2009), LR 37:3270 (November 2011), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§115. Drug Coverage Limits

A. Reimbursement for multi-source prescription drugs shall be limited in accordance with state and federal law and rules pertaining thereto, with the following exception: Reimbursement shall be provided for any drug prescribed by a prescribing provider that, in his professional judgment and within the lawful scope of his practice, he considers appropriate for the diagnosis and treatment of the patient with the following limitations.

- 1. - 3 ...

4. The prescribed drug is not methadone prescribed only for narcotic addiction.

- 5. - 5.c...

6. The prescribed drug is not a cosmetic drug, anorexic, cough and cold preparation, or selected nonprescription drug.

7. The prescribed drug is not an experimental or investigational drug which are generally labeled: Caution - limited by federal law to investigational use, unless a specific exception has been granted by the federal government.

8. The prescribed drug is not an immunosuppressant drug prescribed and billed to Medicare within one year from

the date of the transplant for a Title XIX recipient who has Medicare Part B coverage.

9. The prescribed drug is not an immunosuppressant drug covered by Medicare Part B which is prescribed for a nontransplant patient with Medicare Part B coverage and identified in the Title XIX provider manual as subject to special billing procedures. Payment shall be made only when billing requirements are met. Requirements may include provision of a physician statement (or copy) verifying the diagnosis attached to each claim submitted.

B. Drug Listing

1. The bureau's fiscal intermediary or agent will provide coverage information on any specific drug. Providers should contact the fiscal intermediary's or agent's provider/pharmacy relations unit when a specific coverage question arises.

2. The Title XIX provider manual shall include a listing of examples of prescribed medications and/or supplies which are not payable under pharmaceutical services of the Medicaid Program.

C. Erectile Dysfunction Drugs. Prescription drugs for the treatment of sexual or erectile dysfunction shall not be covered or reimbursed under the Medicaid Program.

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 32:1055 (June 2006), LR 32:2083 (November 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§117. Time Limits

A. Filling Prescriptions. Prescriptions for drugs covered by Medicaid other than a controlled substance shall expire one year after the date prescribed by a licensed prescriber. These prescriptions shall not be refilled more than 11 times in one year. A prescription for a controlled dangerous substance listed in Schedule II shall expire 90 days after the date written, and no refills are allowed. A prescription for a controlled dangerous substance listed in Schedule III, IV or V shall expire six months after the date written. Expired prescriptions shall not be refillable or renewable. Payment shall be made for prescriptions refilled for controlled substances in Schedule III, IV and V not more than five times or more than six months after issue date and only to the extent indicated by the prescriber on the original prescription, and is restricted by state and federal statutes.

B. ...

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 32:1056 (June 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:368 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§119. Maximum Quantity

A. - C. ...

D. Payment will not be made for narcotics other than opioid agonists/antagonists prescribed only for narcotic addiction.

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 32:1056 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 3. Lock-In Program

§303. Recipient Placement in the Lock-In Mechanism

A. Potential lock-in recipients will be identified through review of various reports or by referral from other interested parties. Department of Health designee(s) who are medical professionals examine data for a consistent pattern of misuse/overuse of program benefits by a recipient. Contact with involved providers may be initiated for additional information. The medical professionals render a recommendation to place a recipient in the Physician/Pharmacy Lock-In Program or Pharmacy-Only Lock-In Program. The decision making authority rests solely with the Department of Health, Bureau of Health Services Financing.

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 32:1057 (June 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:3268 (November 2011), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§307. Notification Directives

A. - A.4. ...

B. The department's contract designee shall be responsible for the following:

1. initiate contact with the recipient in instances when the recipient fails to contact the department, or its contractor;
2. conduct a telephone interview when warranted with the recipient regarding the Lock-In Program and the recipient's rights and responsibilities;
3. ...
4. notify Lock-In providers of their selection.

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 32:1057 (June 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:3268 (November 2011), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§309. Restrictions

A. Recipients shall be prohibited from choosing physicians and pharmacists who overprescribe or oversupply drugs. When the agency cannot approve a recipient's choice of provider(s), the Lock-In recipient shall be required to make another selection.

A.1. - B. ...

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 32:1057 (June 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:3269 (November 2011), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§311. Appeals

A. Administration Reconsideration. A recipient may request an administrative reconsideration of the department's determination to place the recipient in the Lock-In Program. An administrative reconsideration is an informal telephone discussion among the Bureau of Health Services Financing staff, the LDH contract designee, and the recipient. An explanation of the reason for recommending the recipient to be placed in the Lock-In Program will be provided to the recipient. An administrative reconsideration is not in lieu of the administrative appeals process and does not extend the time limits for filing an administrative appeal under the provisions of the Administrative Procedure Act. The designated official shall have the authority to affirm the decision, to revoke the decision, to affirm part or revoke in part, or to request additional information from either the department or the recipient.

B. Administrative Appeal Process. Upon notification of LDH's determination to place the Medicaid recipient into the Lock-In Program, the recipient shall have the right to appeal such action by submitting a written request to the Division of Administrative Law within 30 days of said notification. If an appeal is timely made, the decision to Lock-In is stayed pending the hearing of the appeal.

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 32:1057 (June 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:3269 (November 2011), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§313. Changing Lock-In Providers

A. Recipients may change lock-in providers every year without cause. With good cause, they may change lock-in providers only with the bureau's approval. Recipients may change providers for the following "good cause" reasons:

1. - 2. ...
3. the Lock-In provider(s) request(s) that the recipient be transferred; or
4. the Lock-In provider(s) stop(s) participating in the Medicaid Program and does not accept Medicaid as reimbursement for services.

a. The recipient may still receive other program services available through Medicaid such as hospital, transportation, etc., which are not controlled or restricted by placing a recipient in Lock-In for pharmacy and physician services. No recipient on Lock-In status shall be denied the service of a physician or pharmacist on an emergency basis within program regulations. In instances in which a recipient is referred by his Lock-In physician to another enrolled Medicaid physician who is accepting Medicaid recipients, reimbursement shall be made to the physician to whom the recipient was referred.

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 32:1058 (June 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:3269 (November 2011), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 5. Narcotics and Controlled Substances

§501. Schedule II Narcotic Analgesic Prescriptions

A. Schedule II narcotic analgesic prescriptions covered under the Louisiana Medicaid Program shall be filled within 90 days of the date prescribed by a physician or other prescribing practitioner. Also, in accordance with guidance from the drug enforcement agency, the prescriber has the ability to issue multiple prescriptions for the same Schedule II medication to the same patient on the same day. All prescriptions must be dated and signed on the date issued. The prescriber may issue dispensing instruction, e.g., "do not dispense until a specified date."

B. Payment will not be made for narcotics other than opioid agonists/antagonists prescribed only for narcotic addiction.

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 32:1058 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 7. Parenteral Nutrition Therapy

§703. Medical Necessity

A. The department's published medical necessity criteria must be met.

B. - J.7. ...

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 32:1058 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§705. Exclusionary Criteria

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 32:1060 (June 2006), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:

§707. Prior Authorization

A. Parenteral nutrition therapy may be approved by the Prior Authorization Unit (PAU) at periodic intervals not to exceed six months.

A.1. - B.6. 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 32:1060 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§709. Intradialytic Parenteral Nutrition

A. Intradialytic Parenteral Nutrition Therapy (IDPN) is parenteral nutrition therapy provided to a recipient with end stage renal disease (ESRD) while the recipient is being dialyzed. IDPN may be approved by the Prior Authorization Unit at periodic intervals not to exceed six months.

B. - D. 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 32:1061 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§711. Additional Documentation

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 32:1061 (June 2006), repealed by the Department of Health, Bureau of Health Services Financing, LR 43:

§713. Equipment and Supplies

A. ...

A.1. - D. 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 32:1061 (June 2006), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 9. Methods of Payment

Subchapter A. General Provisions

§901. Definitions

Average Acquisition Cost (AAC)—the average of net payments that pharmacists made to purchase a drug product, after taking into account such items as purchasing allowances, discounts and rebates 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.

* * *

Professional Dispensing Fee—the fee paid by the Medicaid Program to reimburse for the professional services provided by a pharmacist when dispensing a prescription. Per legislative mandate, the provider fee assessed for each prescription filled in the state of Louisiana, or shipped into the state of Louisiana, will be reimbursed separately.

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), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter C. Estimated Acquisition Cost

§935. Estimated Acquisition Cost Formula

A. *Estimated Acquisition Cost (EAC)* is the average acquisition cost of the drug dispensed. 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/pharmacy benefits manager (PBM).

B. - B.4.c. 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 by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter D. Maximum Allowable Costs

§945. Reimbursement Methodology

A. Maximum Pharmaceutical Price Schedule

1. The maximum payment by the agency for a prescription shall be no more than the cost of the drug established by the state plus the established professional dispensing fee.

2. Repealed.

B. Payment will be made for medications in accordance with the payment procedures for any fee-for-service (FFS) Medicaid eligible person. On a periodic basis as ingredient costs change, the department will post a link on its website containing average acquisition cost of drugs.

C. - D. ...

E. Payment will be made to providers only for medications furnished to persons eligible for medical vendor payments on a prescription written by a practitioner who is authorized to prescribe in Louisiana and is enrolled in FFS Medicaid.

F. Payments will be made only for the drugs covered under Louisiana Medicaid's Pharmacy Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 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 by the Department of Health, Bureau of Health Services Financing, LR 43:

§947. Payments to Dispensing Physician

A. Payment will be made for medications dispensed by a physician on a continuing basis only when his main office is more than five miles from a facility which dispenses drugs.

1. Under the above circumstances, vendor payments (when the treating prescriber dispenses his own medications and bills Medical Assistance Program under his own name will be made on the same basis as a pharmacist as specified in §945.A.1-2.

B. A prescriber who has a sub-office in an area more than five miles from a pharmacy or other facility dispensing medications will not be paid for medications he dispenses if his main office is within five miles of a pharmacy or other facility dispensing medications.

C. When a prescriber bills Medicaid for medications he dispenses, he shall certify that he himself, or a pharmacist, dispensed the medications and he shall maintain the same records as required of the pharmacist.

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 by the Department of Health, Bureau of Health Services Financing, LR 43:

§949. Cost Limits

A. Brand Drugs. The department shall make payments for single source drugs (brand drugs) based on the lower of:

1. average acquisition cost (AAC):
 - a. If no AAC is available, use the wholesale acquisition cost (WAC) plus the professional dispensing fee; or
 - b. Repealed.
2. the provider's usual and customary charges to the general public not to exceed the department's "maximum payment allowed."
 - a. For purposes of these provisions, *general public* is defined as all other non-Medicaid prescriptions, including:
 - i. third-party insurance;
 - ii. pharmacy benefit management; or
 - iii. cash.

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

B. Generic Drugs. The department shall make payments for multiple source drugs (generic drugs), other than drugs subject to "physician certifications", based on the lower of:

1. AAC:
 - a. If no AAC is available, use the WAC plus the professional dispensing fee;
2. federal upper payment limits plus the professional dispensing fee; or
3. the provider's usual and customary charges to the general public not to exceed the department's "maximum payment allowed."
 - a. For purposes of these provisions, *general public* is defined as all other non-Medicaid prescriptions, including:
 - i. third-party insurance;
 - ii. pharmacy benefit management; or
 - iii. cash.

C. Federal Upper Payment Limits for Multiple Source Drugs

1. Except for drugs subject to "physician certification", the Medicaid Program shall utilize listings established by the Centers for Medicare and Medicaid Services (CMS) that identify and set upper limits for multiple source drugs that meet the following requirements.

a. All of the formulations of the drug approved by the Food and Drug Administration (FDA) have been evaluated as therapeutically equivalent in the most current edition of their publication, *Approved Drug Products with Therapeutic Equivalence Evaluations* (including supplements or in successor publications).

b. At least three suppliers list the drug, which has been classified by the FDA as category "A" in the aforementioned publication based on listings contained in current editions (or updates) of published compendia of cost information for drugs available for sale nationally.

2. Medicaid shall utilize the maximum acquisition cost established by CMS in determining multiple source drug cost.

3. The Medicaid Program shall provide pharmacists who participate in Medicaid reimbursement with updated lists reflecting:

- a. the multiple source drugs subject to federal multiple source drug cost requirements;
 - b. the maximum reimbursement amount per unit; and
 - c. the date such costs shall become effective.
4. Repealed.

D. Physician Certifications

1. Limits on payments for multiple source drugs shall not be applicable when the prescriber certifies in his own handwriting that a specified brand name drug is medically necessary for the care and treatment of a recipient. Such certification may be written directly on the prescription or on a separate sheet which is dated and attached to the prescription. A standard phrase in the prescriber's handwriting, such as "brand necessary" will be acceptable.

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

E. 340B Purchased Drugs. The department shall make payments for drugs that are purchased by a covered entity through the 340B program at the actual acquisition cost which can be no more than the 340B ceiling price plus the professional dispensing fee. Drugs that 340B covered entities purchase outside of the 340B program shall not be reimbursed by Medicaid. 340B contract pharmacies are not permitted to bill 340B stock to Medicaid.

E.1. - E.2. Repealed.

F. Fee-For-Service Drugs. Drugs acquired at federal supply schedule (FSS) and at nominal price shall not be reimbursed by Medicaid.

G. Indian Health Service All-Inclusive Encounter Rate. Pharmacy services provided by the Indian Health Service (IHS) shall be included in the encounter rate. No individual pharmacy claims shall be reimbursed to IHS providers.

H. Mail Order, Long-Term Care and Specialty Pharmacy. Drugs dispensed by mail order, long-term care and/or specialty pharmacies (drugs not distributed by a retail community pharmacy) will be reimbursed using the brand/generic drug reimbursement methodology.

I. Physician Administered Drugs. Physician-administered drugs will be reimbursed based on the applicable fee schedule posted on the Louisiana Medicaid website.

J. Clotting Factor. Pharmacy claims for clotting factor will be reimbursed using the brand/generic drug reimbursement methodology.

K. Investigational or Experimental Drugs. Investigational or experimental drugs shall not be reimbursed by Medicaid.

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 by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter E. 340B Program

§961. Definitions

Actual Acquisition Cost—the covered entity's net payment made to purchase a drug product.

Contract Pharmacy—a pharmacy under contract with a covered entity that lacks its own pharmacy whereby the contract pharmacy is authorized to dispense 340B-discounted drugs on behalf of the covered entity in accordance with 1996 Health Resources and Services Administration (HRSA) guidelines (61 FR 43549, August 23, 1996). Contract pharmacies are not allowed to bill Medicaid for pharmacy claims.

Covered Entity—a provider or program that meets the eligibility criteria for participating in the 340B Program as set forth in Section 340B(a)(4) of the Public Health Service Act. Covered entities include eligible disproportionate share hospitals that are owned by, or under contract with, state or local government, community health centers, migrant health centers, health centers for public housing, health centers for the homeless, AIDS drug assistance programs and other AIDS clinics and programs, black lung clinics, hemophilia treatment centers, native Hawaiian health centers, urban Indian clinics/638 tribal centers, 340s school-based programs, Title X family planning clinics, sexually-transmitted disease clinics and tuberculosis clinics.

Dispensing Fee—Repealed.

Estimated Acquisition Cost (EAC)—the average acquisition cost of the drug dispensed. 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.

* * *

Professional Dispensing Fee—the fee paid by Medicaid for the professional services provided by a pharmacist when dispensing a prescription. Per legislative mandate, the \$.10 provider fee assessed for each prescription filled in the state of Louisiana will be paid separately.

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, Bureau of Health Services Financing, LR 43:

§963. Reimbursement

A. Self-administered drugs that are purchased by a covered entity through the 340B program and dispensed to patients who are covered by Medicaid shall be billed to Medicaid at actual acquisition cost (can be no more than the 340B ceiling price) unless the covered entity has implemented the Medicaid carve-out option, in which case 340B drugs should not be billed to Medicaid. All other drugs shall be billed in accordance with existing Louisiana Medicaid reimbursement methodologies. Indian Health Service, tribal and urban Indian pharmacy claims will be reimbursed in the encounter rate.

B. Contract Pharmacies. Contract pharmacies are not allowed to bill 340B drugs to Medicaid; therefore, they should carve out.

C. Professional Dispensing Fees. The covered entity will be reimbursed at the appropriate ingredient cost plus the maximum allowable professional dispensing fee or the usual and customary charge, whichever is less.

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 by the Department of Health, Bureau of Health Services Financing, LR 43:

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 acquisition cost and the professional dispensing fee.

B. 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, amended LR 34:881 (May 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

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.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Monday, February 27, 2017 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pharmacy Benefits Management Program

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 \$10,746 for FY 16-17, \$69,209 for FY 17-18 and \$73,846 FY 18-19. It is anticipated that \$4,104 (\$2,052 SGF and \$2,052 FED) will be expended in FY 16-17 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 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and 18-19.

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 \$19,062 for FY 16-17, \$119,578 for FY 17-18 and \$127,590 for FY 18-19. It is anticipated that \$2,052 will be expended in FY 16-17 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 62.26 percent in FY 16-17 and 63.34 percent in FY 17-18 and 18-19.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the reimbursement methodology in the Pharmacy Benefits Management Program to revise the reimbursement methodology, and to include federal upper limits (FUL), new copayment exemptions and over-the-counter medications added for expansion benefits pursuant to CMS recently released regulations. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures for pharmacy payments by approximately \$33,912 for FY 16-17, \$188,787 for FY 17-18 and \$201,436 for FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will no effect on competition and employment.

Jen Steele
Medicaid Director
1701#065

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Office for Citizens with Developmental Disabilities

Individual and Family Support Program
(LAC 48:IX.Chapter 11)

The Louisiana Department of Health (LDH), Office for Citizens with Developmental Disabilities (OCDD), pursuant to Act 378 of the 1989 Regular Legislative Session as contained in R.S. 28:824, is authorized to establish Louisiana's community and family support system. The individual and family support program is designed to meet those needs of individuals with developmental disabilities, which exceed those normally met by existing resources, both entitlements and those occurring naturally in the individual's family and community. The intent of this Rule is to establish program regulations for the individual and family support program to ensure proper utilization of program funds and service delivery.

Title 48

PUBLIC HEALTH—GENERAL

Part IX. Developmental Disabilities Services System Chapter 11. Individual and Family Support Program §1101. Purpose

A. The individual and family support program is designed to meet those needs of individuals with developmental disabilities, which exceed those normally met by existing resources, both entitlements and those occurring naturally in the individual's family and community.

B. The purposes of the individual and family support program shall be:

1. to establish or maintain a quality of life for individuals with developmental disabilities and their families in a manner that respects both the individual's needs and aspirations and the individual's ability to use supports in a responsible and accountable manner;

2. to link individuals with developmental disabilities and their families to existing supports and resources and to supplement those supports as necessary to maintain the integrity of individuals and their families.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1103. Definitions

Applicant—the individual with developmental disabilities for whom supports are requested.

Developmental Disability—defined in accordance with the developmental disability law at R.S. 28:451.2(12).

Eligible Individual—individual who has been determined to be eligible for developmental disabilities services, through a statement of approval (SOA) to participate in developmental disabilities services as part of the single point of entry (SPOE) process in most current use as established by the OCDD.

Individual and Family Support Committee—the advisory committee to the individual and family support (IFS)

program within each local governing entity administering the IFS program.

Local Governing Entity (LGE)—an existing or newly created local governmental entity with local accountability and management of behavioral health and developmental disabilities services as well as any public health or other services contracted to the district by the department.

Office for Citizens with Developmental Disabilities (OCDD)—the office, within the Department of Health, which has the responsibility for developing, evaluating and guiding programs and supports for Louisiana’s citizens with developmental disabilities.

Plan of Support—the individualized plan for provision of supports for individuals and families developed utilizing the most recently approved format by OCDD.

Support Coordination—the provision of assistance to individuals with developmental disabilities or their families to identify and coordinate necessary supports to access, utilize and maintain those supports in a fiscally sound manner.

Support Coordinator—the person responsible for case coordination for an individual with developmental disabilities and/or his/her family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1105. Participant Records

A. Each local governing entity (LGE) will maintain a single participant record for each applicant or recipient of individual and family support funding, which will comply with all Department of Health (LDH), Office for Citizens with Developmental Disabilities (OCDD), and Health Insurance Portability and Accountability ACT (HIPAA) requirements. The record will reflect all aspects of service provision to the participant, inclusive of multiple or varied funding sources and/or fiscal year.

1. Progress note entries will provide strict chronological documentation for all case activity from all programs; these notes will be signed and dated to be considered complete.

2. Monitoring from external agencies will be acceptable provided documentation complies with requirements set forth by OCDD; the LGE administering the program shall be responsible for ensuring that adequate documentation is included in the record.

B. Each LGE administering the individual and family support program will comply with established policies and procedures of the LDH and OCDD of the confidentiality of and access to participant records and the time-periods to retain those records.

C. Necessary additional information specific to the development of the request for individual and family support resources shall also be included in the participant record:

1. plan of support document that is current within a year and generated in a format approved by the OCDD or a comprehensive plan of care current within a year, which clearly identifies services requested and received from the LGE, or an EarlySteps individualized family services plan (IFSP), that is current within a year;

2. individual and family support prioritization instrument that is current within a year;

3. notice of decision for the individual and family support program;

4. individual and family support notice of right to appeal, as appropriate; and

5. individual and family support request for appeal, as appropriate.

D. When individual and family support funds are allocated and expended on behalf of individuals, these documents will be maintained in the records in compliance with requirements of the LDH, OCDD, and auditing authorities, and shall, at a minimum, include:

1. justification to the executive director of a LGE for expenditures in excess of \$15,000, in a single fiscal year, inclusive of all funding sources, as appropriate;

2. justification to the executive director of a LGE for approval of an exception for use of funds not authorized by these program guidelines, as appropriate; and

3. expenditure recap sheet, which specifies the total amount of individual and family support funds authorized, dates and amounts of expenditure of these funds and the total remaining on the initial allocation.

E. Agencies administering the individual and family support program will be required to comply with the requirements set forth and utilize forms approved for use by OCDD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1107. Eligibility

A. The individual and family support program is a resource available to serve an individual with developmental disabilities and his/her family as follows.

1. The individual lives in Louisiana and is approved to participate in developmental disabilities services in accordance with the developmental disability law. More specifically, the individual has a current statement of approval.

2. The individual may receive individual and family support funds to address identified supports to enable the person to remain in the community and/or to improve his/her quality of life.

3. The individual is at risk of being institutionalized or is institutionalized but intends to return to the community with appropriate supports.

B. The individual and his/her family must demonstrate the ability to provide the necessary and appropriate care and supervision for the individual with developmental disabilities who receives the support.

C. The family must not be subsidized for care of the individual except for Family Independence Temporary Assistance Program (FITAP) or Social Security (SS) benefits. OCDD flexible family fund, Department of Children and Family Services adoption subsidy, and child support are not considered subsidized care; requests may be approved on an individual basis for eligible individuals receiving adoption subsidies.

D. Financial circumstances will be considered in the prioritization of individual and family support program funds except that family income will not disqualify applicants, but the applicant’s ability to independently

provide supports will be considered in funding decisions. Individual income will be considered for persons with developmental disabilities who are establishing or maintaining supervised independent living in the community.

E. Requests for individual and family support funding may be approved for non-related persons when the applicant meets all other eligibility criteria, with at least one of the following.

1. The relationship and/or living arrangement is of long-standing or is permanent (not temporary) duration.

2. The person providing care is not the guardian of the applicant.

3. The applicant meets the Internal Revenue Service definition for a dependent for federal income tax purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1109. Request for Individual and Family Support Funding

A. The request for individual and family support funding can be made by any eligible individual with developmental disabilities or his/her family or representatives, support coordination agent or designated facility personnel for individuals residing in residential facilities who desire to return to the community and/or family.

B. All requests for individual and family support funding will go to the geographically appropriate LGE for determination.

C. Individuals must have a current statement of approval (SOA) to receive individual and family support funds unless situation meets exceptions set forth by OCDD.

D. The support coordinator will assist the individual and/or family in completing the plan of support to request individual and family support funding.

1. The support coordinator will complete the plan of support in cooperation with the applicant and his/her family and will provide information on available supports and the type of support requested. The individual and/or family will be considered the primary decision maker.

2. The LGE administering individual and family support (IFS) funds shall have responsibility for determination of the prioritization for allocation of IFS funds.

3. Requests for individual and family support funds will be made to the geographically appropriate LGE. The developmental disabilities director will determine whether the request requires an immediate response. This can also be accomplished through designation by the developmental disabilities director.

4. Individuals with developmental disabilities or their families will have the opportunity to present their requests to the individual and family support committee in person or by representation of their choice. The support coordinator may represent the applicant and his/her family at their request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1111. Plan of Support

A. There will be a single plan of support for each applicant for individual and family support funding, regardless of the funding mechanism or LGE delivering supports, which will be developed on the most recently OCDD approved format.

B. The support coordinator will meet with the individual and/or family to generate an individualized plan of support specific to the individual's need for supports, to include the following as defined by OCDD: personal outcome goal(s), exploration of resources available to the individual and/or family, support requests to adequately justify and determine the extent and duration of support(s) needed and statement of the total amount of funds to be expended and the terms of service delivery.

C. The plan of support will reflect the participant's current life situation and pattern of support needs and will be revised at least annually and when the participant's life circumstances change, such as the participant moves into a supported independent living setting or begins to receive waiver services, and/or when support needs change, such as when care giver(s) health fails and increased personal care service are needed.

D. The plan of support will be completed prior to the development of any form of agreement to provide individual and family support funding (except in the case of an emergent situation as determined by the developmental disabilities director) and the term of service will extend for the duration of service.

E. The plan of support will specify the conditions of use of service and reporting or documentary responsibilities of the participant and/or family receiving services.

F. The comprehensive plan of care generated by the service coordination agents for waiver services may serve as the plan of support according to conditions set forth by the OCDD.

G. The plan of support will be reviewed at least annually by the LGE and in other circumstances as defined by OCDD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1113. Prioritization for Individual and Family Support Funding

A. Each LGE will be responsible for the prioritization of all requests for individual and family support funding presented for a funding decision according to the following.

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

a. the individual's emergent or acute medical care needs;

b. documented abuse or neglect of the individual requiring immediate action to preserve his/her health or safety;

c. death or inability of caregiver to continue care due to his/her own age or health exposing the individual to substantial jeopardy;

- d. caregiver's inability to continue care without assistance due to employment or other family obligations;
- e. the individual's intense or frequent challenging behavioral needs requiring immediate action to preserve his/her health; or
- f. substantial threat that the individual will experience a health crisis leading to death or homelessness, hospitalization or placement in a nursing facility without the requested supports.

2. Priority 2. Supports are needed to prevent the individual's health from deteriorating or the individual from losing his/her independence or productivity, and/or to maintain the caregiver's ability to provide supports and a stable home environment in the foreseeable future.

3. Priority 3. Supports are needed to maintain the individual's health, independence or productivity, and/or to maintain the caregiver's long-term ability to provide supports in a stable home environment.

4. Priority 4. Supports are needed to enhance the individual's quality of life and enhance the family's ability to provide a stable home environment.

B. Individual and family support funding will be accessed only after it is determined and documented that natural, generic or other entitlement supports are not sufficient to meet the needs of the individual. The LGE and support coordinators will be knowledgeable of and utilize, where possible and feasible, existing services, programs and/or funding sources and work actively to educate applicants of such resources.

C. All individual and family support allocations will be evaluated at the time of the initial application for funding and at least annually thereafter to determine the continuing need for authorized supports. Documentation shall be provided with completion of the OCDD individual and family support prioritization instrument form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1115. Individual and Family Support Committee

A. Each LGE will maintain an individual and family support committee to be convened on a regular basis, no less than quarterly, and on an as-needed basis to serve an advisory function to LGE deliberations about allocation of funding.

B. The individual and family support committee shall be composed of the developmental disabilities director, or designee; the supervisor of the individual and family support program; the support coordinator working with the applicant; at least one from an advocacy organization, such as Family Helping Families; at least one representative of the regional advisory committee; and at least one adult participant or a parent or a participant receiving supports through the individual and family support program. An adult participant or a parent may serve in a dual role on the committee.

C. The developmental disabilities director, or designee, shall report the activities of the individual and family support committee to the regional advisory committee at least quarterly to include:

- 1. number of persons receiving individual and family support funding;
- 2. types of supports provided;

- 3. total amount of funds budgeted and expended;
- 4. resolution of emergency funding requests and expenditures;
- 5. circumstances of imposition of fiscal controls imposed on recipients of individual and family support funds, if any; and
- 6. results of the quarterly supervisory review of at least 10 percent of active individual and family support cases completed.

D. The developmental disabilities director, or designee, shall maintain a record of the meetings of the individual and family support committee including, minimally, those in attendance, requests discussed, and resolution of all applications. This record will be made available for review by monitoring or auditing activity as requested by OCDD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1117. Allocation of Individual and Family Support Funding

A. Authorization for individual and family support funding will be made by the developmental disabilities director in cases determined to require immediate action. Factors which may influence allocation of funds under these circumstances include:

- 1. urgency of need;
- 2. probable consequences of failure to allocate funds and possible benefits;
- 3. adequacy of utilization of and exploration of alternative resources; and
- 4. resources available to the individual with developmental disabilities and/or the family.

B. Authorization for funding in cases determined to not require immediate action by the developmental disabilities director will be prioritized by the LGE according to §1113 to determine the level of need and service authorized and, any limitations, stipulations or conditions to be met by the individual or family to receive individual and family support funding.

C. Actions which may be taken shall be defined by the OCDD and shall include: approval, approval pending funding, deferment, and denial.

D. The LGE shall notify persons requesting services of the decision to allocate individual and family support funds in writing within 10 days of taking any action on the request.

1. Notification to applicants and their support coordinators will be written and documented by copy of the letter of notification which shall include notification of their right to appeal the decision.

2. Separate notifications will be made each time a request for supports is reviewed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1119. Individual and Family Support Expenditures

A. Individual and family support expenditures will only be authorized through a plan of support which will:

- 1. be generated no more than 90 days before the request for support is made;
- 2. extend for the duration of any agreement to utilize individual and family support funds;

3. define the specific type, duration and intensity of supports needed; and

4. identify the agent(s) to provide the service and any special conditions associated with service delivery.

B. The developmental disabilities director, or designee, shall be responsible for expenditures in the individual and family support program, more specifically the amount budgeted and the number of people served, and shall ensure administration within the guidelines established by the OCDD.

C. The developmental disabilities director, or designee, shall be responsible for supplying written justification for expenditures above \$15,000 for a single individual within a single fiscal year from all sources to the executive director of a LGE prior to expenditure of funds. Plans of support approved for less than this amount will not require such notification. A copy of the letter of justification shall be maintained in the participant record.

D. The developmental disabilities director, or designee, shall be responsible for supplying written justification of expenditures outside guidelines established by the OCDD to the executive director of a LGE before funds are expended. Plans of support which are within program guidelines will not require such notification. A copy of the letter of justification shall be maintained in the participant record.

E. The developmental disabilities director may authorize a one-time expenditure for a payment prior to receipt of service if documentation which justifies the individual or family's financial hardship and/or inability to provide the advance payment required for cost-reimbursement individual agreements is provided. Individual and/or family reliance on FITAP, SS disability or SSI will be adequate justification for such expenditure.

F. Each participant record will include an expenditure recap sheet, which details all individual and family support expenditures, regardless of payment mechanism and which provides a contemporaneous record of expenditures.

G. Funds appropriated or allocated to the individual and family support program cannot be used for salaries of civil service or contract employees who coordinate and monitor the individual and family support services and the use of the funds or for other costs associated with administering this program. All funds appropriated or allocated to the individual and family support program must be spent on the direct purchase of goods, supports or services to assist the individual with a developmental disability and/or his/her family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43: **§1121. Implementing the Plan of Support**

A. The support coordinator, in cooperation with the participant, will implement the plan of support as approved.

B. The support coordinator will serve as the primary resource to individuals with disabilities or their families in development and implementation of the plan of support.

C. Individuals and families receiving supports will be expected to assume personal responsibility for use of the individual and family support funds.

D. When participants have demonstrated the need for assistance in overseeing supports, which maintain health, safety and protection from abuse, neglect or exploitation, the

LGE will be responsible to provide active support to that individual or family.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1123. Eligible Supports

A. Individual and family support program supports are intended to maintain maximum flexibility in meeting the needs of eligible individuals with developmental disabilities and their families, which exceed those normally met by use of existing LGE funding and other resources of the LGE, family and community. Because every individual is unique, supports will be unique and will change with time and the circumstances of the individual and family needing supports.

1. Examples of eligible supports include, but are not limited to:

- a. special equipment/supplies;
- b. special nutrition/clothing;
- c. special therapies;
- d. respite;
- e. medical expenses;
- f. medications;
- g. therapeutic services;
- h. personal care attendant;
- i. home modifications;
- j. crisis intervention;
- k. family training/therapies
- l. homemaker services;
- m. vehicle modifications;
- n. recreation services;
- o. communication services;
- p. transportation;
- q. counseling services;
- r. home health services;
- s. support coordination;
- t. specialized utility costs;
- u. sitter services;
- v. equipment and supplies;
- w. adaptive equipment;
- x. nutritional supplies;
- y. personal assistance services;
- z. companion/roommate services;
- aa. special evaluations;
- bb. therapeutic nursing services;
- cc. family subsidy;
- dd. vocational/employment supports;
- ee. specialized diagnosis and evaluation;
- ff. and dental/medical care not otherwise available.

2. Individual and family support funds will not supplant other sources of funding. Eligible supports are limited to those for which an individual or family is not eligible through existing public or private programs or other funding sources.

3. Individual and family support funds can be used to supplement other sources of payment only when that funding is deemed by the developmental disabilities director to be insufficient to meet existing needs and is fully documented as such in the participant record.

4. Financial subsidy does not reflect a growth in family income; it will not be used in calculations for eligibility for public entitlements except for ineligibility to participate in the Supplemental Nutrition Assistance

Program (SNAP), formerly known as the Food Stamp Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1125. Ineligible Supports

A. Supports ineligible for payment by individual and family support funding include:

1. items or supports for which an individual or family is routinely eligible under existing programs, such as Medicaid state plan services, home and community-based waiver services, local educational organization, etc., unless there is sufficient documented justification that the specific needs of the individual or family exceed existing policy guidelines;

2. items or supports for which a school-aged (3-22 years) child is eligible as a "related service" under Public Law 94-142, or, which an EarlySteps eligible child/family is entitled to receive as part of the EarlySteps system, unless there is sufficient documentation of efforts to address the need through the child's individualized education program (IEP) or IFSP conference, and to pursue due process if warranted;

3. payments to related persons or unrelated persons who reside in the home of the participant, unless such payment is a part of a contracted arrangement for persons living independently in the community;

4. behavior management for school-aged children, unless maladaptive behavior(s) will likely result in out-of-home placement in the absence of such supports;

5. funding for supports and/or equipment for individuals with developmental disabilities when needed only for the care giver's health, unless, such requests are based on supporting the care giver's long-term ability to maintain the participant in the home and community; and

6. funding for any costs associated with the participant's individual or family liability for employment of persons to provide individual and family support funded services, more specifically FICA taxes, workman's compensation insurance, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1127. Payment Mechanisms

A. The developmental disabilities director, or designee, shall authorize all expenditures of individual and family support funds and shall have final discretion on the type of payment mechanism, with appropriate prior notifications to the executive director of a LGE as specified by the OCDD.

B. Individual and family support program supports may be provided through any legitimate and appropriate funding mechanism authorized by current Department of Health contracting or purchasing practices or the policies and procedures established by a LGE. This may include the use of individual agreements for goods and services, purchase orders (integrated statewide information system mechanism) for purchase of goods, and contracts for supports with either individuals or external agencies.

C. Documentation will be required for all individual and family support funds expended. This may take the form of

receipts for goods or services, time-sheets for service delivery, utility statements, etc.

D. When an individual receiving individual and family support services moves to a region served by a different LGE and the service is still needed at the new location, the LGEs will negotiate the continuation of the funding of the service in order to ensure continuity of service.

E. The appropriate support coordinator will instruct the participant on the means to document delivery of supports, including providing appropriate billing forms and/or special instructions, both at the point of initiation of supports and quarterly thereafter for the duration of service provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1129. Fiscal Control of Use of Individual and Family Support Funds

A. The plan of support for each recipient of individual and family support funds shall clearly reflect the intended utilization of supports and be specific to the type and level of support to be received; conditions of delivery of service; and the frequency, duration, and effectiveness of the service.

B. The developmental disabilities director shall be responsible for the appropriate use of individual and family support funds in cooperation with the support coordinator to ensure that no support or service is funded, which is not clearly identified on an approved plan of support.

C. All individual and family support agreements will contain clear identification of any payroll and/or other taxes as the sole responsibility of the participant and not the LGE. No individual and family support sponsored reimbursement may be used in any way to defer the participant responsibility for payroll tax payment or deferral.

D. All questions about payroll or other taxes or other fiscal responsibilities of participants of individual and family support funds are to be referred to tax specialists for advice and/or resolution of questions. No OCDD or LGE employee may answer participant questions about legal obligations of the participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1131. Monitoring the Plan of Support

A. Support coordinators will maintain at least quarterly contact with the participant, with documentation to the record, for the duration of supports; contact can be face-to-face or by telephone except that home or vehicle modification(s) will be viewed by the support coordinator. Regardless of the manner of monitoring, a record of monitoring activities shall be maintained in the participant record at the LGE office.

B. Active plans of support will be monitored for the duration of support provision; the participant record will clearly indicate the period during which monitoring will occur and the point at which monitoring can be terminated.

C. Monitoring of supports shall address fiscal issues of whether receipts satisfy and conform to the conditions of delivery of the plan of support. Processing of receipts and billing forms shall not be considered an adequate monitoring of delivery of support.

D. Monitoring of the plan of support will involve follow-up of questionable fiscal practices, including attempts to recoup inappropriate payment if necessary. Such instances will include, but not be limited to, when adequate receipts are not submitted, when eligibility is in question, or when the individual or family has demonstrated questionable compliance with program policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1133. Regional Program Monitoring and Reporting

A. Each LGE will conduct a supervisory review of at least 10 percent of the plans of support of individual and family support applicants and participants on an at least quarterly basis to ensure compliance with program guidelines and quality of service delivery to persons requesting and receiving individual and family support program supports. This internal review shall be the responsibility of the LGE and supervisory personnel as designated by the developmental disabilities director.

B. Each LGE will monitor individual and family support funds allocated for its use and report in the format required by the OCDD central office. Periodic reports will be generated by the central data management system of the OCDD.

C. An annual review of LGE program operations will be completed by personnel of the OCDD central office as designated by the assistant secretary, and each LGE will work cooperatively with officials of authorized state or federal agencies to satisfy audit or monitoring requirements as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1135. Terminations

A. Terminations occur when an individual and family support service has been approved and is then terminated for one of the reasons listed in Subsection B of this Section. This is not the same as a closure of request which occurs before a service is approved.

B. Terminations may be initiated by the LGE or individual or family receiving the individual and family support service for the any of the following reasons:

1. death of the participant;
2. fraud;
3. relocation of the individual receiving supports outside of Louisiana;
4. termination of program;
5. deterioration of participant health and/or functioning;
6. confirmed abuse, neglect or exploitation of participant (individual with developmental disabilities);
7. significant changes in family constellation;
8. participant request when the individual with developmental disabilities is of majority and legally competent;
9. substantial changes and failure to report such changes in individual and family circumstance that results in

the participant becoming eligible for support from sources other than the individual and family support program, and the program is no longer the payor of last resort such as, but not limited to:

- a. receipt of or certification of Medicaid services (new opportunities waiver; children's choice waiver; supports waiver; residential options waiver; early and periodic screening, diagnostics and treatment or EPSDT; personal care services or PCS; long term-personal care services or LT-PCS; community choices waiver; and adult day health care waiver);
- b. trust funds; and
- c. change in living arrangements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

§1137. Appeals

A. Persons requesting individual and family support funds and recipients of supports who have been denied supports or had supports reduced or terminated, have access to the Division of Administrative Law-Louisiana Department of Health (LDH) section.

B. Applicants and recipients of supports will be informed of their right of appeal and of the process of appeal when a determination of whether individual and family support funds will or will not be made available and at what level, and at termination of supports.

C. Appellants will have 30 days from the date of notification of the action to register an appeal of that action.

D. To make an appeal, individuals can contact either their support coordinator or the LGE office by telephone, in writing or in person, for assistance.

E. The appellant, with or without the assistance of the support coordinator, will be responsible for completing the appropriate documentation and forwarding it to the Division of Administrative Law-LDH section as set forth by the OCDD.

F. The LGE will cooperate with the Division of Administrative Law to provide information as appropriate to complete the appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:824.

HISTORICAL NOTE: Promulgated by the Department of Health, Office for Citizens with Developmental Disabilities, LR 43:

Family Impact Statement

It is anticipated that the proposed action will have no known or foreseeable impact 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 functions as contained in the proposed action.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits; or
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider’s ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Mark A. Thomas, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. Mr. Thomas is responsible for responding to inquiries regarding this proposed Rule. The deadline for 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 February 24, 2017 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.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Individual and Family Support Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change intends to codify both the existing policy and practice for implementation of the Individual and Family Support (IFS) Program. The proposed rule amends the Louisiana Administrative Code Title 48, Part IX, Developmental Disabilities Services, to add Chapter 11: Individual and Family Support Program.

The IFS Program is designed to meet those needs of individuals with developmental disabilities, which exceed those normally met by existing resources, including both entitlements and those occurring naturally in the individual’s family and community. The proposed rule clarifies existing practice to establish in rule the definitions, records and processes, such as eligibility, individual planning, program monitoring and oversight, funding prioritization and allocation, expenditures, and payment mechanisms, to ensure proper utilization of program funds and service delivery. There is no anticipated programmatic or fiscal impact to the Louisiana Department of Health or the Local Governing Entities other than the cost of rule promulgation for FY 2016-17. The estimated cost of rulemaking is \$5,112 from the State General Fund for both the

- proposed rule and the final rule. These costs are routinely included in OCDD’s annual operating budget.
- 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 for FY 2016-17.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**
It is anticipated that implementation of this proposed rule will have no economic cost or benefits to directly affected persons or non-governmental groups for FY 2016-17.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
This proposed rule has no known effect on competition and employment.

Mark A. Thomas
Assistant Secretary
1701#040

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Correction
Liquefied Petroleum Gas Commission**

Broker Permits and General Requirements
(LAC 55:IX.Chapter 1)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, in accordance with R.S. 49:953(B), of the Administrative Procedure Act, to amend, supplement and expand portions of and readopt LAC 55:I.Chapter 1 as authorized by R.S. 40:1846.

In particular, notice is given to amend LAC 55:IX.107 to require a permit for third party brokers who are instrumental in the sale and service of liquefied petroleum. In addition, filing fees for all applications will be \$150.

The text of this proposed Rule may be viewed in the Emergency Rule section of this edition of the *Louisiana Register*.

Family Impact Statement

The proposed Rule will not have any known or foreseeable impact on any family as defined by R.S. 49:972.D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children.

Local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23.

Poverty Impact Statement

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the LA R.S. 49:973. The agency has considered economic welfare factors

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 poverty.

Small Business Analysis

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR 107) of the 2014 Regular Session of the Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on providers. However, the particular proposed Rule does not impact or affect the staffing level requirements required to provide the same level of service.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than February 10, 2017, at 4:30 p.m. to Melinda L. Long, Office of Legal Affairs, 7979 Independence Blvd., Baton Rouge, LA 70806. A public hearing will be scheduled if the requisite number of comments are received by the deadline date.

John W. Alario
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Broker Permits and General Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will result in a one-time marginal increase in administrative costs for the Liquefied Petroleum Gas Commission associated with generating and processing forms associated with Class III permit location approval forms. The associated costs and workload will be marginal and absorbed using the agency's current personnel and budget authority. The proposed rule changes reflect policies adopted by the Commission to permit third-party brokers of liquefied petroleum gas.

The proposed amendments to Rule 107(A)(1) alter the provision requiring applicants to pay an application filing fee of \$100 per Class I and IV permit, \$50 per Class VI permit, and \$25 for all other permit classes, and sets a flat \$150 filing fee for all permit classes. The proposed changes to Rule 107(A)(6) amend the permit fee schedule to include the permit fee for the new Class III permit, which shall be \$500. The proposed amendments to Rule 113 implements the criteria for the Class III permits. The proposed amendments to Rule 159 establish the "Location Approval Form" for the Class III permits.

The proposed rule changes will not result in any costs for local governmental units, nor will it result in any savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will increase revenue collections for the LP Gas Commission by an indeterminate amount. Present rule states that there is a one-time application filing fee of \$100 per Class I and IV permit, \$50 per Class VI permit, and \$25 per permit for all other permit classes. The proposed amendment states that the associated filing fee for all applicants, including the new Class III, will be \$150. The proposed rule also states that a Class III permit fee is \$500. Furthermore, any revenues generated by the proposed rule change will be offset by an indeterminate amount as a result of different permittees previously paying different filing fees. The revenue offset is indeterminate using historical data, because the number of applications for each different permit type vary from year to year.

The LP Gas Commission anticipates 55-57 total permit applications in FY 17 based upon historical totals. As a result, the new \$150 application filing fee may generate a total increase of approximately \$8,250-\$8,550 in gross revenues. However, any increased revenues would be offset by an indeterminate amount, as different permit classes previously paid different filing fees ranging from \$25 - \$100. For informational purposes, the three-year average of revenues derived from LP gas application filings from FY 14 - 16 totaled approximately \$9,800.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will affect new third party brokers of liquefied petroleum gas and dealers that have to apply for a permit. Previously dealers paid a filing fee of \$25-\$100. The proposed change to Rule 107(A)(6) states that all applicants will now pay \$150. Dealers of LP gas will realize a cost increase related to permit filing fees ranging from \$50 - \$125 as a result of the new \$150 fee for all permits. Furthermore, the proposed rule change establishes the \$500 fee for Class III permits, which LP gas dealers hoping to receive Class III status must pay. There is currently one LP gas dealer waiting to register as a Class III dealer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule increases the cost of business for liquefied petroleum gas dealers statewide by increasing the permit filing fee to \$150 from a previous range of \$25-\$100. Some dealers may be adversely affected by the higher filing fee, though the effect of the higher fee will likely be marginal and not affect aggregate business activity statewide.

The proposed rule will not affect employment.

Jason S. Starnes
Interim Undersecretary
1701#075

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Correction Uniform Construction Code Council

Uniform Construction Code
(LAC 17:I:Chapter 1)

In accordance with the provisions of R.S. 40:1730.26 and R.S. 40:1730.28, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules and in accordance with R.S. 49:953(B), the Administrative Procedure Act, the

Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) hereby gives notice that it proposes to amend and adopt the following rule. The purpose of adopting and amending the currently adopted construction codes is to replace them with the more recent 2015 editions of the *International Building Code*, *International Residential Code*, *International Plumbing Code*, *International Existing Building Code*, *International Fuel Gas Code* and *International Mechanical Code* and the 2014 edition of the *National Electric Code*.

Title 17

CONSTRUCTION

Part I. Uniform Construction Code

Chapter 1. Adoption of the Louisiana State Uniform Construction Code

(Formerly LAC 55:VI.Chapter 3)

§101. Louisiana State Uniform Construction Code (Formerly LAC 55:VI.301.A)

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective July 1, 2017 the following is hereby adopted as an amendment to the *Louisiana State Uniform Construction Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2380 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:1672 (October 2016), LR 43:

§103. International Building Code (Formerly LAC 55:VI.301.A.1)

A. *International Building Code* (IBC), 2015 Edition, not including Chapter 1, Administration, Chapter 11, Accessibility, Chapter 27, Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. Furthermore, IBC shall be amended as follows and shall only apply to the *International Building Code*.

1. Amend Chapter 2 Definitions.

Mini-Storage Facility--A self-service storage facility which rents or leases individual storage space to occupants for the storage and/or removal of personal property.

2. Amend Chapter 9 to adopt and amend 2015 *International Building Code*,

a. Section 903.2.1.2, Group A-2.

i. Amend item number (2.) The fire area has an occupant load of 300 or more.

ii. Add item number (4.) Open air pavilions on three sides or more, not exceeding 12,000 square feet, shall not be required to comply with 903.2.1.3(1) and 903.2.1.3(2) where each side has unobstructed access to a public way

(10'-0" wide by 10'-0" high). No fixed elements, equipment, seating, etc. are permitted within the 10'-0" by 10'-0" access.

iii. Exception:

(a). The requirements of Section 903.2.1.2(1) and 903.2.1.2(2) shall not apply to a single multi-purpose room less than 12,000 sf when all of the following conditions are met:

(i). The single multi-purpose room shall not be used for display or exhibition, bars or taverns;

(ii). The single multi-purpose room shall not share exit access with other occupancies. Non-separated accessory uses that are incidental or ancillary to the single multi-purpose room shall be considered as part of the assembly occupancy. The accessory uses shall not be limited to 10% of the single multi-purpose room floor area and/or building, but shall be included and considered as part of the limited assembly room floor area;

(iii). The single multi-purpose room shall not be part of a fire area containing other assembly occupancies;

(iv). A single multi-purpose room with an occupant load greater than 300 persons shall be provided with a fire alarm system in accordance with 907.2.1.

(v). The single multi-purpose room with its accessory or ancillary uses shall be separated, when part of a multiple occupancy, in accordance with Table 508.4 and Section 707 from the remainder of the building. The single multi-purpose room fire area containing the single multi-purpose room and its accessory or ancillary uses shall be less than 12,000 sf.

(vi) Provide system smoke detection in all areas in accordance with Section 907 throughout the entire building.

b. Section 903.2.1.3 Group A-3.

i. Add item number (4) Open air pavilions on three sides or more, not exceeding 12,000 square feet, shall not be required to comply with 903.2.1.3(2) where each side has unobstructed access to a public way (10'-0" wide by 10'-0" high). No fixed elements, equipment, seating, etc. are permitted within the 10'-0" by 10'-0" access.

ii. Exception:

(a). The requirements of Section 903.2.1.2(1) and 903.2.1.2(2) shall not apply to a single multi-purpose room less than 12,000 sf when all of the following conditions are met:

(i).The single multi-purpose room shall not be used for display or exhibition;

(ii).The single multi-purpose room shall not share exit access with other occupancies. Non-separated accessory uses that are incidental or ancillary to the single multi-purpose room shall be considered as part of the assembly occupancy. The accessory uses shall not be limited to 10% of the single multi-purpose room floor area and/or building, but shall be included and considered as part of the limited assembly room floor area;

(iii).The single multi-purpose room shall not be part of a fire area containing other assembly occupancies;

(iv). A single multi-purpose room with an occupant load greater than 300 persons shall be provided with a fire alarm system in accordance with 907.2.1.

(v). The single multi-purpose room with its accessory or ancillary uses shall be separated, when part of a multiple occupancy, in accordance with Table 508.4 and Section 707 from the remainder of the building. The single multi-purpose room fire area containing the single multi-purpose

room and its accessory or ancillary uses shall be less than 12,000 sf.

(vi) Provide system smoke detection in all areas in accordance with Section 907 throughout the entire building.

c. Section 903.2.9 Group S-1.

i. Add under item number 5. A Group S-1 occupancy used for the storage of upholstered furniture or mattresses exceeds 2,500 square feet (232 m²).

(a). Exception:

(i). The requirement of 903.2.9(5) shall not apply to mini-storage facilities less than 12,000 sf. Mini-storage facilities, including mini-storage facilities which are climate-controlled, shall comply with 903.2.9(1) thru 903.2.9(4).

d. Section 903.2.7 Group M.

i. Amend item number (4) A Group M occupancy used for the display and sale of upholstered furniture or mattresses where the floor area occupied by the upholstered furniture or mattresses exceeds 5,000 square feet (464 m²).

e. Section 903.2.8 Group R.

i. Exception:

(a). An automatic sprinkler system is not required when not more than two dwelling or sleeping units are attached to a commercial or non-residential occupancy where all of the following conditions exist:

(i). The dwelling or sleeping units shall be separated vertically and/or horizontally from the non-residential occupancy as well as each other by two-hour construction in accordance with Sections 707 and 711.

(ii). The entire building shall be smoke protected in accordance with Section 907.

(iii). Egress from the dwelling or sleeping units shall NOT pass through the non-residential occupancy.

(iv). The building shall not exceed two stories.

b. An automatic sprinkler system is not required in Residential Group R-3, boarding houses (transient and nontransient) as defined by Section 310.5, where one of the following conditions exist:

i. Every sleeping room has a door opening directly to the exterior at the street or finish grade;

ii. Every sleeping room has a door opening directly to the exterior which leads to an outside stair protected in accordance with Section 1027;

3. Amend and revise Tables 1006.3.2(1) and 1006.3.2(2).

a. Delete from footnote "a"

i. and provided with emergency escape and rescue openings in accordance with Section 1030.

4. Amend Section 1010.1.9.6, Controlled egress doors in Groups I-1 and I-2.

a. Electric locking systems, including electromechanical locking systems and electromagnetic locking systems, shall be permitted to be locked in the means of egress in Group I-1 or I-2 occupancies where persons receiving care require their containment. Controlled egress doors shall be permitted in such occupancies where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or an approved automatic smoke or heat detection system installed in accordance with Section 907, provided that the doors are installed and operate in accordance with all of the following:

i. The door locks shall unlock on actuation of the automatic sprinkler system or automatic fire detection system.

ii. The door locks shall unlock on loss of power controlling the lock or lock mechanism.

iii. The door locking system shall be installed to have the capability of being unlocked by a switch located at the fire command center, a nursing station or other approved location. The switch shall directly break power to the lock.

iv. Amend Item (4.) A means of manual mechanical unlocking must be provided at each door that is not in direct view of the remote release location required by Item 3.

v. The procedures for unlocking the doors shall be described and approved as part of the emergency planning and preparedness required by Chapter 4 of the *International Fire Code*.

vi. All clinical staff shall have the keys, codes or other means necessary to operate the locking systems.

vii. Emergency lighting shall be provided at the door.

viii. The door locking system units shall be listed in accordance with UL 294.

(a.) Delete Exceptions 1 and 2.

ix. Add Item (9) "Automatic" Re-Locking, after an emergency release as described above, shall be prohibited. A specific human action dedicated for re-locking doors must be provided at the remote control location or at each lock location.

x. Add Item (10) Document the "Staff/Patient Ratio" for the occupants of the locked area to the authority having jurisdiction. The ratio shall be within state and federal licensing/certification guidelines. Please note that only "Nurses" and "Nurses Aids" assigned to the locked area shall be considered acceptable responsible staff in regard to this ratio documentation.

xi. Add Item (11) Provide the reason for installing specialized security measures to the authority having jurisdiction.

xii. Add Item (12) Documentation addressing each condition itemized above shall be provided to the authority having jurisdiction and shall include the signature of the building owner or the facility administrator.

5. Amend Section 1010.1.9.7, Delayed egress.

a. Delayed egress locking systems shall be permitted to be installed on doors serving any occupancy except the main entrance/exit for a Group A, and all exits for a Group H in buildings that are equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or an approved automatic smoke or heat detection system installed in accordance with Section 907. The locking system shall be installed and operated in accordance with all of the following:

i. The delay electronics of the delayed egress locking system shall deactivate upon actuation of the automatic sprinkler system or automatic fire detection system, allowing immediate, free egress.

ii. The delay electronics of the delayed egress locking system shall deactivate upon loss of power controlling the lock or lock mechanism, allowing immediate free egress.

iii. The delayed egress locking system shall have the capability of being deactivated at the fire command center and other approved locations.

iv. Amend Item (4.)

(a) An attempt to egress shall initiate an irreversible process that shall allow such egress in not more than 15 seconds when a force of not more than 15 pounds

(67 N) is applied to the egress side door hardware for not more than 3 seconds. Initiation of the irreversible process shall activate an audible signal in the vicinity of the door. Once the delay electronics have been deactivated, rearming the delay electronics shall be by manual means only.

(b) Amend Exception:

(i) Where approved by the authority having jurisdiction, a delay of not more than 30 seconds is permitted on a delayed egress door.

v. Item (5.) The egress path from any point shall not pass through more than one delayed egress locking system.

(a) Delete Exception:

vi. Item (6) A sign shall be provided on the door and shall be located above and within 12 inches (305 mm) of the door exit hardware:

(a) Item (6.1) For doors that swing in the direction of egress, the sign shall read: Push until alarm sounds. Door can be opened in 15 [30] seconds.

(b) Item (6.2) For doors that swing in the opposite direction of egress, the sign shall read: Pull until alarm sounds. Door can be opened in 15 [30] seconds.

(c) Amend Item (6.3).

(i) The sign shall comply with the visual character requirements in ICC A117.1. Americans with Disabilities Act and Architectural Barriers Act – Accessibilities Guidelines (ADA/ABA-AG).

(ii) Delete Exception.

vii. Emergency lighting shall be provided on the egress side of the door.

viii. The delayed egress locking system units shall be listed in accordance with UL 294.

6. Amend Section 1010.1.9.8, Sensor release of electrically locked egress doors.

a. The electric locks on sensor released doors located in a required means of egress are permitted where installed and operated in accordance with all of the following criteria:

i. The sensor shall be installed on the egress side, arranged to detect an occupant approaching the doors. The doors shall be arranged to unlock by a signal from or loss of power to the sensor.

ii. Loss of power to the lock or locking system shall automatically unlock the doors.

iii. Amend Item (3).

(a) The doors shall be arranged to unlock from a manual unlocking device located 40 inches to 48 inches (1016 mm to 1219 mm) vertically above the floor and within 5 feet (1524 mm) of the secured doors. Ready access shall be provided to the manual unlocking device and the device shall be clearly identified by a sign that reads “Push to Exit” When operated, the manual unlocking device shall result in direct interruption of power to the lock—independent of other electronics—and the doors shall remain unlocked for not less than 30 seconds. The sign shall comply with the visual character requirements in *Americans with Disabilities Act and Architectural Barriers Act – Accessibilities Guidelines (ADA/ABA-AG)*.

iv. Activation of the building fire alarm system, where provided, shall automatically unlock the doors, and the doors shall remain unlocked until the fire alarm system has been reset.

v. Add item (5).

(a) The activation of manual fire alarm boxes that activate the fire alarm system shall not be required to unlock the doors.

vi. Activation of the building automatic sprinkler system or fire detection system, where provided, shall automatically unlock the doors. The doors shall remain unlocked until the fire alarm system has been reset.

vii. The door locking system units shall be listed in accordance with UL 294.

viii. Add Item (8).

(a) Doors in buildings with an occupancy in Group A shall not be secured from the egress side during periods that the building is open to the general public.

ix. Add Item (9).

(a) Doors in buildings with an occupancy in Group R-3 or Group I-3 shall not be equipped with this locking system

x. Add Item (10).

(a) Doors serving any Group M occupancy shall be permitted to be equipped with this locking system in buildings equipped throughout with an *automatic sprinkler system* in accordance with Section 903.3.1.1 or an *approved* automatic smoke or heat detection system installed in accordance with Section 907.

xi. Add Item (11.)

(a) Emergency egress lighting shall be provided at the door.

7. Amend Section 1010.1.9.9, Electromagnetically locked egress doors.

a. Doors in the required means of egress shall be permitted to be locked with an electromagnetic locking system where equipped with hardware and where installed and operated in accordance with all of the following:

i. The hardware that is affixed to the door leaf has an obvious method of operation that is readily operated under all lighting conditions.

ii. The hardware is capable of being operated with one hand.

iii. Operation of the hardware directly interrupts the power to the electromagnetic lock and unlocks the door immediately.

iv. Loss of power to the locking system automatically unlocks the door.

v. Where panic or fire exit hardware is required by Section 1010.1.10, operation of the panic or fire exit hardware also releases the electromagnetic lock.

vi. The locking system units shall be listed in accordance with UL 294.

8. Amend Section 1020.1, Construction.

a. Exceptions:

i. Add item number (6). A fire-resistance rating is not required for corridors where the space or area served does not exceed the occupant load and common path of egress travel values, for each occupancy, listed in Table 1006.2.1. The travel distance to the exit from the space or area served shall not exceed the common path of travel.

9. Amend Chapter 10, Section 1020.5, Air Movement in corridors. Corridors that require protection under Table 1020.1—Corridor Fire-Resistance Rating, shall not serve as supply, return, exhaust, relief or ventilation air ducts.

10. Amend Chapter 10, Section 1027.6.

a. Add Exception 4. Exterior stairs or ramps which serve no more than one story above the level of exit

discharge and constructed with non-combustible materials or constructed with fire retardant treated lumber, shall be allowed when the fire separation distance is between 5 and 10 feet measured from the exterior edge of the stairway or ramp.

11. Amend Section 1030.1.

a. Exception:

i. Item (4) In other than Group R-3 occupancies, buildings equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.

12. Amend Chapter 16, Section 1603.1.5, Earthquake design data. The following information related to seismic loads shall be shown, regardless of whether seismic loads govern the design of the lateral-force-resisting system of the building:

- a. seismic importance factor, I, and occupancy category;
- b. mapped spectral response accelerations, SS and $S1$;
- c. site class;
- d. spectral response coefficients, SDS and $SD1$;
- e. seismic design category;
- f. basic seismic-force-resisting system(s);
- g. design base shear;
- h. seismic response coefficient(s), CS ;
- i. response modification factor(s), R ;
- g. analysis procedure used;
- h. Exceptions:

i. construction documents that are not required to be prepared by a registered design professional;

ii. construction documents for structures that are assigned to Seismic Design Category A.

13. Amend Chapter 16, Section 1609.1.2, Protection of Openings. In wind-borne debris regions, glazing in buildings shall be impact resistant or protected with an impact-resistant covering meeting the requirements of an approved impact-resistant standard or ASTM E 1996 and ASTM E 1886 referenced herein as follows.

a. Glazed openings located within 30 feet (9144 mm) of grade shall meet the requirements of the large missile test of ASTM E 1996.

b. Glazed openings located more than 30 feet (9144 mm) above grade shall meet the provisions of the small missile test of ASTM E 1996.

c. Exceptions:

i. wood structural panels with a minimum thickness of 7/16 inch (11.1 mm) and maximum panel span of 8 feet (2438 mm) shall be permitted for opening protection in one- and two-story buildings classified as Risk Category 2. Panels shall be precut so that they shall be attached to the framing surrounding the opening containing the product with the glazed opening. Panels shall be predrilled as required for the anchorage method and shall be secured with the attachment hardware provided. Attachments shall be designed to resist the components and cladding loads determined in accordance with the provisions of ASCE 7, with corrosion-resistant attachment hardware provided and anchors permanently installed on the building. Attachment in accordance with Table 1609.1.2 with corrosion-resistant attachment hardware provided and anchors permanently installed on the building is permitted for buildings with a mean roof height of 45 feet (13 716

mm) or less where V_{asd} determined in accordance with Section 1609.3.1 does not exceed 140 mph (63 m/s).

ii. glazing in Risk Category I buildings as defined in Section 1604.5, including greenhouses that are occupied for growing plants on a production or research basis, without public access shall be permitted to be unprotected;

iii. glazing in Risk Category II, III or IV buildings located over 60 feet (18 288 mm) above the ground and over 30 feet (9144 mm) above aggregate surface roofs located within 1,500 feet (458 m) of the building shall be permitted to be unprotected.

14. Amend Chapter 16, Section 1612.4, Design and Construction.

a. Delete Referenced ASCE 24-14 Freeboard requirements and Table 1-1 Flood Design Class of Buildings and Structures.

15. Chapter 16 Section 1613.1, Scope. Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE 7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7.

a. Exceptions:

i. detached one- and two-family dwellings, assigned to Seismic Design Category A, B or C, or located where the mapped short-period spectral response acceleration, SS , is less than 0.4 g;

ii. the seismic-force-resisting system of wood-frame buildings that conform to the provisions of Section 2308 are not required to be analyzed as specified in this Section;

iii. agricultural storage structures intended only for incidental human occupancy;

iv. structures that require special consideration of their response characteristics and environment that are not addressed by this code or ASCE 7 and for which other regulations provide seismic criteria, such as vehicular bridges, electrical transmission towers, hydraulic structures, buried utility lines and their appurtenances and nuclear reactors;

v. structures that are not required to have a registered design professional in responsible charge;

vi. structures that are assigned to Seismic Design Category A.

b. Amend Chapter 16, Section 1613.1, Scope. Every structure, and portion thereof, including nonstructural components that are permanently attached to structures and their supports and attachments, shall be designed and constructed to resist the effects of earthquake motions in accordance with ASCE 7, excluding Chapter 14 and Appendix 11A. The seismic design category for a structure is permitted to be determined in accordance with Section 1613 or ASCE 7-10. Figure 1613.5(1) shall be replaced with ASCE 7-10 Figure 22-1. Figure 1613.5(2) shall be replaced with ASCE 7-10 Figure 22-2.

16. Amend Chapter 29, Plumbing Systems.

a. Section 2901, Scope.

i. The provisions of this chapter and the *International Plumbing Code* shall govern the erection, installation, alteration, repairs, relocation, replacement, addition to, use

or maintenance of plumbing equipment and systems. Toilet and bathing rooms shall be constructed in accordance with Section 1210. Plumbing and equipment shall be constructed, installed and maintained in accordance with the *International Plumbing Code*.

(a). Delete Private Sewage disposal systems shall conform to the *International Private Sewage Disposal Code*.

b. Delete Section 2902.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2380 (November 2015), **LR 43:**

§105. International Existing Building Code (Formerly LAC 55:VI.301.A.2)

A. *International Existing Building Code* (IEBC), 2015 Edition, not including Chapter 1, Administration, and the standards referenced in that code for regulation of construction within this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41: 2383 (November 2015), **LR 43:**

§107. International Residential Code (Formerly LAC 55:VI.301.A.3.a)

A.1. *International Residential Code*, 2015 Edition, not including Parts I-Administrative, and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the *International Residential Code*, and extensive alterations. Appendix J, Existing Buildings and Structures, may be adopted and enforced only at the option of a parish, municipality, or regional planning commission.

a. Adopt and amend 2012 IRC Section R301.2.1., Part IV-Energy Conservation of the latest edition of the *International Residential Code* is hereby amended to require that supply and return ducts be insulated to a minimum of R-6.

2. Amend Section R302.5.1 Opening Protection.

a. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 13/8 inches (35 mm) in thickness, solid or honeycomb-core steel doors not less than 13/8 inches (35 mm) thick, or 20-minute fire-rated doors.

i. Delete equipped with a self-closing device.

3. Amend Section R303.4, Mechanical Ventilation. When a blower door test is performed, and the air infiltration rate of a dwelling unit is less than 3 air changes per hour when tested in accordance with the 2009 IRC Section N1102.4.2.1, the dwelling unit shall be provided with whole-house mechanical ventilation in accordance with Section M1507.3.

4. Additionally, IRC shall be amended as follows and shall only apply to the *International Residential Code*.

a. Adopt and amend 2015 IRC Section 313.1., Townhouse Automatic Sprinkler System. Per Act No. 685 of the 2010 Regular Session of the Louisiana Legislature, the council shall not adopt or enforce any part of the *International Residential Code* or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings. Further, no municipality or parish shall adopt or enforce an ordinance or other regulation requiring a fire protection sprinkler system in one- or two-family dwellings.

i. Exception: If an owner voluntarily chooses to install an automatic residential fire sprinkler system it shall be installed per Section R313.1.

b. Adopt and amend 2015 IRC Section 313.2, One- and Two-Family Dwellings Automatic Fire Systems. Per Act No. 685 of the 2010 Regular Session of the Louisiana Legislature, the Council shall not adopt or enforce any part of the *International Residential Code* or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings. Further, no municipality or parish shall adopt or enforce an ordinance or other regulation requiring a fire protection sprinkler system in one- or two-family dwellings.

i. Exception: if an owner voluntarily chooses to install an automatic residential fire sprinkler system it shall be installed per Section R313.2.1, Design and installation.

c. Amend Section R322.2.1, Elevation Requirements. i, Buildings and structures in flood hazard areas including flood hazard areas designated as Coastal A Zones, shall have the lowest floors elevated to or above the base flood elevation or the design flood elevation.

(a). Delete plus 1 foot (305 mm) requirement.

ii. In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated to a height of not less than the highest adjacent grade as the depth number specified in feet (mm) on the FIRM or not less than 2 feet if a depth number is not specified.

(a). Delete plus 1 foot (305 mm) requirement.

iii. Basement floor that are below grade on all sides shall be elevated to or above base flood elevation or the design flood elevation, whichever is higher.

(a). Delete plus 1 foot (305 mm) requirement.

d. Amend Section R322.3.2, Enclosed area below design flood elevation.

- i. Delete plus 1 foot (305 mm) requirement.
- e. Amend Section R 1006.1, Exterior Air. Factory-built or masonry fireplaces covered in this chapter shall be equipped with an exterior air supply to assure proper fuel combustion.

5. Substitute Chapter 11, Energy Efficiency of the 2009 IRC, in lieu of Chapter 11, Energy Efficiency of the 2015 IRC.

a. Amend Section N1102.3, Access Hatches and Doors. Access doors from *conditioned spaces* to unconditioned spaces shall be weather-stripped and have a minimum insulation value of an R-4.

b. Amend Section N1102.4.2, Air Sealing and Insulation. The air tightness demonstration method of compliance is to be determined by the contractor, design professional or homeowner.

c. Amend Section N1102.4.2.1, Testing Option. Tested air leakage is less than 7 ACH when tested with a blower door at a pressure of 50 pascals (0.007 psi). Testing shall occur after rough in and after installation of penetrations of the building envelope, including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances. When the contractor, design professional or homeowner chooses the blower door testing option, blower door testing shall be performed by individuals certified to perform blower door tests by a nationally recognized organization that trains and provides certification exams for the proper procedures to perform such tests. The responsible BCEO shall accept written blower door test reports from these certified individuals to verify the minimum requirements of Section N1102.4.2.1 Testing Option are attained.

i. During testing:

(a). exterior windows and doors, fireplace and stove doors shall be closed, but not sealed;

(b). dampers shall be closed, but not sealed; including exhaust, intake, makeup air, back draft, and flue dampers;

(c). interior doors shall be open;

(d). exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;

(e). heating and cooling system(s) shall be turned off;

(f). HVAC ducts shall not be sealed; and

(g). supply and return registers shall not be sealed.

d. Amend Section N1102.4.3, Fireplaces, New wood-burning fireplaces shall have outdoor combustion air.

e. Amend Section N1103.2.1, Insulation

i. Supply and return ducts in attics shall be insulated to a minimum of R-6.

f. Amend Section N1103.2.2, Sealing, Ducts, air handlers, filter boxes and building cavities used as ducts shall be sealed. Joints and seams shall comply with section M1601.4. Duct leakage testing shall be performed by individuals certified to perform duct leakage tests by a nationally recognized organization that trains and provides certification exams for the proper procedures to perform such tests. The responsible BCEO shall accept written duct leakage test reports from these certified individuals to verify the minimum requirements of Section N1103.2.2 Sealing are attained.

i. Exception: HVAC Contractors. HVAC contractors, who are not certified to perform duct leakage tests, may perform the test with the responsible BCEO visually verifying test procedures and results on site.

ii. Joints and seams shall comply with section M1601.4. Duct tightness shall be verified by either for the following:

(a). Post-Construction Test. Leakage to outdoors shall be less than or equal to 8 cfm (3.78 L/s) per 100 ft² (9.29 m²) of conditioned floor area or a total leakage less than or equal to 12 cfm (5.66 L/s) per 100 ft² (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inch w.g. (25 Pa) across the entire system, including the manufacturer's air handler end closure. All register boots shall be taped or otherwise sealed during the test.

(b). Rough-In Test. Total leakage shall be less than or equal to 6 cfm (2.83 L/s) per 100 ft² (9.29 m²) of conditioned floor area when tested at a pressure differential of 0.1 inch w.g. (25 Pa) across the roughed in system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 4 cfm (1.89 L/s) per 100 ft² (9.29 m²) of conditioned floor area.

iii. Exception: duct tightness test is not required if the air handler and all ducts are located within *conditioned space*.

g. Amend Section N1103.8.3, Pool Covers. Pool covers shall not be required to meet the energy efficiency requirements of this Section.

h. Amend Section M1307.3.1, Protection from Impact. Appliances shall not be installed in a location subject to automobile or truck damage except where protected by approved barriers

i. Amend Section M1507.3.1, System Design. The whole-house ventilation system shall consist of a combination of supply and exhaust fans, and associated ducts and controls. Local exhaust and supply fans are permitted to serve as such a system. Outdoor air ducts connected to the return side of an air handler shall be considered to provide supply ventilation.

j. Amend Section M1507.3.2, System Controls. The whole-house mechanical ventilation system shall be provided with controls that enable manual override and a method of air-flow adjustment.

k. Amend Section M1507.3.3, Mechanical Ventilation Rate. The whole-house mechanical ventilation system shall be able to provide outdoor air at a continuous rate of at least that determined in accordance with Table M1507.3.3(1).

l. Amend Section M1507.4, Minimum Required Local Exhaust. Local exhaust systems shall be designed to have the capacity to exhaust the minimum air flow rate as follows.

i. Kitchen: 100 cfm intermittent or 25 cfm continuous, a balanced ventilation system is required for continuous exhaust.

ii. Bathrooms: exhaust capacity of 50 cfm intermittent or 20 cfm continuous, a balanced ventilation system is required for continuous exhaust.

6. Amend Chapter 30, Sanitary Drainage.

a. Amend Section P3104.1, Connection. Individual branch and circuit vents shall connect to a vent stack, stack vent or extend to the open air.

i. Delete Exception: Individual, branch and circuit vents shall be permitted to terminate at an air admittance valve in accordance with Section P3114.

b. Delete Section P3114, Air Admittance Valves.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshall, LR 41:2383 (November 2015), amended LR 42:1672 (October 2016), LR 43:

§109. International Mechanical Code (Formerly LAC 55:VI.301.A.4)

A.1. *International Mechanical Code* (IMC), 2015 Edition, and the standards referenced in that code for regulation of construction within this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshall, LR 41:2386 (November 2015), LR 43:

§111. The International Plumbing Code (Formerly LAC 55:VI.301.A.5)

A. The *International Plumbing Code*, 2015 Edition. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption. (per R.S. 40:1730.28 eff. 1/1/16)

1. Amend Chapter One.

a. Amend Section [A] 101.2, Scope.

i. Section [A] 101.2, Scope. The provisions of this code shall apply to the erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing systems within this jurisdiction. This code shall also regulate nonflammable medical gas, inhalation anesthetic, vacuum piping, nonmedical oxygen systems and sanitary and condensate vacuum collection systems. The installation of fuel gas distribution piping and equipment, fuel-gas-fired water heaters and water heater venting systems shall be regulated by the *International Fuel*

Gas Code. Provisions in the appendices shall not apply unless specifically adopted.

(a). Nothing in this Part or any provision adopted pursuant to this Part shall prohibit the Department of Health and Hospitals from the following:

(i). Regulating stored water temperatures through enforcement of the *Sanitary Code*.

(ii). Regulating medical gas and medical vacuum systems.

[a]. Exception

[i]. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the International Residential Code.

B. Amend Chapter Two, Definitions

Adult Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of 10 or more people 18 years and older, not related to the caregiver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven day week in a place other than the person's home.

Barometric Loop—a fabricated piping arrangement rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage backflow.

Building Drain—that part of the lowest piping of a drainage system that receives the discharge from soil, waste and other drainage pipes inside and that extends 30 inches (762 mm) in developed length of pipe beyond the exterior walls of the building and conveys the drainage to the building sewer.

NOTE: Delete definition *Combined—Building Drain*—“See building drain, combined”.

a. *Sanitary*—a *building drain* that conveys sewage only.

b. *Storm*—a *building drain* that conveys storm water or other drainage, but not sewage.

Building Sewer—that part of the drainage system that extends from the end of the building drain and conveys the discharge to a community sewerage system, commercial treatment facility, or individual sewerage system or other point of disposal.

NOTE: Delete definition *Combined Building Sewer*—“See Building sewer, combined”.

a. *Sanitary*—a *building drain* that conveys sewage only.

b. *Storm*—a *building drain* that conveys storm water or other drainage, but not sewage.

By-Pass—any system of piping or other arrangement whereby the water may be diverted around any part or portion of the water supply system including, but not limited to, around an installed backflow preventer.

Child Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of seven or more children under the age of 18, not related to the care giver and supervision and guidance of seven or more children under the age of 18, not related to the care giver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven day week in a place other than the

children's home. A day care center that remains open for more than 20 hours in a continuous seven day week, and in which no individual child remains for more than 24 hours in one continuous stay shall be known as a full-time day care center.

Commercial Treatment Facility—any treatment facility which is required by the state health officer whenever the use of an individual sewerage system is unfeasible or not authorized.

Community Sewerage System—any sewerage system which serves multiple connections and consists of a collection and/or pumping system/transport system and treatment facility.

Containment—a method of backflow prevention which requires a backflow prevention device or method on the water service pipe to isolate the customer from the water main.

Continuous Water Pressure—a condition when a backflow preventer is continuously subjected to the upstream water supply pressure for a period of 12 hours or more.

Day Care Centers—includes adult and child day care centers.

Degree of Hazard—an evaluation of the potential risk to public health if the public were to be exposed to contaminated water caused by an unprotected or inadequately protected cross connection.

Domestic Well—a water well used exclusively to supply the household needs of the owner/lessee and his family. Uses may include human consumption, sanitary purposes, lawn and garden watering and caring for pets.

Dual Check Valve—a device having two spring loaded, independently operated check valves without tightly closing shut-off valves and test cocks. Generally employed immediately downstream of the water meter.

Fixture Isolation—a method of backflow prevention in which a backflow preventer is located to protect the potable water of a water supply system against a cross connection at a fixture located within the structure or premises itself.

Grade(G)—normally, this references the location of some object in relation to either the floor or ground level elevation.

Gravity Grease Interceptor – Plumbing appurtenances of not less than 125 gallons capacity that are installed in the sanitary drainage system to intercept free-floating fats, oils, and grease from waste water discharge. Separation is accomplished by gravity during a retention time of not less than 30 minutes.

Human Consumption—the use of water by humans for drinking, cooking, bathing, showering, hand washing, dishwashing, or maintaining oral hygiene.

Individual Sewerage System—any system of piping (excluding the building drain and building sewer), and/or collection and/or transport system which serves one or more connections, and/or pumping facility, and treatment facility, all located on the property where the sewage originates; and which utilizes the individual sewerage system technology which is set forth in LAC 51:XIII.Chapter 7, Subchapter B, or a commercial treatment facility which is specifically authorized for use by the state health officer.

NOTE: Delete definition *Individual Water Supply*—a water supply that serves one or more families, and that is not an approved public water supply.

Lead Free—

a. in general:

i. not containing more than 0.2 percent lead when used with respect to solder and flux; and

ii. not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures;

b. calculation:

i. the weighted average lead content of a pipe, pipe fitting, plumbing fitting, or fixture shall be calculated by using the following formula:

(a). for each wetted component, the percentage of lead in the component shall be multiplied by the ratio of the wetted surface area of that component to the total wetted surface area of the entire product to arrive at the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component shall be added together, and the sum of these weighted percentages shall constitute the weighted average lead content of the product. The lead content of the material used to produce wetted components shall be used to determine compliance with Clause a.ii above. For lead content of materials that are provided as a range, the maximum content of the range shall be used.

Master Meter—a water meter serving multiple residential dwelling units or multiple commercial units. Individual units may or may not be sub-metered.

Potable Water Supply—a publicly owned or privately owned water supply system which purveys potable water.

Preschool—any child less than five years of age.

Private Water Supply—a potable water supply that does not meet the criteria for a public water supply including, but not limited to a domestic well.

NOTE: Delete definition *Public Water Main*—a water supply pipe for public use controlled by public authority.

Public Water Supply—public water system.

Public Water System—a particular type of water supply system intended to provide potable water to the public having at least 15 service connections or regularly serving an average of at least 25 individuals daily at least 60 days out of the year.

Putrescible Waste—waste which is subject to spoilage, rot, or decomposition and may give rise to foul smelling, offensive odors and/or is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies. It includes wastes from the preparation and consumption of food, vegetable matter, and animal offal and carcasses.

Residential Facility—any place, facility, or home operated by any person who receives therein four or more people who are not related to such person for supervision, care, lodging and maintenance with or without transfer of custody. This shall include, but not be limited to group homes, community homes, maternity homes, juvenile detention centers, emergency shelters, halfway homes and schools for the mentally retarded.

Sanitary Sewage—see sewage.

Sewer—a pipe or other constructed conveyance which conveys sewage, rainwater, surface water, subsurface water, or similar liquid wastes.

a. *Building Sewer*—see “building sewer.”

b. *Public Sewer*—a common sewer directly controlled by a public authority or utilized by the public

c. *Sanitary Sewer*—a sewer that carries sewage and excludes storm, surface and ground water.

d. *Storm Sewer*—a sewer that conveys rainwater, surface water, subsurface water and similar liquid wastes.

Sewerage System—any system of piping (excluding the building drain and building sewer) and/or collection and/or transport system and/or pumping facility and/or treatment facility, all for the purpose of collecting, transporting, pumping, treating and/or disposing of sanitary sewage.

Water Main—a water supply pipe or system of pipes installed and maintained by a city, township, county, Public Utility Company or other public entity, on public property, in the street or in an approved dedicated easement of public or community use. This term shall also mean the principal artery (or arteries) used for the distribution of potable water to consumers by any water supplier including, but not limited to, those public water systems which are not owned by the public and which may not be on public property.

Water Supplier—a person who owns or operates a water supply system including, but not limited to, a person who owns or operates a public water system.

Water Supply System—the water service pipe, water distribution pipes, and the necessary connecting pipes, fittings, control valves and all appurtenances in or adjacent to the structure or premise. This term shall also mean the system of pipes or other constructed conveyances, structures and facilities through which water is obtained, treated to make it potable (if necessary) and then distributed (with or without charge) for human consumption or other use.

NOTE: Delete definition *Well*—

Bored—a well constructed by boring a hole in the ground with an auger and installing a casing.

Drilled—a well constructed by making a hole in the ground with a drilling machine of any type and installing casing and screen.

Driven—a well constructed by driving a pipe in the ground. The drive pipe is usually fitted with a well point and screen.

Dug—a well constructed by excavating a large-diameter shaft and installing a casing.

C. Amend Chapter 3, General Regulations.

1. Amend Section 312.1, Required Tests.

a. The permit holder shall make the applicable tests prescribed in Sections 312.2 through 312.10 to determine compliance with the provisions of this code. The permit holder shall give reasonable advance notice to the code official when the plumbing work is ready for tests. The code official shall verify the test results. The equipment, material, power and labor necessary for the inspection and test shall be furnished by the permit holder and the permit holder shall be responsible for determining that the work will withstand the test pressure prescribed in the following tests. All plumbing system piping shall be tested with either water or by air. After the plumbing fixtures have been set and their traps filled with water, the entire drainage system shall be submitted to final tests. The code official shall require the removal of any cleanouts if necessary to ascertain whether the pressure has reached all parts of the system.

2. Amend Section 312.3, Drainage and Vent Test.

a. An air test shall be made by forcing air into the system until there is a uniform gauge pressure of 5 psi (34.5

kPa) or sufficient to balance a 10-inch (254 mm) column of mercury. This pressure shall be held for a test period of not less than 15 minutes. Any adjustments to the test pressure required because of changes in ambient temperatures or the seating of gaskets shall be made prior to the beginning of the test period.

3. Amend Section 312.5, Water Supply System Test.

a. Upon completion of a section of or the entire water supply system, the system, or portion completed, shall be tested and proved tight under a water pressure not less than 1.5 times the working pressure of the system, but not less than 140 psi; or, for piping systems other than plastic, by an air test of not less than 50 psi (344 kPa). This pressure shall be held for not less than 15 minutes. The water utilized for tests shall be obtained from a potable source of supply. The required tests shall be performed in accordance with this section and Section 107.

4. Amend Section 312.10, Installation, Inspection and Testing of Backflow Prevention Assemblies, Barometric Loops and Air Gaps.

a. Installation, inspection and testing shall comply with Sections 312.10.1 through 312.10.3.

5. Amend Section 312.10.1, Inspections.

a. Annual inspections shall be made of all backflow prevention assemblies, barometric loops and air gaps to determine whether they are operable, properly installed and maintained, and meet testing/code requirements. Inspections of backflow prevention devices including barometric loops and air gaps used to protect high degree of hazard cross connections shall be documented in writing and the report provided to the owner of the backflow prevention device.

6. Amend Section 312.10.2, Testing.

a. Reduced pressure principle, double check, pressure vacuum breaker, reduced pressure detector fire protection, double check detector fire protection, and spill-resistant vacuum breaker backflow preventer assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The testing procedure shall be performed in accordance with one of the following standards: ASSE 5013, ASSE 5015, ASSE 5020, ASSE 5047, ASSE 5048, ASSE 5052, ASSE 5056, CSA B64.10.1, USC's FCCC and HR's "Manual of Cross-Connection Control", or UFL's TREEO's "Backflow Prevention—Theory and Practice". Any backflow preventer which is found to be defective shall be repaired.

7. Add Section 312.10.3, Owner Responsibilities.

a. The owner of the backflow prevention assemblies shall comply with the following.

i. It shall be the duty of the owner of the backflow prevention assembly to see that these tests are made in a timely manner in accord with the frequency of field testing specified in 312.10.2 of this code.

ii. The owner shall notify the building official, and/or water supplier (for those devices associated with containment) in advance when the tests are to be undertaken so that the building official and/or water supplier may witness the tests if so desired.

iii. Upon completion, the owner shall provide records of such tests, repairs, overhauls, or replacements to the building official or water supplier (for those devices associated with containment). In addition, all records shall be kept by the owner of the backflow prevention device or

method for at least 5 years and, upon specific request, shall be made available to the building official or water supplier.

iv. All tests, repairs, overhauls or replacements shall be at the expense of the owner of the backflow preventer.

D. Amend Chapter 4.

1. Amend Section 403.3.3, Location of Toilet Facilities in Occupancies other than Malls and Educational Buildings.

a. In occupancies other than covered and open mall buildings, and educational buildings, the required public and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m).

2. Add Section 403.3.7, Location of Toilet Facilities in Educational Buildings.

a. For primary schools, and other special types of institutions with classrooms, for children through 12 years of age, separate boys' and girls' toilet room doors shall not be further than 200 feet from any classroom doors. For secondary schools, and other special types of institutions with classrooms, for persons of secondary school age, separate boys' and girls' toilet room doors shall not be further than 400 feet from any classroom door. In multi-storied buildings, there shall be boys' and girls' toilet rooms on each floor, having the number of plumbing fixtures as specified in Table 403.1 of this Code for the classroom population of that floor. When new educational buildings are added to an existing campus, the restroom facilities and drinking fountains located in the existing building(s) may be used to serve the occupants of the new educational building(s) only when all of the following provisions are met:

i. covered walkways consisting of a roof designed to protect the students and faculty from precipitation having a minimum width of 6 feet and located above a slip-resistant concrete or other acceptable hard surfaces leading to and from the restrooms shall be provided whenever children or faculty have to walk outside to access the toilet room;

ii. the path of travel from the classroom door to the toilet room doors (boys' or girls') does not exceed the applicable distance specified in this Section; and

iii. the number of occupants of the new building does not cause an increase in the school population that would trigger the need for more fixtures per Table 403.1 (Minimum Number of Required Plumbing Fixtures).

3. Add Section 403.6, Other fixture requirements for licensed pre-schools, day care centers, and residential facilities.

a. Additional plumbing fixtures shall be provided in day care centers and residential facilities as required by this Section.

4. Add Section 403.6.1, Food Preparation.

a. The food preparation area in pre-schools, day cares, and residential facilities shall meet the following requirements. The food preparation, storage and handling where six or less individuals are cared for shall provide a two-compartment sink and an approved domestic type dishwasher. Where the number of individuals cared for is between 7 and 15, either a three-compartment sink, or an approved domestic or commercial type dishwashing

machine and a two-compartment sink with hot and cold running water shall be provided. Where 16 or more individuals are cared for, a three-compartment sink must be provided. If a dishwasher is also utilized in these instances (16 or more individuals), it must be a commercial type and it shall be in addition to the required three-compartment sink. One laundry tray, service sink, or curbed cleaning facility with floor drain shall also be provided on the premises for cleaning of mops and mop water disposal (for facilities caring for 16 or more individuals).

5. Add Section 403.6.2, Caring for Children between 0 and 4 Years of Age.

a. In child day care facilities, a hand washing sink shall be in or adjacent to each diaper changing area. In addition, one extra laundry tray, service sink, or similar fixture is required to clean and sanitize toilet training potties immediately after each use. Such fixture shall be dedicated solely for this purpose and shall not be in the food preparation/storage, utensil washing, or dining areas. Training potties shall not be counted as toilets in determining the minimum fixture requirements of Table 403.1. Fixtures shall be size appropriate for the age of the children being cared for (toilets 11 inches maximum height and lavatories 22 inches maximum height), or if standard size fixtures are used, safe, cleanable step aids shall be provided.

6. Add Section 410.6, Minimum Required Separation from Contamination.

a. Drinking fountain fixtures shall provide a minimum requirement of 18 inches of separation from its water outlet (spigot) to any source of contamination. Combination sink/drinking fountain units shall provide a minimum of 18 inches between the drinking fountain water outlet (spigot) and the nearest outside rim of the sink bowl [or other source(s) of contamination].

i. Exception:

(a). This 18 inch minimum separation may only be reduced by the use of a vertical shield made of a smooth, easily cleaned surface that is attached flush with the top surface of the unit and extends to a distance at least 18 inches in height above the drinking fountain water outlet (spigot) level.

(b). Prohibited Fixture. Combination sink/drinking fountain units which share the same sink bowl are prohibited except in individual prison cells.”

7. Amend Section 412, Floor and Trench Drains.

a. Add Section 412.5, Miscellaneous Areas.

i. A floor drain shall be required in public toilet rooms, excluding hotel/motel guest rooms or patient rooms of a hospital or nursing home.

ii. A floor drain shall be required in the recess room for sterilizers in a medical facility.

iii. Floor drains are not permitted in general food storage areas, unless in accordance with Section 802.1.1 or 802.1.2 of this code.

8. Amend Section 417.3, Shower Water Outlet.

a. Waste outlets serving showers shall be not less than 2 inches (50.8 mm) in diameter and, for other than waster outlets in bathtubs, shall have removable strainers not less than 3 inches (76 mm) in diameter with strainer openings not less than 1/4 inch (6.4 mm) in least dimension. Where each shower space is not provided with an individual

waste outlet, the waste outlet shall be located and the floor pitched so that waste from one shower does not flow over the floor area serving another shower. Waste outlets shall be fastened to the waste pipe in an approved manner.

9. Add Section 418.4, Handwash Sinks.

a. Dedicated handwash sinks shall be located to permit convenient use by all employees in food processing, food preparation, and other food handling areas.

b. Each commercial body art (tattoo) facility shall provide a hand washing sink to be used solely for hand washing in body art procedure area for the exclusive use of the operator. A separate instrument sink shall also be provided for the sole purpose of cleaning instruments and equipment prior to sterilization.

c. A hand washing sink may not be used for purposes other than hand washing.

d. Sinks used for food preparation or for washing and sanitizing of equipment and utensils shall not be used for hand washing.

10. Add Section 418.5, Manual Warewashing, Sink Requirements.

a. A sink with at least three compartments constructed of smooth, impervious non-corrosive material such as stainless steel or high density food grade polymer plastic shall be provided in slaughter rooms, packing rooms, retail food establishments, and other food handling areas for manual washing, rinsing and sanitizing equipment and utensils except where there are no utensils or equipment to wash, rinse and sanitize; i.e., such as in a facility with only prepackaged foods.

11. Add Section 422.11, Handwashing Facilities.

a. Medical facilities, including doctor's office and clinics, shall be provided with hand washing facilities within each patient examination and treatment room. The hand wash facility shall be provided with hot and cold water delivered via a mixing faucet.

E. Amend Chapter 5, Water Heaters.

1. Amend Section 504.7.1, Pan Size and Drain.

a. The drain pan shall be a minimum of 2-inches (2") (50.8 mm) in depth and shall be of sufficient size and shape to receive all dripping or condensate from the tank or water heater. The pan shall be drained by an indirect waste pipe having a diameter of not less than 1-inch (25.4 mm). Piping for safety pan drains shall be of those materials listed in Table 605.4.

F. Amend Chapter 6, Water Supply and Distribution.

1. Amend Section 602.3, Individual Water Supply.

a. Where a potable public water supply is not available, a private water supply meeting the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (Water Wells) shall be utilized.

i. Delete and remove Sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5 and 602.3.5.1, Pump Enclosure.

2. Add Section 603.3, Potable Water (Pressure) Lines Near Soil Absorption Trenches, Sand Filter Beds, Oxidation Ponds, and any Effluent Reduction Option (Effluent Reduction Fields, Rock Plant Filters, Spray Irrigation Systems, Overland Flow Systems, Mound Systems, or Subsurface Drip Disposal Systems).

a. Underground potable water (pressure) lines shall not be located within 25 feet (7.6 m) of any soil absorption

trenches, sand filter beds, oxidation ponds, or any effluent reduction option including, but not limited to effluent reduction fields, rock plant filters, spray irrigation systems (from the edge of the spray and its drainage), overland flow systems (from the discharge point and field of flow), mound systems, or subsurface drip disposal systems which have been installed for either the disposal of septic tank effluent or mechanical treatment plant effluent.

3. Add Section 603.4, Potable Water (Pressure) Lines Near Septic Tanks, Mechanical Sewage Treatment Plants, and Pump Stations.

a. Underground potable water (pressure) lines shall not be located within 10 feet (3.0 m) of any septic tank, mechanical sewage treatment plant, or sewage pump station.

4. Add Section 603.5, Potable Water (Pressure) Lines Near Seepage Pit, Cesspool, or Sanitary Pit Privy.

a. Underground potable water (pressure) lines shall not be located within 50 feet (15.2m) of any seepage pit, cesspool, or sanitary pit privy.

5. Add 603.6, Reclaimed Water Lines.

a. Reclaimed water lines shall be considered and treated as though they are sewerage lines and shall be installed in accord with the spacing requirements of this Section for the protection of potable water lines.

6. Amend Section 605.2.1, Lead content of water supply pipe and fittings used for human consumption.

a. Water Piping Quality. All potable water pipes, fittings, valves, and fixtures used to provide water for human consumption shall be lead free and shall be evaluated and listed as conforming with NSF/ANSI 372. Any solder or flux which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead free.

i. Exception. The lead free requirement above shall not apply to:

(a). leaded joints necessary for the repair of existing cast iron pipes;

(b). fire hydrants, pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or

(c). toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.604.

7. Amend Section 605.3, Water Service Pipe with Corresponding Table 605.3.

a. Water service pipe shall conform to NSF 61 and shall conform to one of the standards listed in Table 605.3. Water service pipe or tubing, installed underground and outside of the structure, shall have a working pressure rating of not less than 160 psi (1100 kPa) at 73.4°F (23°C). Where the water pressure exceeds 160 psi (1100 kPa) piping material shall have a working pressure rating not less than the highest available pressure. Water service piping materials not third-party certified for water distribution shall terminate at or before the full open valve located at the entrance to the structure. All ductile iron water service piping shall be cement mortar lined in accordance with AWWA C104.

i. Table 605.3—Water Service Pipe

Material	Standard
Acrylonitrile butadiene styrene (ABS) plastic pipe	ASTM D 1527; ASTM D 2282
Brass pipe	ASTM B 43
Chlorinated polyvinyl chloride (CPVC) plastic pipe	ASTM D 2846; ASTM F 441; ASTM F 442; CSA B137.6
Copper or copper-alloy pipe	ASTM B 42; ASTM B 302
Copper or copper-alloy tubing (Type K, WK, L, or WL only. i.e., Type M and WM copper is prohibited.)	ASTM B 75; ASTM B 88; ASTM B 251; ASTM B 447
Cross-linked polyethylene (PEX) plastic pipe and tubing	ASTM F 876; ASTM F 877; AWWA C904; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F 1281; ASTM F 2262; CSA B137.10M
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Ductile iron water pipe	AWWA C151/A21.51; AWWA C115/A21.15
Galvanized steel pipe	ASTM A 53
Polyethylene (PE) plastic pipe	ASTM D 2239; ASTM D 3035; AWWA C901; CSA B137.1
Polyethylene (PE) plastic tubing	ASTM D 2737; AWWA C901; CSA B137.1
Polyethylene/aluminum/polyethylene (PE-AL-PE) pipe	ASTM F 1282; CSA B137.9
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 2769
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Polyvinyl chloride (PVC) plastic pipe	ASTM D 1785; ASTM D 2241; ASTM D 2672; CSA B137.3
Stainless steel pipe (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel pipe (Type 316/316L)	ASTM A 312; ASTM A 778

8. Amend Section 605.3.1, Dual check-valve-type backflow preventer.

a. Dual check-valve backflow preventers installed on the water supply system shall comply with ASSE 1024 or CSA B64.6. These devices, which are commonly installed immediately downstream of water meters by water suppliers, are not approved backflow prevention devices and are only allowed to be installed when no cross connections exist downstream of the device or when all downstream cross connections are properly protected by approved backflow prevention devices, assemblies, or methods in accordance with Section 608 of this code.

9. Amend Table 605.4, Water Distribution Pipe.

a. Table 605.4—Water Distribution Pipe

Material	Standard
Brass pipe	ASTM B 43
Chlorinated polyvinyl chloride (CPVC) plastic pipe and tubing	ASTM D 2846; ASTM F 441; ASTM F 442; CSA B137.6

Material	Standard
Copper or copper-alloy pipe	ASTM B 42; ASTM B 302
Copper or copper-alloy tubing (Type K, WK, L, or WL only. i.e., Type M and WM copper is prohibited.)	ASTM B 75; ASTM B 88; ASTM B 251; ASTM B 447
Cross-linked polyethylene (PEX) plastic tubing	ASTM F 876; ASTM F 877; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F 1281; ASTM F 2262; CSA B137.10M
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Ductile iron pipe	AWWA C151/A21.51; AWWA C115/A21.15
Galvanized steel pipe	ASTM A 53
Polyethylene/aluminum/polyethylene (PE-AL-PE) composite pipe	ASTM F 1282
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 2769
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Stainless steel pipe (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel pipe (Type 316/316L)	ASTM A 312; ASTM A 778

10. Amend Section 606.5.5, Low-Pressure Cutoff Required on Booster Pumps.

a. A low-pressure cutoff shall be installed on all booster pumps in a water pressure booster system to prevent creation of a vacuum or negative pressure on the suction side of the pump when a positive pressure of 20 psi (137.9 kPa) or less occurs on the suction side of the pump.

11. Amend Section 608.1, General.

a. A potable water supply system shall be designed, installed and maintained in such a manner so as to prevent contamination from non-potable liquids, solids or gases being introduced into the potable water supply through cross-connections or any other piping connections to the system. Backflow preventers shall conform to the applicable Standard referenced in Table 608.1. Backflow preventer applications shall conform to Table 608.1, except as specifically stated in Sections 608.2 through 608.16.27 and Sections 608.18 through 608.18.2.

12. Amend Section 608.8, Identification of Nonpotable Water.

a. Where nonpotable water systems are installed, the piping conveying the nonpotable water shall be identified either by color marking, metal tags or tape in accordance with Sections 608.8.1 through 608.8.3.

i. Exception:

(a). Overall Exception to this Section (§608.8 of this code). Pursuant to R.S. 40:4.12, industrial-type facilities listed therein shall not be required to comply with this section (§608.8 of this code) provided that such facilities have a potable water distribution identification plan in conformity with the requirements of R.S. 40:4.12. The required formal cross-connection control survey of the facility referenced in R.S. 40:4.12 shall be performed by an individual holding a valid cross-connection control surveyor certificate issued under the requirements of ASSE 5120, or other individuals holding a surveyor certificate from a

nationally recognized backflow certification organization approved by the state health officer.

13. Amend Section 608.14, Location of Backflow Preventers.

a. Access shall be provided to backflow preventers as specified by the manufacturer's instructions for the required testing, maintenance and repair. A minimum of 1-foot of clearance shall be provided between the lowest portion of the assembly and grade or platform. Elevated installations exceeding 5-feet above grade(g) shall be provided with a suitably located permanent platform capable of supporting the installer, tester, or repairer. Reduced pressure principal type backflow preventers, and other types of backflow preventers with atmospheric ports and/or test cocks (e.g., atmospheric type vacuum breakers, double check valve assemblies, pressure type vacuum breaker assemblies, etc.), shall not be installed below grade (in vaults or pits) where the potential for a relief valve, an atmospheric port, or a test cock being submerged exists.

14. Amend Section 608.15.4, Protection by a Vacuum Breaker.

a. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. The critical level of atmospheric type vacuum breakers shall be installed not less than 6 inches (152 mm) above all downstream piping and not less than 6 inches (152 mm) above the flood-level rim of the fixture receptor or device served. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. Atmospheric vacuum breakers including, but not limited to, hose bibb vacuum breakers shall not be subjected to continuous water pressure. The critical level of pressure type vacuum breakers shall be installed not less than 12 inches (305 mm) above all downstream piping and not less than 12 inches (305 mm) above the flood-level rim of the fixture receptor or device served. Fill valves shall be set in accordance with Section 425.3.1. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors.

15. Amend Section 608.16, Connections to the Potable Water System.

a. Connections to the potable water system shall conform to Sections 608.16.1 through 608.16.27. These Sections (608.16.1-608.16.27) are not inclusive of all potential contamination sources which may need fixture isolation protection. For potential contamination sources not listed in Sections 608.16.1 through 608.16.27, backflow prevention methods or devices shall be utilized in accordance with Table B1 of CAN/CSA B64.10-1994. When a potential contamination source and its associated backflow prevention method or device is not identified in this code or Table B1 of CAN/CSA B64.10-1994, backflow prevention methods or devices shall be utilized as directed by the building official.

16. Amend Section 608.16.5, Connections to Lawn/Landscape Irrigation Systems.

a. The potable water supply to lawn/landscape irrigation systems shall be protected against backflow by an atmospheric vacuum breaker, a pressure vacuum breaker assembly or a reduced pressure principle backflow prevention assembly. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker.

When an lawn/landscape sprinkler system is provided with separate zones, the potable water supply shall be protected by a pressure vacuum breaker or reduced pressure principal backflow prevention assembly. Atmospheric vacuum breakers shall be installed at least 6 inches (152 mm) above the highest point of usage (i.e., 6 inches (152 mm) above all downstream piping or highest sprinkler head). Pressure type vacuum breakers shall be installed at least 12 inches (305 mm) above the highest point of usage (i.e., 12 inches (305 mm) above all downstream piping and the highest sprinkler head). Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow prevention assembly.

17. Amend Section 608.16.8, Portable Cleaning Equipment.

a. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, 608.13.2, 608.13.3, 608.13.5, 608.13.6, or 608.13.8. The type of backflow preventer shall be selected based upon the application in accordance with Table 608.1.

18. Add Section 608.16.11, Cooling Towers.

a. The potable water supply to cooling towers shall be protected against backflow by an air gap.

19. Add Section 608.16.12, Chemical Tanks.

a. The potable water supply to chemical tanks shall be protected against backflow by an air gap.

20. Add Section 608.16.13, Commercial Dishwashers in Commercial Establishments.

a. The potable water supply to commercial dishwashers in commercial establishments shall be protected against backflow by an air gap, atmospheric vacuum breaker, or pressure vacuum breaker. Vacuum breakers shall meet the requirements of Section 608.15.4.

21. Add Section 608.16.14, Ornamental Fountains.

a. The potable water supply to ornamental fountains shall be protected against backflow by an air gap.

22. Add Section 608.16.15, Swimming Pools, Spas, Hot Tubs.

a. The potable water supply to swimming pools, spas, or hot tubs shall be protected against backflow by an air gap or reduced pressure principal backflow prevention assembly.

23. Add Section 608.16.16, Baptismal Fonts.

a. The potable water supply to baptismal fonts shall be protected against backflow by an air gap.

24. Add Section 608.16.17, Animal Watering Troughs.

a. The potable water supply to animal watering troughs shall be protected against backflow by an air gap.

25. Add Section 608.16.18, Agricultural Chemical Mixing Tanks.

a. The potable water supply to agricultural chemical mixing tanks shall be protected against backflow by an air gap.

26. Add Section 608.16.19, Water Hauling Trucks.

a. The potable water supply to water hauling trucks/tankers shall be protected against backflow by an air gap when filled from above. When allowed to be filled from below, they shall be protected by a reduced pressure principle backflow prevention assembly. When a tanker truck is designated for the hauling of food grade products (and has been cleaned utilizing food grade cleaning

procedures) and is allowed to be filled from below, a double check valve assembly shall be acceptable.

27. Add Section 608.16.20, Air Conditioning Chilled Water Systems and/or Condenser Water Systems.

a. The potable water supply to air conditioning chilled water systems and condenser water systems shall be protected against backflow by a reduced pressure principal backflow prevention assembly.

28. Add Section 608.16.21, Pot-Type Chemical Feeders.

a. The potable water supply to pot-type chemical feeders shall be protected against backflow by a reduced pressure principal backflow prevention assembly.

29. Add Section 608.16.22, Food Processing Steam Kettles.

a. The potable water supply to food processing steam kettles shall be protected against backflow by a double check valve backflow prevention assembly.

30. Add Section 608.16.23, Individual Travel Trailer Pads.

a. The potable water supply to individual travel trailer pads shall be protected against backflow by a double check valve backflow prevention assembly.

31. Add Section 608.16.24, Laboratory and/or Medical Aspirators.

a. The potable water supply to laboratory and/or medical aspirators shall be protected against backflow by an atmospheric or pressure vacuum breaker installed in accordance with Sections 608.3.1 and 608.15.4.

32. Add Section 608.16.25, Laboratory or other Sinks with Threaded or Serrated Nozzles.

a. The potable water supply to laboratory sinks or other sinks with threaded or serrated nozzles shall be protected against backflow by an atmospheric or pressure vacuum breaker installed in accordance with Sections 608.3.1 and 608.15.4.

33. Add Section 608.16.26, Mortuary/Embalming Aspirators.

a. The potable water supply to mortuary/embalming aspirators shall be protected against backflow by a pressure vacuum breaker installed in the supply line serving the aspirator. The critical level of the vacuum breaker shall be installed a minimum of 12 inches higher than the aspirator. The aspirator shall be installed at least 6 inches above the highest level at which suction may be taken. An air gap shall be provided between the outlet of the discharge pipe and the overflow rim of the receiving fixture.

34. Add Section 608.16.27, Room(s) or other Sub-Unit(S) of a Premise or Facility Receiving Water where Access is Prohibited.

a. When access is prohibited to particular areas, rooms, or other sub-units of a premise or facility which is receiving water, the potable water supply serving those areas shall be protected against backflow by a reduced pressure principal backflow protection assembly.

35. Amend Section 608.17, Protection of Individual Water Supplies.

a. An individual water supply shall be located and constructed so as to be safeguarded against contamination in accordance with the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (WaterWells).

36. Remove and delete Sections 608.17.1 thru 608.17.8 including Table 608.17.1.

37. Add Section 608.18, Containment Practices.

a. Backflow prevention methods or devices shall be utilized as directed by the water supplier or code official to isolate specific water supply system customers from the water supply system's mains when such action is deemed necessary to protect the water supply system against potential contamination caused by backflow of water from that part of the water system owned and maintained by the customer (for example, the piping downstream of the water meter, if provided). Minimum requirements shall be in accordance with Section 608.18.1 through 608.18.2.

38. Add Section 608.18.1, Containment Requirements.

a. As a minimum, the following types of backflow prevention assemblies or methods shall be installed and maintained by water supply system customers immediately downstream of the water meter (if provided) or on the water service pipe prior to any branch line or connections serving the listed customer types and categories.

39. Add Table 608.18.1, Containment Requirements.

a. Table 608.18.1—Containment Requirements

Air Gap
1. Fire Protection/Sprinkler System utilizing non-potable water as an alternative or primary source of water
Reduced Pressure Principle Backflow Prevention Assembly
1. Hospitals, Out-Patient Surgical Facilities, Renal Dialysis Facilities, Veterinary Clinics
2. Funeral Homes, Mortuaries
3. Car Wash Systems
4. Sewage Facilities
5. Chemical or Petroleum Processing Plants
6. Animal/Poultry Feedlots or Brooding Facilities
7. Meat Processing Plants
8. Metal Plating Plants
9. Food Processing Plants, Beverage Processing Plants
10. Fire Protection/Sprinkler Systems using antifreeze in such system (a detector type assembly is recommended on unmetered fire lines)
11. Irrigation/Lawn Sprinkler Systems with Fertilizer Injection
12. Marinas/Docks
13. Radiator Shops
14. Commercial Pesticide/Herbicide Application
15. Photo/X-ray/Film Processing Laboratories
16. Multiple Commercial Units served by a master meter
17. Any type of occupancy type or any other facility having one or more Single-walled Heat Exchangers which uses any chemical, additive, or corrosion inhibitor, etc., in the heating or cooling medium
18. Any type of occupancy type or any other facility having one or more Double-walled Heat Exchangers which use any chemical, additive, or corrosion inhibitor, etc., in the heating or cooling medium and which does not have a path to atmosphere with a readily visible discharge
19. Premises where access/entry is prohibited
Pressure Vacuum Breaker Assembly/Spill Resistant Vacuum Breaker Assembly
1. Irrigation/Lawn Sprinkler Systems
Double Check Valve Assembly
1. Fire Protection/Sprinkler Systems (a detector type double check valve assembly is recommended on unmetered fire lines)
2. Two residential dwelling units served by a master meter, unless both units are located on a parcel or contiguous parcels of land having the same ownership and neither unit is used for commercial purposes. As used herein, the term "commercial purposes" means any use other than residential.
3. Three or more residential dwelling units served by a master meter
4. Multistoried Office/Commercial Buildings (over 3 floors)
5. Jails, Prisons, and Other Places of Detention or Incarceration

40. Add Section 608.18.2, Other Containment Requirements.

a. Table 608.18.1 of this code above is not inclusive of all potential contamination sources which may need containment protection. For potential contamination sources not listed in this table, backflow prevention methods or devices shall be utilized in accordance with Table B1 of CAN/CSA B64.10-1994. When a potential contamination source and its associated backflow prevention method or device is not identified in Table 608.18.1 of this code above or Table B1 of CAN/CSA B64.10-1994, backflow prevention methods or devices shall be utilized:

- i. as directed by the building code official; or
- ii. as directed by the water supplier.

iii. In cases of a discrepancy regarding the particular backflow prevention assembly or method required, the assembly or method providing the higher level of protection shall be required.

G. Amend Chapter 7, Sanitary Drainage.

1. Amend Section 701.2, Sewer Required.

a. Buildings in which plumbing fixtures are installed and premises having sanitary drainage system piping shall be connected to a community sewerage system, where available, or an approved commercial treatment facility or individual sewerage meeting the requirements of LAC 51:XIII (Sewage Disposal).

2. Add Section 701.9, Repairs to Drainage System via Re-Route.

a. In the case where it is determined that there is a broken underground drain line including, but not limited to, broken drain lines under the slab of a building, and a drain line re-route is performed, the existing broken underground drain line shall be and sealed watertight and gastight using approved plumbing materials and joining/jointing methods, e.g., properly install an approved cap, plug, or cleanout on the cut or disconnected pipe.

3. Add Section 703.6, Minimum Size Building Sewer.

a. No building sewer shall be less than 4 inches in size with the exception of force lines.

4. Amend Section 710.1, Maximum Fixture Unit Load.

a. The maximum number of drainage fixture units connected to a given size of building sewer, building drain or horizontal branch of the building drain shall be determined using Table 710.1(1). The maximum number of drainage fixture units connected to a given size vertical soil or waste stack, or horizontal branch connecting to a vertical soil or waste stack, shall be determined using Table 710.1(2).

5. Amend Table 710.1(1).

a. Table 710.1(1)—Building Drains and Sewers

Diameter Of Pipe (Inches)	Maximum Number of Drainage Fixture Units Connected to Any Portion of the Building Drain or the Building Sewer, Including Branches of the Building Drain ^a			
	Slope Per Foot			
	1/16 inch	1/8 inch	1/4 inch	1/2 inch
1 1/4			1	1
1 1/2			3	3
2			21	26
2 1/2			24	31
3		20 (not over two water closets)	27 (not over two water closets)	36 (not over two water closets)
4	—	180	216	250
5	—	390	480	575
6	—	700	840	1,000
8	1,400	1,600	1,920	2,300
10	2,500	2,900	3,500	4,200
12	3,900	4,600	5,600	6,700
15	7,000	8,300	10,000	12,000

For SI: 1 inch = 25.4 mm, 1 inch per foot = 83.3 mm/m.

^a The minimum size of any building drain serving a water closet shall be 3 inches.

6. Amend Table 710.1(2).

a. Table 710.1(2)—Horizontal Fixture Branches and Soil Stacks^a.

Diameter of Pipe (inches) (The minimum size of any branch or soil stack serving a water closet shall be 3".)	Maximum Number of Drainage Fixture Units (dfu)			
	Total for horizontal branch (Does not include branches of the building drain. Use 50 percent less dfu's for any circuit or battery vented fixture branches, no size reduction permitted for circuit or battery vented branches throughout the entire branch length.)	Soil Stacks ^b		
		Total discharge into one branch interval when greater than three branch intervals	Total for soil stack when three branch intervals or less	Total for soil stack when greater than three branch intervals
1 1/2	3	2	4	8
2	6	6	10	24
2 1/2	12	9	20	42
3	20 (not over two water closets)	16 (not over two water closets)	30 (not over six water closets)	60 (not over six water closets)
4	160	90	240	500
5	360	200	540	1,100
6	620	350	960	1,900
8	1,400	600	2,200	3,600
10	2,500	1,000	3,800	5,600
12	3,900	1,500	6,000	8,400
15	7,000	Note ^c	Note ^c	Note ^c

For SI: 1 inch = 25.4 mm.

^a Does not include branches of the building drain. Refer to Table 710.1(1).

^b Soil stacks shall be sized based on the total accumulated connected load at each story or branch interval. As the total accumulated connected load decreases, stacks are permitted to be reduced in size. Stack diameters shall not be reduced to less than one-half of the diameter of the largest stack size required.

^c Sizing load based on design criteria.

7. Add Section 710.3, Underground Drainage Piping.

a. Any portion of the drainage system installed underground or below a basement or cellar shall not be less than 2-inch diameter. In addition, any portion of the drainage system installed underground which is located upstream from a grease trap or grease interceptor as well as the underground horizontal branch receiving the discharge there from shall not be less than 3-inch diameter.

H. Chapter 8. Indirect/Special Waste.

1. Amend Section 802.1.1, Food Handling.

a. Equipment and fixtures utilized for the storage, preparation and handling of food shall discharge through an indirect waste pipe by means of an air gap. Food handling equipment includes but is not limited to the following: any sink where food is cleaned, peeled, cut up, rinsed, battered, defrosted or otherwise prepared or handled; potato peelers; ice cream dipper wells; refrigerators; freezers; walk-in coolers or freezers; ice boxes; ice making machines; fountain type drink dispensers; rinse sinks; cooling or refrigerating coils; laundry washers; extractors; steam tables; steam kettles; egg boilers; coffee urns; steam jackets or other food handling or cooking equipment wherein the indirect waste pipe may come under a vacuum; or similar equipment.

I. Delete Section 918, Air Admittance Valves in its entirety and all referring sections of the 2015 IPC. In accordance with the requirements of Act 836 of the 2014 Regular Session, air admittance valves are prohibited from use on all plumbing systems.

J. Amend Chapter 10, Traps, Interceptors and Separators.

1. Amend Section 1003.2, Approval.

a. Interceptors and separators shall be designed and installed in accordance with the manufacturer's instructions and the requirements of this section based on the anticipated conditions of use. Wastes that do not require treatment or separation shall not be discharged into any interceptor or separator. No interceptor or separator shall be installed until its design, size, location and venting has been approved by the local jurisdictional code official. The local jurisdictional code official shall have the authority to require a grease interceptor to be serviced, repaired, or replaced with a larger unit when it is determined that a unit is not working or being maintained properly, the unit is damaged, or the mode of operation of the facility no longer meets the anticipated conditions of use (i.e., offensive odors, sewage backups or overflows, or when it is determined that grease is bypassing the grease interceptor and causing downstream blockages or interfering with sewage treatment.)

2. Add Section 1003.2.1, Grease interceptor sizing.

a. In all instances of new construction, change of occupancy classification or use of the property, a gravity grease interceptor or hydro-mechanical grease interceptor meeting the minimum capacity as required by this Section of the Code shall be installed. The minimum required capacity

(volume) of the grease interceptor shall be determined based upon the maximum number of persons served during the largest meal period. The minimum capacity shall not be less than 125 gallons below the static water level. This capacity is sufficient to hold the flow from one meal long enough to accomplish proper grease separation when serving up to 50 people during a single meal period. When over 50 people are served during a single meal period, the minimum capacity shall be increased beyond 125 gallons based upon at least an additional 2 1/2 gallons per person beginning with the 51st person served and greater.

i. Exception:

(a). At the discretion of the local jurisdictional code official, a smaller, point of use type hydro-mechanical grease interceptor or automatic grease removal device may be permissible when:

(i). a concrete slab would have to be broken at an existing building or facility for the proper installation of a grease interceptor; or

(ii). an outside, unpaved area surrounding an existing building where a grease interceptor could be installed is available; however, it is determined that the area is located further than 75 feet from the plumbing fixtures that the grease interceptor would be servicing; or

(iii). the local jurisdictional code official determines that the installation is unfeasible such as when servicing a kitchen located on the upper floors of a multistoried building; or

(iv). the local jurisdictional code official determines that minimal fat, oil and grease will be produced or introduced into the sanitary drainage system based on the menu and mode of operation of the facility (i.e., snowball stands, sandwich shops, or other similar facilities with low grease production and which utilize single-service tableware and hollowware including forks, knives, spoons, plates, bowls, cups, and other serving dishes).

(b). In these instances, listed under the exception, the minimum required size of the hydromechanical grease interceptor; fats, oils and greases disposal system or automatic grease removal device shall be determined in accordance with the requirements of Section 1003.3.4 of this Code. In no case shall a grease interceptor or automatic grease removal device be installed which has an approved rate of flow of less than 20 gallons per minute.

3. Amend Section 1003.3.4, Hydromechanical grease interceptors, fats, oils and greases disposal systems and automatic grease removal devices.

a. When specifically allowed under the exception of Section 1003.2.1 of this Code, hydromechanical grease interceptors; fats, oils, and greases disposal systems and automatic grease removal devices shall be sized in accordance with ASME A112.14.3, ASME A112.14.4, ASME A112.14.6, CSA B481.3 or PDI-G101. Hydromechanical grease interceptors; fats, oils, and grease disposal systems and automatic grease removal devices shall be designed and tested in accordance with ASME A112.14.3, ASME A112.14.4, CSA B481.1, PDI G101 or PDI G102. Hydromechanical grease interceptors; fats, oils, and greases disposal systems and automatic grease removal devices shall be installed in accordance with the manufacturer's instructions. Where manufacturer's instructions are not provided, Hydromechanical grease interceptors; fats, oils,

and greases disposal systems and automatic grease removal devices shall be installed in compliance with ASME A112.14.3, ASME A112.14.4, ASME A112.14.6, CSA B481.3 or PDI-G101.

4. Amend Section 1003.3.46, Gravity Grease Interceptors/grease traps.

a. Gravity grease interceptors shall comply with the requirements of Sections 1003.3.46.1 through 1003.3.46.8 and shall be sized in accordance with Section 1003.2.1 of this code.

5. Add Section 1003.3.6.1, Indoor Installations.

a. If a gravity grease interceptor must be installed within an enclosed building, any access covers shall be gasketed to prevent the intrusion of odors into the building.

6. Add Section 1003.3.6.2, Distance.

a. The grease interceptor shall be placed as close to the plumbing fixture(s) discharging greasy waste as possible, but preferably on the outside of the building when feasible.

7. Add Section 1003.3.6.3, Outlet Pipe.

a. The minimum diameter of the outlet pipe shall not be less than 4 inches. The invert of the gravity grease interceptor outlet opening (i.e., lowest portion of the outlet pipe where it draws waste near the bottom of the grease interceptor), shall be located at a maximum of 6 inches and a minimum of 4 inches from the floor of the grease interceptor. This requirement also applies to any intermediate outlets in multi-compartment gravity grease interceptors.

8. Add Section 1003.3.6.4, Air Space.

a. A minimum of one foot of air space shall be provided above the static water level.

9. Add Section 1003.3.6.5, Venting.

a. A gravity grease interceptor outlet shall be properly vented in accordance with this section to prevent it from siphoning itself out. Any internally vented outlet line shall have the vent terminal extended to within 2 inches of the bottom of the access cover to prevent grease from escaping the gravity grease interceptor through the open vent terminal. For those gravity grease interceptors having a gasketed cover, the gravity grease interceptor outlet line shall not be allowed to be internally vented. In this case, the outlet line itself shall be vented with a minimum 2-inch vent pipe installed in accordance with Chapter 9 of this code.

10. Add Section 1003.3.6.6, Water Seal.

a. On unbaffled single compartment gravity grease interceptors, a 90° ell shall be used on the inlet and shall terminate 6 inches below the static water level. On baffled single compartment gravity grease interceptors, a baffle wall shall be placed between the inlet and outlet. The inlet shall discharge into the gravity grease interceptor at a level at least 6 inches below the top of the baffle wall.

11. Add Section 1003.3.6.7, Minimum Horizontal Distance.

a. The minimum horizontal distance between the inlet and outlet piping in the gravity grease interceptor shall be 24 inches.

12. Add Section 1003.3.6.8, Access/Covers.

a. Access from the top of the gravity grease interceptor shall be provided by an easily removable cover above an access opening for proper maintenance. Additional access opening/covers shall be provided as necessary to provide accessibility to each compartment in multi-

compartment or multi-baffled arrangements as well as access to both the inlet and outlet. Access opening covers shall be above or at grade (G) to provide ready accessibility. Each access cover shall be designed so that it cannot slide, rotate, or flip when properly installed in order that the opening is not unintentionally exposed. Especially for lightweight covers, mechanical fasteners are recommended to augment the safety of and ensure positive closure of the cover.

13. Amend Section 1003.10, Access and Maintenance of Interceptors and Separators.

a. Access shall be provided to each interceptor and separator for service and maintenance. A two-way cleanout shall be provided on the discharge waste line immediately downstream of all interceptors and separators. Interceptors and separators shall be maintained by periodic removal of accumulated grease, scum, oil, or other floating substances and solids deposited in the interceptor or separator.

K. Amend Chapter 11, Storm Drainage.

1. Amend Section 1101.3, Prohibited Drainage.

a. Storm water shall not be drained into sewers intended for sewage only.

i. Exception:

(a). Liquid waste from the cleaning operation and from the leakage of garbage containers and dumpsters holding putrescible wastes shall be disposed of as sewage. Methods used for this disposal shall prevent rainwater and runoff from adjacent areas from entering the sanitary sewerage system (i.e., dumpster pads may be elevated or curbed, enclosed or covered). When determined by the code official that liquid wastes or putrescible wastes contain fats, oils or grease (or, for new establishments, will likely contain fats, oils, or grease in the future), an approved grease interceptor shall be installed in the waste line in accordance with Section 1003 of this Code.

2. Delete Section 1103.1.

3. Delete Section 1103.2.

4. Delete Section 1103.3.

5. Delete Section 1103.4.

6. Delete Section 1109.1.

L. Amend Chapter 13, Gray Water Recycling Systems.

1. Amend Section 1301.4 Permits

a. Permits shall be required for the construction, installation, alteration and repair of nonpotable water systems. Construction documents, engineering calculations, diagrams and other such data pertaining to the nonpotable water system shall be submitted with each permit application. Such plans and specifications shall be appropriately sealed and signed by a Louisiana Registered Professional Engineer.

2. Amend Section 1301.5, Potable water connections.

a. Where a potable system is connected to a nonpotable water system, the potable water supply shall be protected against backflow by an air gap or reduced pressure principal backflow prevention assembly.

3. Amend Section 1301.9.5, Makeup water.

a. Where an uninterrupted supply is required for the intended application, potable or reclaimed water shall be provided as a source of makeup water for the storage tank. The makeup water supply shall be protected against backflow by an air gap or reduced pressure principal backflow prevention assembly. A full-open valve located on the makeup water supply line to the storage tank shall be

provided. Inlets to the storage tank shall be controlled by fill valves or other automatic supply valves installed to prevent the tank from overflowing and to prevent the water level from dropping below a predetermined point. Where makeup water is provided, the water level shall not be permitted to drop below the source water inlet or the intake of any attached pump.

M. Amend Chapter 15, Referenced Standards.

1. Amend CSA Referenced Standard.

a. B64.10-94 Manual for the Selection, Installation, Maintenance and Field testing of Backflow Prevention Devices (not including Part 6 (Maintenance and Field Testing) Section 608.16 and Section 618.2

N. Add Chapter 16, Travel Trailer and Mobile/Manufactured Home Parks.

1. Add the following definitions.

Dependent Travel Trailer—a travel trailer not equipped with a water closet.

Drain Hose—the approved type hose, flexible and easily detachable, used for connecting the drain outlet on a travel trailer to a sewer inlet connection.

Drain Outlet—the lowest end of the main drain of a travel trailer itself to which a drain hose is connected.

Independent Travel Trailer—a travel trailer equipped with a water closet and a bath or shower.

Inlet Coupling—the terminal end of the branch water line to which the mobile/manufactured home or travel trailer's water service connection is made. It may be a swivel fitting or threaded pipe end.

Intermediate Waste Holding Tank (travel trailers only)—an enclosed tank for the temporary retention of water-borne waste.

Mobile/Manufactured Home—a prefabricated home built on a permanent chassis which can be transported in one or more sections and is typically used as a permanent dwelling. Manufactured homes built since 1976 are built to the *Manufactured Home Construction and Safety Standards* (HUD Code) and display a HUD certification label on the exterior of each transportable section.

Park or Mobile/Manufactured Home Park or Travel Trailer Park—any lot, tract, parcel or plot of land upon which more than one travel trailer and/or mobile/manufactured homes parked for the temporary or permanent use of a person or persons for living, working or congregating.

Park Drainage System—the entire system of drainage piping within the park which is used to convey sewage or other wastes from the mobile/manufactured home or travel trailer drain outlet connection, beginning at its sewer inlet connection at the mobile/manufactured home or travel trailer site, to a community sewerage system, a commercial treatment facility, or an individual sewerage system.

Park Water Distribution System—all of the water distribution piping within the park, extending from the water supply system or other source of supply to, but not including, the mobile/manufactured home or travel trailer's water service connection, and including branch service lines, fixture devices, service buildings and appurtenances thereto.

Service Building—a building housing toilet and bathing facilities for men and women, with laundry facilities.

Sewer Inlet—a sewer pipe connection permanently provided at the travel trailer or mobile/manufactured home site which is designed to receive sewage when a travel trailer or a mobile/manufactured home is parked on such site. It is considered the upstream terminus of the park drainage system.

Travel Trailer—a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use.

Travel Trailer Sanitary Service Station—a sewage inlet with cover, surrounded by a concrete apron sloped inward to the drain, and watering facilities to permit periodic wash down of the immediately adjacent area, to be used as a disposal point for the contents of intermediate waste holding tanks of travel trailers.

Water Service Connection—as used in conjunction with mobile/manufactured homes and travel trailers, the water pipe connected between the inlet coupling of the park water distribution system and the water supply fitting provided on the mobile/manufactured home or travel trailer itself.

2. Add Section 1601, General.

a. Add Section 1601.1, Scope.

i. The requirements set forth in this Chapter shall apply specifically to all new travel trailer and mobile/manufactured home parks, and to additions to existing parks as herein defined, and are to provide minimum standards for sanitation and plumbing installation within these parks, for the accommodations, use and parking of travel trailers and/or mobile/manufactured homes.

b. Add Section 1601.2, Governing Provisions.

i. Other general provisions of this code shall govern the installation of plumbing systems in travel trailer and mobile/manufactured home parks, except where special conditions or construction are specifically defined in this Chapter.

c. Add Section 1601.3, Sewage Collection, Disposal, Treatment.

i. Travel trailers or mobile/manufactured homes shall not hereafter be parked in any park unless there are provided plumbing and sanitation facilities installed and maintained in conformity with this code. Every travel trailer and mobile/manufactured home shall provide a gastight and watertight connection for sewage disposal which shall be connected to an underground sewage collection system discharging into a community sewerage system, a commercial treatment facility, or an individual sewerage system which has been approved by the state health officer.

d. Add Section 1601.4, Travel Trailer Sanitary Service Station.

i. At least one travel trailer sanitary service station shall be provided in all travel trailer parks that accept any travel trailers having an intermediate waste holding tank. The water supply serving the sanitary service station shall be protected against backflow by a reduced pressure principle backflow prevention assembly meeting the requirements of Section 608 of this code.

e. Add Section 1601.5, Materials.

i. Unless otherwise provided for in this Chapter, all piping fixtures or devices used in the installation of drainage and water distribution systems for travel trailer

parcs and mobile/manufactured home parks shall conform to the quality and weights of materials prescribed by this code.

f. Add Section 1601.6, Installation.

i. Unless otherwise provided for in this Chapter, all plumbing fixtures, piping drains, appurtenances and appliances designed and used in the park drainage, water distribution system, and service connections shall be installed in conformance with the requirements of this code.

g. Add Section 1601.7, Maintenance.

i. All devices or safeguards required by this Chapter shall be maintained in good working order by the owner, operator, or lessee of the travel trailer park or his designated agent.

3. Add Section 1602, Service Buildings.

a. Add Section 1602.1, Service Buildings for Independent Travel Trailers.

i. Each travel trailer park which serves only independent travel trailers shall have at least one service building to provide necessary sanitation and laundry facilities. Each mobile/manufactured home park which also serves one or more independent travel trailers (in addition to mobile/manufactured homes) shall have at least one service building to provide necessary sanitation and laundry facilities. When a service building is required under this Section, it shall have a minimum of one water closet, one lavatory, one shower or bathtub for females and one water closet, one lavatory, and one shower or bathtub for males. In addition, at least one laundry tray or clothes washing machine and one drinking fountain located in a common area shall be provided.

(a). Exception:

(i). Temporary (6 months) travel trailers residing in mobile home parks and or where more than one travel trailer resides for the purpose of employment and or hardships, may be exempted by the local jurisdiction building official from 1602.1.

b. Add Section 1602.2, Service Building for Dependent Travel Trailers.

i. The service building(s) in travel trailer or mobile/manufactured home parks that also accommodate dependent travel trailers shall have a minimum of two water closets, one lavatory, one shower or bathtub for females, and one water closet, one lavatory, one urinal, and one shower or bathtub for males. In addition, at least one laundry tray or clothes washing machine and one drinking fountain located in a common area shall be provided. The above facilities are for a maximum of ten dependent travel trailers. For every ten additional dependent travel trailers (or any fraction thereof) the following additional fixtures shall be provided: One laundry tray or clothes washing machine, one shower or bathtub for each sex, and one water closet for females. Also, one additional water closet for males shall be provided for every 15 additional dependent travel trailers (or any fraction thereof).

c. Add Section 1602.3, Service Building Design Requirements.

i. Each service building shall conform to Sections 1302.3.1 through 1302.3.3 of this code.

d. Add Section 1302.3.1, Construction.

i. Every service building shall be of permanent construction with an interior finish of moisture resistant

material which will stand frequent washing and cleaning and the building shall be well-lighted and ventilated at all times.

e. Add Section 1602.3.2, Fixture Separation.

i. The laundry tray(s) and/or clothes washing machine(s) and drinking fountain(s) shall be located in a common area. None of these fixtures shall be located within any toilet room. Each water closet, tub and/or shower shall be in separate compartments with self-closing doors on all water closet compartments. The shower stall shall be a minimum of 3 x 3 feet (914 x 914 mm) in area, with a dressing compartment.

f. Add Section 1602.3.3, Floor Drains.

i. A minimum 2-inch floor drain protected by and approved trap primer shall be installed in each toilet room and laundry room.

4. Add Section 1603, Park Drainage System.

a. Add Section 1603.1, Separation of water and sewer lines.

i. The sewer main and sewer laterals shall be separated from the park water service and distribution system in accordance with Section 603.2 of this code.

b. Add Section 1603.2, Minimum Size Pipe.

i. The minimum size pipe in any mobile/manufactured home park or travel trailer park drainage system shall be 4 inches. This includes branch lines or sewer laterals to individual travel trailers and mobile/manufactured homes.

c. Add Section 1603.3, Fixture Units.

i. Each mobile/manufactured home and travel trailer shall be considered as 6 fixture units in determining discharge requirements in the design of park drainage and sewage disposal systems.

d. Add Section 1603.4, Sewage Disposal/Treatment.

i. The discharge of a park drainage system shall be connected to a community sewerage system. Where a community sewerage system is not available, an approved commercial treatment facility or individual sewerage system shall be installed in accord with the requirements of LAC 51:XIII (Sewage Disposal).

e. Add Section 1603.5, Manholes and Cleanouts.

i. Manholes and/or cleanouts shall be provided and constructed as required in Chapter 7 of this code. Manholes and/or cleanouts shall be accessible and brought to grade.

f. Add Section 1603.6, Sewer Inlets.

i. Sewer inlets shall be 4-inch diameter and extend above grade (G) 3 to 6 inches (76 to 152 mm). Each inlet shall be provided with a gas-tight seal when connected to a travel trailer or mobile/manufactured home and have a gas-tight seal plug for use when not in service.

g. Add Section 1603.7, Drain Connections.

i. Drain connections shall slope continuously downward and form no traps. All pipe joints and connections shall be installed and maintained gastight and watertight.

h. Add Section 1603.8, Waste.

i. No sewage, waste water, or any other effluent shall be allowed to be deposited on the surface of the ground.

i. Add Section 1603.9, Testing the Park Drainage System.

i. Upon completion and before covering, the park drainage system shall be subjected to a static water test performed in accordance with Section 312 of this code.

5. Add Section 1604, Water Supply and Distribution System.

a. Add Section 1604.1, General.

i. Every mobile/manufactured home and travel trailer site shall be provided with an individual branch water service line delivering potable water.

b. Add Section 1604.2, Water Service Lines.

i. Water service lines to each travel trailer site shall be sized to provide a minimum of 8 gpm (0.505 L/s) at the point of connection with the trailer's water distribution system. Water service lines to each mobile/manufactured home site shall be sized to provide a minimum of 17 gpm (1.1 L/s) at the point of connection with the mobile/manufactured home's water distribution system. All water service lines shall be a minimum of 3/4 inch. A separate service shutoff valve shall be installed on each water service line. In instances where a backflow prevention device or assembly is installed on the water service line (see Section 608.16.23), the shutoff valve shall be located on the supply side of the device or assembly.

c. Add Section 1604.3, Water Service Connections.

i. The water service connection from the water service line to the mobile/manufactured home or travel trailer site shall be not less than 1/2-inch diameter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1) and Act836 of the 2014 of the Regular Louisiana Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshall, LR 41:2386 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:1672 (October 2016), LR 43:

§113. International Fuel Gas Code

(Formerly LAC 55:VI.301.A.6)

A. *International Fuel Gas Code* (IFCG), 2015 Edition, and the standards referenced in that code for regulation of construction within this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the

Department of Public Safety and Corrections, Office of State Fire Marshall, LR 41:2387 (November 2015), LR 43:

§115. National Electric Code

(Formerly LAC 55:VI.301.A.7)

A. *National Electric Code* (NEC), 2014 Edition, and the standards referenced in that code for regulation of construction in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshall, LR 41:2387 (November 2015), LR 43:

Family Impact Statement

The proposed Rule will not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children.

Local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23.

Small Business Analysis

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Poverty Impact Statement

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the LA R.S. 49:973. The agency has considered economic welfare factors 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 poverty.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR 107) of the 2014 Regular Session of the Legislature, the

provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on providers. However, the particular proposed Rule does not impact or affect the staffing level requirements required to provide the same level of service.

Interested Persons

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than February 10, 2017, at 4:30 p.m. to Mark Joiner, Louisiana State Uniform Construction Code Council, 8181 Independence Blvd., Baton Rouge, LA 70896. A public hearing will be scheduled if the requisite number of comments are received by the deadline date.

LTC Jason Starnes
Chief Administrative Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Uniform Construction Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes may result in savings for state and local governments, as they promulgate the 2015 edition of the International Building Code (IBC) and the International Plumbing Code (IPC). The IBC revisions may result in a savings for local governmental units while not affecting expenditures of state governmental units. Furthermore, the IPC revisions may result in a net savings for state and local governmental units to the extent they utilize the new technologies outlined in the proposed rule changes, though the savings will likely occur over an extended period of time.

The IBC revisions allow for an increase in area square footage before requiring a sprinkler system while still maintaining the safety of individuals, making the requirement the same as in the Life Safety Code (LSC) as enforced by the Office of the State Fire Marshal, meaning entities may build larger buildings without incurring expenses for sprinkler systems. This may result in a savings for local governments to the extent they engage in new construction and followed the IBC guidelines rather than the LSC guidelines. The IBC revisions will not result in any savings or costs for state governmental units, as they currently follow the LSC guidelines while engaging in new construction.

The revisions to the International Plumbing Code (IPC) outlined in the proposed rule changes may result in higher up-front costs for state and local governmental units, but lower operation and maintenance costs in subsequent fiscal years, resulting in a potential net savings over time. The IPC revisions allow for the use of new technologies in building construction that carry higher up-front costs, lower operation and maintenance costs. However, the use of these technologies is optional, and any costs or savings will be realized only to the extent state and local governmental units choose to use the new technologies.

Furthermore, the proposed rule changes provide for an adoption of the most recent construction codes by replacing the current regulations with the more recent 2015 editions of the International Residential Code (IRC), International Existing Building Code (IEBC), International Fuel Gas Code (IFGC), International Mechanical Code (IMC), and the 2014 edition of the National Electrical Code (NEC). The revisions to the

forementioned costs will not result in any additional costs for state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will result in an indeterminable net savings in commercial and residential construction costs and/or operating and maintenance costs for owners and contractors, while maximizing safety, as a result of the permitted use of new technologies and a revision of building standards for which sprinkler systems must be installed.

The IPC amendments will allow for more efficient new technologies to be implemented while maintaining safe requirements for the health and welfare of Louisiana citizens. The new, efficient technologies carry a higher front-end cost, but cost less to operate over time than older technologies. As a result, entities may realize a net savings on maintenance and operating costs over time to the extent they make use of the new technologies.

The proposed IBC amendments will allow for an increase in area square footage before requiring a sprinkler system while still maintaining the safety of individuals, meaning entities may build larger buildings without incurring expenses for sprinkler systems. The net savings is indeterminable, as the number of entities engaging in new construction projects that fit the new criteria for needing sprinkler systems is unknown.

The proposed IRC amendments will allow local government to determine freeboard requirements in special flood hazard areas instead of a statewide requirement, which will affect entities differently depending upon their location.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

LTC Jason Starnes
Chief Administrative Officer
1701#076

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Trustees of the District Attorneys' Retirement System

District Attorneys' Retirement System
(LAC 58:XXI.103, 105, 107, 701, and 901)

The Board of Trustees of the District Attorneys' Retirement System (DARS) proposed to adopt LAC 58:XXI. Chapter 9 as interpretation of the provisions of the District Attorneys' Retirement System, as authorized by R.S. 11:1658 and 1659. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The purposes of the proposed Rule are to provide improved funding for the District Attorneys' Retirement System, to permit the repayment of benefits that have been distributed, and to comply with certain requirements of the Internal Revenue Code.

Title 58
RETIREMENT

Part XXI. District Attorneys' Retirement System
Chapter 1. General Provisions

§103. Actuarial Equivalent

A. Effective July 1, 2013 and continuing through June 30, 2015, as provided by R.S. 11:1588(A) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.5 percent per annum.

a. For single life option factors, mortality rates shall be based on the RP-2000 combined healthy tables unisexed based on 70 percent males and 30 percent females. For joint life option factors, mortality rates shall be based on the RP-2000 combined healthy tables unisexed based on 95 percent males and 5 percent females for retirees and 5 percent males and 95 percent females for beneficiaries

b. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 disabled lives tables unisexed based on 70 percent males and 30 percent females.

B. Effective July 1, 2015 and continuing through June 30, 2016, as provided by R.S. 11:1588(A) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.25 percent per annum.

a. For single life option factors, mortality rates shall be based on the RP-2000 combined healthy tables unisexed based on 70 percent males and 30 percent females. For joint life option factors, mortality rates shall be based on the RP-2000 combined healthy tables unisexed based on 95 percent males and 5 percent females for retirees and 5 percent males and 95 percent females for beneficiaries.

b. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 disabled lives tables unisexed based on 70 percent males and 30 percent females.

C. Effective July 1, 2016 and continuing so long as not amended by resolution of the board, as provided by R.S. 11:1588(A) actuarial equivalent shall be defined by using the following assumptions.

1. Interest shall be compounded annually at the rate of 7.00 percent per annum.

a. For single life option factors, mortality rates shall be based on the RP-2000 combined healthy table with white collar adjustment with no setback for males and with 1 year setback for females and unisexed based on 80 percent males and 20 percent females. For joint life option factors, mortality rates shall be based on the RP-2000 combined healthy tables with white color adjustment with no setback for males and with a 1 year setback for females and unisexed based on 95 percent males and 5 percent females for retirees and 5 percent males and 95 percent females for beneficiaries.

b. For disability award lifetime equivalences, mortality rates shall be based on the RP-2000 disabled lives tables set back 5 years for males and set back 3 years for females unisexed based on 80 percent males and 20 percent females.

D. After July 1, 2016, the interest and mortality rate assumptions shall be as adopted by resolution of the board. The board shall consult with its actuary with regard to the proper rates to use.

E. For purposes of comparing the benefits of the forms of distribution with the maximum limitation on benefits, the applicable mortality tables described in IRC §417(e)(3)(B) shall be used.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1658-1659 and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:2313 (November 2015), LR 43:

§105. Accumulated Contributions, Rollovers

A. - D.5. ...

E. Payment for Age Discrimination Service Credit

1 - 2. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1588(A), R.S. 11:1617(B), and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:2313 (November 2015), LR 43:

§107. Repayment of Withdrawn Accumulated Contributions

A. Withdrawn Accumulated Contributions May be Repaid

1. Repayment Permitted

a. Member contributions that have been refunded to the member upon his termination of employment before qualifying for retirement benefits under the DARS may be repaid to DARS by the member upon his reemployment by a participating employer and his participation in and contributing to DARS for a minimum of six months, provided such repayment is made prior to any application by the member for retirement.

2. Amount of Repayment

a. Repayment of a refund shall include the amount refunded plus interest thereon. The trustees shall determine the interest rate applicable to each period during which the accumulated contributions have been refunded and ending with the date of repayment. Such interest shall be determined on a consistent basis and shall apply to all members. Installments shall not be permitted. If funds used for repayment originate from multiple sources, all funds due must be received by DARS within 45 days of each other. Service credit shall not be restored until full payment has been received.

3. Sources of Payment

a. The member shall be responsible for certifying and demonstrating the amount of any refund from a source for which taxes have been paid by the member. Amounts received in a rollover, whether a direct rollover or 60-day rollover will be presumed not to have been taxed; however, the trustees or their delegates may offer the member the opportunity to demonstrate that part or all of the rollover is of after-tax funds, subject to any administrative requirements that the trustees regard as reasonable to demonstrate proof of the after-tax status of the funds. DARS will maintain records of after-tax amounts held for the benefit of the member.

4. Distribution of Refund Amounts

a. Any distribution of amounts repaid by the member that includes after-tax payments shall include the

allocable portion of the after-tax payment. Determination of the allocable portion of each payment shall be in accordance with federal income tax rules and the policies and procedures of the trustees.

B. Service Credited Upon Repayment

1. Service Credited

a. All creditable service forfeited upon refund shall be restored upon full repayment of the refund plus interest in accordance with Subsection A above. The accrual rate of such service shall be the applicable rate in place at the time the service was initially earned.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1588(A) and R.S. 11:1617(B).

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 43:

Chapter 7. Required Minimum Distributions

§701. Required Beginning Date

A. - B.2.e. ...

C. Applicable Accounts

1. This Subsection shall apply with respect to any account that is part of the system that is considered to be a defined contribution account within the system. This Subsection shall apply to the refund of accumulated contributions as provided in R.S. 11:1635 (hereinafter referred to as "applicable account").

2. - 6.b. ...

D. Deferred Retirement Option Plan (DROP) and Back-Deferred Retirement Option Plan (Back-DROP)

1. Required Beginning Date

a. The DROP account and/or Back-DROP account of a member shall be distributed, or commence to be distributed, on or before the member's required beginning date.

2. Minimum Required Distribution (MRD)

a. Unless a greater amount is elected by the member for a calendar year, the amount to be distributed as the minimum required distribution shall be determined by annuitizing the DROP account and/or back-DROP account of the member over the period equal to the number of years beginning with the first distribution calendar year and continuing for the period equal to the number of whole years of the member's life expectancy measured from the first distribution calendar year as determined under the uniform lifetime table in 26 C.F.R. §1.401(a)(9)-9. The board shall have authority to designate the interest rate for purposes of calculating the periodic payments. Notwithstanding the foregoing, all payments shall be made from the DROP account or back-DROP account of the member, and no amount shall be paid that is not accrued for the member's benefit under such account.

3. Right to Accelerate Payments

a. The member shall have the right to accelerate payments and to receive a distribution of the entire DROP account or back-DROP Account in a lump sum.

4. Rollover

a. If a distribution is made that includes the minimum required distribution for a calendar year, then that minimum required distribution may not be rolled over; however, any amount distributed in excess of the minimum required distribution for any calendar year shall be an eligible rollover distribution and may be rolled over into an eligible retirement plan.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1588(A), R.S. 11:1635, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 41:2316 (November 2015), amended LR 43:

Chapter 9. Funding of Retirement System
§901. Employer Contributions

A. In accordance with R.S. 11:1658, the Board of Trustees directs that the direct employer contribution rate for January 1, 2017 through June 30, 2017 shall be 0 percent.

B. Any excess funds resulting from application of Subsection A of this Section shall be combined with any contribution surplus or offset by any contribution shortfall, and the resulting balance, if greater than zero, shall be accumulated in the funding deposit account pursuant to R.S. 11:1659.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 11:1588(A), R.S. 11:1658-1659, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the District Attorneys' Retirement System, LR 42:1551 (September 2016), amended LR 43:

Family Impact Statement

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. There should be no known or foreseeable effect on: the stability of the family; the authority and rights of parents regarding the education and supervision of their children; the functioning of the family; on family earnings and family budget; the behavior and responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

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

It is anticipated that the proposed Rule 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 Rule to accomplish the objectives of

applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

- 1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
- 2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
- 3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to E. Pete Adams, 1645 Nicholson Drive, Baton Rouge, LA 70802-8143. He is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on February 10, 2017.

E. Pete Adams
President

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: District Attorneys' Retirement System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will decrease state and local governmental expenditures. A previous rule that was published September, 2016 (the "Current Rule") allowed the District Attorneys' Retirement System (DARS) to collect a 2% employer contribution rate which totaled \$571,459. DARS will not collect payments from the State (\$281,550) and from local government units (\$289,908) during the period January 1 to June 30, 2017 that were authorized by the Current Rule. DARS will retain the employer contribution at 0%, rather than 2% during the six-month time period. Act 371 allows for DARS Board of Trustees to take actions such as maintain the net direct employer contribution rate, require a net contribution rate up to 3% more than the determined contribution rate, or set a contribution rate that is between the previous year's contribution rate and the determined contribution rate.

Additionally, the proposed rule permits the repayment of accumulated employee contributions in return for restoration of service credit that occurred upon the payment of the accumulated contribution. Payment may be made by direct rollover from an eligible retirement plan. The change will put DARS in the same financial position that it would have been in had DARS not made the payment to the employee.

Finally, the proposed rule change allows DARS to meet Internal Revenue Service requirements to remain a qualified plan. The proposed rule change will clarify and document the actuarial factors used in determining benefits and funding of DARS, without directly changing such factors and adds language regarding the Minimum Required Distribution. This codifies existing policy, so it is not expected to have fiscal consequences.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this proposed rule will have no effect on revenue collections of State or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Employees that terminate employment and withdraw their contributions would be directly affected by the rule change to the extent an employee was rehired and repaid the contributions that were withdrawn. The repayment of accumulated contributions will put DARS in the same financial position it would have been in had the contributions not been paid.

The funded status of the District Attorneys' Retirement System attributable to the employer contribution will be unchanged from the status before the addition made by the Current Rule. The funded reserve will stay the same as before (it will be reduced from the level set by the 2% supplement approved as part of the Current Rule).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The ability of a former member of DARS to repay the accumulated contributions that had been distributed to him, including rollover from eligible retirement plans, may encourage such persons to become reemployed.

There will be no change as compared with the rule in effect before the Current. As compared with the rule in effect after the Current, there will be a reduced funding level for the System.

E. Pete Adams
Director
1701#047

Gregory Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

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

**Sharks and Sawfishes—Harvest Regulations
(LAC 76:VII.357)**

The Wildlife and Fisheries Commission does hereby give notice of intent to amend a Rule (LAC 76:VII.357) modifying existing commercial shark harvest regulations. Proposed changes increase the daily possession limit of commercially harvested sharks from the large coastal species group to match the established default federal possession limit of 45 and to establish Secretarial authority to modify those commercial possession limits within a defined range (0-55) if notified by the National Marine Fisheries Service that an in-season change has been implemented. Authority for amendment of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), 56:320.2, 56:326.1, and 56:326.3 to the Wildlife and Fisheries Commission.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 3. Saltwater Sport and Commercial Fishery
§357. Sharks and Sawfishes—Harvest Regulations**

A - H.1. ...

2. Persons possessing a commercial state shark permit but no federal shark permit shall not possess on any one day, or on any trip, or land from any trip, or sell, barter, trade, or exchange in excess 45 sharks from the large coastal species group, taken from Louisiana state waters. Persons possessing a commercial state shark permit shall not possess any

sandbar sharks unless they also have in their name and in possession a valid federal shark research permit under 50CFR635.32(1). If the department is notified that the National Marine Fisheries Service has made an in-season adjustment to the daily federal possession limit, the secretary of the department is authorized to adjust the daily possession limit of sharks from the large coastal species group. Such an adjustment of the daily possession limit shall not exceed 55 sharks from the large coastal species group.

H.3 - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:326(E)(2), R.S. 56:326.1, R.S. 56:326.3, R.S. 56:320.2(C), and R.S. 325.2(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:543 (March 1999), amended LR 27:2267 (December 2001), LR 30:1507 (July 2004), LR 35:705 (April 2009), LR 39:1062 (April 2013), LR 43:

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 the 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 Regular Session of the Louisiana Legislature, 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.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, or via e-mail to jadriance@wlf.la.gov prior to Thursday, April 6, 2017.

Bart R. Yakupzack
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Sharks and Sawfishes Harvest Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not result in any savings or expenditures for state or local governmental units.

The proposed rule change adjusts the possession limits for sharks in the large coastal species group in Louisiana state waters from the current limit of 36 sharks per vessel per day to 45 sharks per permitted person per day, for persons possessing a state shark permit but not a federal shark permit.

The proposed rule change grants the Secretary of the LA Dept. of Wildlife and Fisheries (LDWF) authority to adjust the daily possession limit for sharks in the large coastal species group if the National Marine Fisheries Service makes a mid-season adjustment to the daily federal possession limit. Any mid-season adjustment shall not exceed 55 sharks per permitted person per day.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The higher daily possession, as well as the change from per vessel limits to per permitted person limits, under the proposed rule change may improve the efficiency of commercial shark harvesting operations by allowing commercial fishermen to harvest more sharks on a single trip. While the proposed rule change increases the daily possession limit for sharks in the large coastal species group for commercial shark harvests, the proposed rule change does not change the total allowable catch for commercial shark harvests. The total allowable catch will still total 912,450 lbs. dressed weight. As a result of higher per-day limits, commercial shark harvesters may reach the total allowable catch earlier than current per-day limits presently allow. This may increase net receipts for shark fishermen, as they may reach their total allowable catch quicker, and will realize a decrease in necessary operating costs to harvest sharks. For reference, the average dockside value of commercial shark landings from 2009-15, including large coastal sharks and all other shark species, totaled approximately \$585,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment.

Bryan McClinton
Undersecretary
1701#028

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2017-2018 Hunting Regulations and Seasons
(LAC 76:XIX.Chapter 1)

Notice is hereby given that the Wildlife and Fisheries Commission proposes to amend the general and wildlife management area rules and regulations for the 2017-2018 season, the resident game hunting season for the 2017-2019 hunting seasons, the general and wildlife management area rules and regulations for the turkey season, the turkey hunting areas, and seasons, and bag limits for the 2018 turkey season, and the migratory bird seasons, regulations, and bag limits for the 2017-2018 hunting season.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting and WMA Regulations

Chapter 1. Resident Game Hunting Season §103. Resident Game Birds and Animals

A. ...

B. Consult regulation pamphlet for seasons or specific regulations on wildlife management areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	OPENS: 3rd Saturday of November CLOSES: Last Day of February	10	30
Rabbit and Squirrel	OPENS: 1st Saturday of October CLOSES: Last Day of February	8	24
Squirrel*	OPENS: 1st Saturday of May for 23 days	3	9

Species	Season Dates	Daily Bag Limit	Possession Limit
Deer 2017-19	See Schedule	1 antlered and 1 antlerless (when legal)	Deer Areas 1,2,3,5,6,7,8, and 9 6/season (not to exceed 3 antlered deer or 4 antlerless deer). Deer Area 4 limit 3/season (not to exceed 2 antlered or 2 antlerless deer). Deer Area 10 limit 3/season (not to exceed 2 antlered or 2 antlerless deer).

*NOTE: Spring squirrel season is closed on the Kisatchie National Forest, National Wildlife Refuges, U.S. Army Corps of Engineers property. Some state wildlife management areas will be open, check WMA season schedule.

C. Deer Hunting Schedule 2017-2018

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
			* * *	
3	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1st Sat. of Dec. CLOSES: After 37 days	
4	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan.
5	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov.(BUCKS ONLY) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.(EITHER SEX 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX) OPENS: 2nd Sat. in Jan. CLOSES: Sun. after 2nd Sat. in Jan. (EITHER SEX)
6	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan.

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
7	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct.) OPENS: 1st Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Nov.	OPENS: 3rd Sat. of Oct. CLOSES: Fri Before 1st Sat. of Nov. OPENS: 2nd Sat of Nov. CLOSES: Sun. after Thanksgiving	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days.
8	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day.	OPENS: 1st Sat. of Dec. CLOSES: After 37 days.
9	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov.(BUCKS ONLY) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.(EITHER SEX 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX) OPENS: 2nd Sat. in Jan. CLOSES: Sun. after 2nd Sat. in Jan. (EITHER SEX)
10	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec. (EITHER SEX)	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1st Sat. of Dec. CLOSES: After 37 days	

D. Deer Hunting Schedule 2018-2019

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
* * *				
3	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1st Sat. of Dec. CLOSES: After 37 days	
4	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Nov. CLOSES: Fri. after 2nd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. OPENS: Mon. after 1st Sat. of Jan. CLOSES: next to last Sun. of Jan.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Sun. after 1st Sat. of Jan.
5	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov.(BUCKS ONLY) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.(EITHER SEX 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX) OPENS: 2nd Sat. in Jan. CLOSES: Sun. after 2nd Sat. in Jan. (EITHER SEX)

Area	Archery	Primitive Firearms (All Either Sex Except as Noted)	Still Hunt (No dogs allowed)	With or Without Dogs
6	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov. OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec.	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan.
7	OPENS: 1st day of Oct. CLOSES: Last day of Jan.	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: 1st Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Nov.	OPENS: 3rd Sat. of Oct. CLOSES: Fri Before 1st Sat. of Nov. OPENS: 2nd Sat of Nov. CLOSES: Sun. after Thanksgiving	OPENS: Mon. after Thanksgiving Day CLOSES: After 35 days
8	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day.	OPENS: 1st Sat. of Dec. CLOSES: After 37 days.
9	OPENS: 1st day of Oct. CLOSES: Feb. 15 (1st 15 days are BUCKS ONLY)	OPENS: 2nd Sat. of Nov. CLOSES: Fri. before 3rd Sat. of Nov.(BUCKS ONLY) OPENS: Mon. after the next to last Sun. of Jan. CLOSES: Last day of Jan.(EITHER SEX 1ST 7 DAYS, BUCKS ONLY FOR REMAINDER OF SEASON)	OPENS: Sat. before Thanksgiving Day EXCEPT when there are 5 Sats. in Nov., then it will open on the 3rd Sat. of Nov. CLOSES: Fri. before 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov. and then it will close on the Fri. before the 1st Sat. of Dec. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: Fri. after Thanksgiving Day. CLOSES: Sun. after Thanksgiving day. (EITHER SEX)	OPENS: 2nd Sat. of Dec. EXCEPT when there are 5 Sats. in Nov., then it will open on the 1st Sat. of Dec. CLOSES: Next to last Sun. of Jan. (BUCKS ONLY UNLESS EITHER SEX SEASON IS IN PROGRESS) OPENS: 2nd Sat. of Dec. CLOSES: Sun. after 2nd Sat. of Dec. (EITHER SEX) OPENS: Sat. after Christmas. CLOSES: Sun. after Christmas. (EITHER SEX) OPENS: 2nd Sat. in Jan. CLOSES: Sun. after 2nd Sat. in Jan. (EITHER SEX)
10	OPENS: 3rd Sat. of Sept. CLOSES: Jan. 15	OPENS: 2nd Sat. of Oct. CLOSES: Fri. before 3rd Sat. of Oct. OPENS: Mon. after Thanksgiving Day CLOSES: Fri. before 1st Sat. of Dec.	OPENS: 3rd Sat. of Oct. CLOSES: Sun. after Thanksgiving Day OPENS: 1st Sat. of Dec. CLOSES: After 37 days	

E. - G.2.a. ...

3. wildlife management area schedule—opens first Saturday of May for nine days on all WMAs except Fort Polk, Peason Ridge, Camp Beauregard, Pass-a-Loutre and Salvador. Dogs are allowed during this season for squirrel hunting;

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:109(B) and R.S. 56:141(C).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:1324 (July 1998), LR 25:1290 (July 1999), repromulgated LR 25:1526 (August 1999), LR 26:1506 (July 2000), LR 27:1061 (July 2001), LR 28:1615 (July 2002), LR 29:1122 (July 2003), repromulgated LR 29:1521 (August 2003), amended LR 30:1494 (July 2004), LR 31:1627 (July 2005), LR 32:1254 (July 2006), LR 33:115 (January 2007), LR 33:1399 (July 2007), LR 34:1447 (July 2008), LR 35:1278 (July 2009), LR 35:2856 (December 2009), LR 36:1580 (July 2010), LR 37:2207 (July 2011), LR 38:1747 (July 2012), LR 39:2307 (August 2013), LR 40:1535 (August 2014), LR 41:958 (May 2015), LR 42:1108 (July 2016), LR 43:

§107. Experimental Dove Field Leasing Program

A. - B.3. ...

4. Shot is restricted to non-toxic shot, size 6 and smaller.

5. Repealed.

6. Loaded firearms are prohibited in vehicles or at check stations.

7. Persons exhibiting unsafe gun handling as determined by LDWF staff or assigns shall be removed from the field(s).

8. Vehicles are restricted to designated areas or roads.

9. No Littering. Each hunter is responsible for removing his/her trash, including shell hulls, from the leased property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:783 and 56:109B.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 23:593 (May 1997), LR 43:

§111. General and Wildlife Management Area Hunting Rules and Regulations

A. - D.8. ...

9. Nighttime Take of Nuisance Animals and Outlaw Quadrupeds. On private property, the landowner, or his lessee or agent with written permission from the landowner and the landowner's contact information in his possession, may take outlaw quadrupeds (coyotes, armadillos and feral hogs), nutria, or beaver during the nighttime hours from one-half hour after official sunset on the last day of February to one-half hour after official sunset the last day of August of that same year. Such taking may be with or without the aid of artificial light, infrared or laser sighting devices, or night

vision devices. In addition, pursuant to R.S. 56:116(D)(3) any person who is authorized to possess a firearm suppressor may use a firearm fitted with a sound suppressor when taking outlaw quadrupeds, nutria, or beaver. Any person attempting to take outlaw quadrupeds under the provisions of the Paragraph, within 24 hours prior to the attempted taking, shall notify the sheriff of the parish in which the property is located and the LDWF Enforcement Division by calling (800) 442-2511 of their intention to attempt to take outlaw quadrupeds under the provision of this Paragraph.

10. - 12. ...

E. General Deer Hunting Regulations

1. Prior to hunting deer, all deer hunters, regardless of age or license status, must obtain deer tags and have in possession when hunting deer. Immediately upon harvesting a deer, the hunter must tag the deer with the appropriate carcass tag and document the kill on the deer tag license. Within 72 hours of the kill, the hunter must validate the kill. Hunters harvesting deer on DMAP lands can validate deer per instructions by LDWF using the DMAP harvest data sheets. Hunters on WMAS can validate deer during mandatory deer check hunts, when deer check stations are in operation. Hunters may validate deer by calling the validation toll free number or using the validation website.

2. 2017-2018 Season. One antlered and one antlerless deer per day (when legal) except on Kisatchie National Forest, Indian Bayou Area owned by the US Army Corps of Engineers, and some federal refuges (check refuge regulations) where the daily limit shall be one deer per day. Antlerless deer may be harvested during entire deer season on private lands (all seasons included) except as specified in deer hunting schedule. This does not apply to public lands (WMAs, national forest lands, and federal refuges) which will have specified either-sex days.

3. 2018-2019 Season. One antlered and one antlerless deer per day (when legal) except on Kisatchie National Forest, Indian Bayou area owned by the US Army Corps of Engineers, and some federal refuges (check refuge regulations) where the daily limit shall be one deer per day. Antlerless deer may be harvested during entire deer season on private lands (all seasons included) except as specified in deer hunting schedule. This does not apply to public lands (WMAs, national forest lands, and federal refuges) which will have specified either-sex days.

4. A legal antlered deer is a deer with at least one visible antler of hardened bony material, broken naturally through the skin. Killing antlerless deer is prohibited except where specifically allowed.

5. - 10. ...

11. Primitive Firearms Season: Still Hunt Only. Specific WMAs will also be open, check WMA schedule for specific details. Primitive firearms license is required for resident hunters between the ages of 16 and 59 inclusive and non-residents 16 years of age and older. Either-sex deer may be taken in all deer hunting areas except as otherwise specified.

11.a. - 12.a.i.(c). ...

13. Hunter Orange. Any person hunting any wildlife during the open gun deer hunting season and possessing buckshot, slugs, a primitive firearm, or a centerfire rifle shall display on his head, chest and/or back a total of not less than 400 square inches of "hunter orange" or "blaze pink".

Persons hunting on privately owned land may wear a hunter orange or blaze pink cap or hat in lieu of the 400 square inches. These provisions shall not apply to persons hunting deer from elevated stands on property that is privately owned or to archery deer hunters hunting on lands where firearm hunting is not allowed by agreement of the landowner or lessee. However, anyone hunting deer on such lands where hunting with firearms is allowed shall be required to display the 400 square inches or a hunter orange or blaze pink cap or hat while walking to and from elevated stands. While a person is hunting from an elevated stand, the 400 square inches or cap or hat may be concealed. Warning: deer hunters are cautioned to watch for persons hunting other game or engaged in activities not requiring "hunter orange" or "blaze pink".

14. - 15.b.iii. ...

F. Description of Areas, 2017-2019

1. - 3.a.ix. ...

4. Area 4

a. All of St. Helena and Washington Parishes are open.

b. Portions of the following parishes are also open:

i. East Baton Rouge—all except that portion west of I-110 and west of US 61;

b.ii. - c.v. ...

5. Area 5

a. Portions of the following parishes are open:

i. - iv. ...

v. high water benchmark closure. Deer hunting in those portions of Iberville and St. Martin parishes south of I-10, west of the East Atchafalaya Basin Protection Levee, east of the West Atchafalaya Basin Protection Levee, and north of Alligator Bayou and Bayou Sorrel will be closed when the river stage of the Atchafalaya River reaches 18 feet msl at Butte LaRose, and will reopen when the river stage recedes to 17 feet msl at Butte LaRose. Deer hunting in those portions of Iberville, St. Martin, St. Mary and Iberia parishes west of the East Atchafalaya Basin Protection Levee, east of the West Atchafalaya Basin Protection Levee and south of Alligator Bayou and Bayou Sorrel will be closed when the river stage of the Atchafalaya River reaches 15 feet msl at Butte LaRose, and will reopen when the river stage recedes to 14 feet msl at Butte LaRose.

6. Area 6

a. - b.vii. ...

viii. East Baton Rouge—west of I-110 and west of US 61;

6.b.ix. - 10.b.v. ...

G. WMA Regulations

1. - 3.j. ...

k. Small Game Emphasis Areas. Specially designated areas on certain WMAs will allow small game hunting with dogs, confined to that specific area when the remainder of the WMA is restricted to still hunt only. Additionally, off season training of rabbit and bird dogs may be allowed on some of the small game emphasis areas. Small game emphasis areas are offered on Big Colewa Bayou, Bayou Macon, Bayou Pierre, Boeuf, Dewey W. Wills, Marsh Bayou, Ouachita, Pomme de Terre, Richard K. Yancey, Sandy Hollow, Sherburne, and Walnut Hill WMAs.

4. - 4.d. ...

e. The following cannot be carried onto any WMA except during modern and primitive firearm deer seasons and during special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs (consult regulations pamphlet for specific WMA regulations):

- i. centerfire rifles;
- ii. centerfire break-action and centerfire bolt-action handguns;
- iii. centerfire scoped handguns;
- iv. shotgun slugs or shot larger than BB lead or F steel.

4.f. - 5.a. ...

b. On WMAs the daily limit shall be one antlered deer and one antlerless deer (when legal) per day, not to exceed the Deer Area limit for the Deer Area that a WMA is contained within (all segments included) by all methods of take.

c. - f. ...

g. Physically Challenged Wheelchair Confined Deer and Waterfowl Hunting Areas: special deer and waterfowl hunting areas, blinds and stands identified with LDWF logos, have been established for physically challenged hunter permit (PCHP) wheelchair confined hunters on WMAs. Hunters must obtain a PCHP permit and are required to make reservations to use blinds and stands. PCHP wheelchair hunting areas are available on Alexander State Forest, Big Colewa Bayou, Buckhorn, Clear Creek, Floy McElroy, Fort Polk-Vernon, Maurepas Swamp, Sandy Hollow, and Sherburne WMAs. Check WMA hunting schedules or call the LDWF field offices in Pineville, Lake Charles, Opelousas, Minden, Monroe or Hammond for information.

h. - m. ...

n. All hunters (including archers and small game hunters) except waterfowl hunters and mourning dove hunters on WMAs must display 400 square inches of "hunter orange" or "blaze pink" and wear a "hunter orange" or "blaze pink" cap during open gun season for deer. Quail and woodcock hunters and hunters participating in special dog seasons for rabbit, squirrel and feral hogs are required to wear a minimum of a "hunter orange" or "blaze pink" cap. All other hunters and archers (while on the ground) except waterfowl hunters also must wear a minimum of a "hunter orange" or "blaze pink" cap during special dog seasons for rabbit and squirrel and feral hogs. Also all persons afield during hunting seasons are encouraged to display "hunter orange" or "blaze pink". Hunters participating in special shotgun season for feral hogs on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador WMAs must display 400 square inches of "hunter orange" or "blaze pink" and wear a "hunter orange" or "blaze pink" cap.

o. Deer hunters hunting from concealed ground blinds must display a minimum of 400 square inches of "hunter orange" or "blaze pink" above or around their blinds which is visible from 360 degrees.

5.p. - 11. ...

12. Resident Small Game (squirrel, rabbit, quail, mourning dove, woodcock, snipe, rail and gallinule). Same as outside except closed during modern firearm either-sex deer seasons on certain WMAs (see WMA schedule) and except non-toxic shot, size 6 or smaller must be used for

dove, rail, snipe, and gallinule. Unless otherwise specified under a specific WMA hunting schedule, the use of dogs for rabbit and squirrel hunting is prohibited. Spring squirrel season with or without dogs: first Saturday of May for nine days. Consult regulations pamphlet for specific WMAs.

13. - 14. ...

15. Hogs. Feral hogs may be taken during any open hunting season on WMAs by properly licensed and/or permitted hunters using only guns or bow and arrow legal for specified seasons in progress, except take of hogs is prohibited during nighttime raccoon seasons. Hogs may not be taken with the aid of dogs, except feral hogs may be taken with the aid of dogs during the month of February on Attakapas, Bodcau, Clear Creek, Little River, Pass a Loutre, Pearl River, Sabine, Sabine Island, and West Bay and that portion of Dewey W. Wills north of the Catahoula Lake Diversion Canal by self-clearing permit. All hogs must be killed immediately and may not be transported live under any conditions. During the February dog season hunters may use centerfire pistols in addition to using guns allowed for season in progress. Additionally, feral hogs may be taken on Atchafalaya Delta, Pass-a-Loutre, Pointe-aux-Chenes and Salvador/Timken WMAs from February 16 through March 31 with archery equipment, shotguns loaded with buckshot or slugs or rimfire rifles no larger than .22 caliber. Additional requirements may be specified under individual WMAs, see regulation pamphlet.

16. ...

17. WMAs Hunting Schedule and Regulations

a. - e. ...

f. Biloxi. ATVs, UTVs, motorcycles, horses, and mules are prohibited. Mud boats or air-cooled propulsion vessels can only be powered by straight shaft "long tail" air-cooled mud motors that are 25 total horsepower or less on the WMA. All other types of mud boats or air cooled propulsion vessels (including "surface drive" boats) are prohibited. All ATVs, UTVs, and motorcycles are prohibited.

g. - h. ...

i. Dewey W. Wills. Crawfish: 100 pounds per person per day. Limited access area, no motorized vessels or vehicles allowed from November through January. Road Closures: Hunt Road will be closed when water levels at the Larto Lake gage (available at <http://rivergages.mvr.usace.army.mil/WaterControl/stationinfo2.cfm?sid=CE7F3AA4&fid=&dt=S>) reach 45.0 ft msl, and will reopen when water levels recede to 43.0 ft. msl; Muddy Bayou Road will be closed when water levels at the Larto Lake gage (available at <http://rivergages.mvr.usace.army.mil/WaterControl/stationinfo2.cfm?sid=CE7F3AA4&fid=&dt=S>) reach 42.0 ft. msl and will reopen when water levels recede to 40.0 msl; and Sandy Bayou Road will be closed when water levels at the Larto Lake gage (available at <http://rivergages.mvr.usace.army.mil/WaterControl/stationinfo2.cfm?sid=CE7F3AA4&fid=&dt=S>) reach 42.0 ft. msl and will reopen when water levels recede to 40.0 msl.

j. - m. ...

n. Joyce. Swamp walk: closed between 30 minutes after sunset to 30 minutes before sunrise, no loaded firearms or hunting allowed within 100 yards of walkways. Crawfish: 100 pounds per person per day.

o. - q. ...

r. Maurepas Swamp. No loaded firearms or hunting allowed within 100 yards of nature trail. Crawfish: 100 pounds per person per day. Benchmark closure: area closed to all deer hunting when USGS water level gauge CRMS 5373, available at <http://waterdata.usgs.gov/la/nwis/rt> is at or above 3.0 ft. msl and reopened to deer hunting when water levels recede to 2.5 ft. msl following a closure. Motorized vehicles prohibited on Crusel Tract (see WMA map for Crusel Tract).

s. ...

t. Pearl River. All roads closed 8 p.m. to 4 a.m. to all vehicles. Old Hwy. 11 will be closed when river gauge at Pearl River, Louisiana, reaches 16.5 feet. All hunting except waterfowl will be closed when the river stage at Pearl River reaches 16.5 feet. No hunting in the vicinity of nature trail. Observe "No Hunting" signs. Rifle range open Friday, Saturday and Sunday with a fee. Crawfish: Commercial crawfishing prohibited. 100 pounds per person per day.

u. ...

v. Pointe-aux-Chenes. Parking of motorized vehicles on levees prohibited. Hunting until 12 noon on all game, except for mourning dove hunting and youth lottery deer hunt as specified in regulation pamphlet. Point Farm: gate will be open all weekends during month of February. No motorized vessels allowed in the drainage ditches. Recreational fishing: shrimp may be taken by the use of cast nets only. During the inside open shrimp season, 25 pounds per boat per day (heads on) maximum shall be allowed. Size count to conform with open season requirements. During the inside closed season, 10 pounds per boat per day (heads on) may be taken for bait. All castnet contents shall be contained and bycatch returned to the water immediately. Oyster harvesting is prohibited. Fish may be taken only by rod and reel or hand lines for recreational purposes only. Crabs may be taken only through the use of hand lines or nets; however, none are to remain set overnight. Twelve dozen crabs maximum are allowed per boat or vehicle per day. Crawfish may be harvested in unrestricted portions of the WMA and shall be limited to 100 pounds per person per day. Fishing gear used to catch crawfish shall not remain set overnight. The harvest of all fish, shrimp, crabs and crawfish are for recreational purposes only and any commercial use is prohibited. All boats powered by engines having total horsepower above 25 h.p. are not allowed in the Grand Bayou, Montegut and Pointe-aux-Chenes water management units. Public is permitted to travel anytime through the WMA for access purposes only, in the waterways known as Grand Bayou, Humble Canal, Little Bayou Blue, Grand Bayou Blue, St. Louis Canal and Bayou Pointe-aux-Chenes unless authorized by the LDWF. All other motorized vehicles, horses and mules are prohibited unless authorized by the LDWF. Limited access area, no internal combustion engines allowed from September through January. See WMA map for specific locations. All ATVs, UTVs, motorcycles, horses, and mules prohibited.

w. - ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115 and R.S. 56:116.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:1279 (July 1999), amended LR 26:1494 (July 2000), LR 27:1049 (July 2001), LR 28:1603 (July 2002), LR 29:1124 (July 2003), repromulgated LR 29:1522 (August 2003), amended LR

30:1495 (July 2004), LR 31:1611 (July 2005), LR 32:1251 (July 2006), LR 33:1382 (July 2007), LR 34:1429 (July 2008), LR 35:1264 (July 2009), LR 36:1566 (July 2010), LR 37:2190 (July 2011), LR 38:1732 (July 2012), LR 39:2292 (August 2013), LR 40:1540 (August 2014), LR 41:963 (May 2015), LR 42:1112 (July 2016), LR 43:

§113. General and WMA Turkey Hunting Regulations

A. ...

B. Tags

1. Prior to hunting turkeys, all turkey hunters, regardless of age or license status, must obtain turkey tags and have them in their possession while turkey hunting. Immediately upon killing a turkey, hunters must attach a carcass tag to the turkey before it is moved from the site of the kill and must document the kill on the turkey harvest report card. The date of kill and parish of kill must be recorded on the carcass tag. The tag must remain attached to the turkey while kept at camp or while it is transported to the domicile of the hunter or to a cold storage facility. Hunters who keep the carcass or meat at a camp must also comply with game possession tag regulations. Within 72 hours of the kill, the hunter must report the kill. Hunters may report turkeys by calling the validation phone number or using the validation website.

B.2. - G.1. ...

2. - 4. Repealed.

5. - 5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2375 (November 2002), LR 29:2512 (November 2003), LR 30:2874 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006), LR 33:2469 (November 2007), LR 35:91 (January 2009), LR 35:2478 (November 2009), LR 36:2581 (November 2010), LR 37:3535 (December 2011), LR 38:2941 (November 2012), LR 40:96 (January 2014), LR 40:1554 (August 2014), LR 41:977 (May 2015), LR 42:1127 (July 2016), LR 43:

§115. Turkey Hunting Areas, Seasons, and Bag Limits

A. ...

B. Turkey season will open on the first Saturday in April. The area A turkey season will be 30 consecutive days in length, the area B turkey season will be 23 consecutive days in length, and the area C turkey season will be 16 consecutive days in length. Wildlife management areas, national forests, national wildlife refuges, and U.S. Army Corps of Engineers land may vary from this framework. On those years when the first Saturday in April falls the day before Easter, then the season will open the Friday before the first Saturday in April.

C. Statewide youth turkey and physically challenged season on private lands shall be the weekend prior to the start of the regular turkey season. On those years when the weekend prior to the start of regular turkey seasons falls on Easter weekend, then the youth and physically challenged season will open on Good Friday.

D. - J.3. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2264 (November 1999), amended LR 26:2634 (November 2000), LR 27:2270 (December 2001), LR 28:2376 (November

2002), LR 29:2512 (November 2003), LR 30:2875 (December 2004), LR 31:3167 (December 2005), LR 32:2272 (December 2006), LR 33:2470 (November 2007), LR 35:90 (January 2009), LR 35:2481 (November 2009), LR 36:2583 (November 2010), LR 37:3541 (December 2011), LR 38:2944 (November 2012), LR 40:99 (January 2014), LR 40:1556 (August 2014), LR 41:980 (May 2015), LR 42:1129 (July 2016), LR 43:

§117. Migratory Bird Seasons, Regulations, and Bag Limits

A. Seasons and Bag Limits

Species	Season Dates	Daily Bag Limit	Possession Limit
Mourning and White Winged Doves and fully-dressed Eurasian and Collared Doves	South Zone: Sept. 2-10 Oct. 7-Nov. 26 Dec. 17-Jan. 15 North Zone: Sept. 2-24 Oct. 7-Nov. 12 Dec. 17-Jan. 15	15 (in aggregate)	45 (in aggregate)
Woodcock	Dec. 18-Jan. 31	3	9
Teal (Blue-winged, Green-winged and Cinnamon)	Sept. 15-30	6	18
King and Clapper Rails	Sept. 15-30 Nov. 11-Jan. 3	15 (in aggregate)	45 (in aggregate)
Sora and Virginia Rails	Sept. 15-30 Nov. 11-Jan. 3	25 (in aggregate)	75 (in aggregate)
Gallinules	Sep. 15-30 Nov. 11-Jan. 3	15	45
Snipe	Coastal Zone: Nov. 2-Dec. 3 Dec. 16-Feb. 28 West Zone: Nov. 2-Dec. 3 Dec. 16-Feb. 28 East Zone: Nov. 2-Dec. 3 Dec. 16-Feb. 28	8	24
Ducks, Coots and Mergansers	Coastal Zone: Nov. 4-5 (youth only) Nov. 11-Dec. 3 Dec. 16-Jan. 21 West Zone: Nov. 4 (youth only) Nov. 11-Dec. 3 Dec. 16-Jan.21 Jan. 27 (youth only) East Zone: Nov. 11 (youth only) Nov. 18-Dec. 3 Dec. 16-Jan. 28 Feb. 3 (youth only)	Daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 2 canvasback, 1 mottled duck, 1 black duck, 3 wood ducks, 3 scaup, 2 redheads, and 1 pintail. Daily bag limit on coots is 15. Daily bag limit on mergansers is 5, only 2 of which may be hooded mergansers. Merganser limits are in addition to the daily bag limit for ducks.	Three times the daily bag limit.

Species	Season Dates	Daily Bag Limit	Possession Limit
Light Geese (Snow, Blue, and Ross') and White-Fronted Geese	North Zone: Nov. 4-Dec.3 Dec. 16-Feb. 11 South Zone: Nov. 4-Dec. 3 Dec. 16-Feb. 11	Daily bag limit on Light Geese (snow, blue, and ross') is 20. Daily bag limit on White-Fronted Geese is 2.	No possession limit on Light Geese (snow, blue, and ross') Possession limit on White-Fronted Geese is 6.
Canada Geese	North Zone: Nov. 4-Dec.3 Dec. 16-Jan. 31 South Zone: Nov. 4-Dec. 3 Dec. 16-Jan. 31	1	3

B. Conservation Order for Light Geese Seasons and Bag Limits

Species	Season Dates	Daily Bag Limit	Possession Limit
Light Geese (Snow, Blue, and Ross')	North Zone: Dec. 4-15 Feb. 12-Mar. 11 South Zone: Dec. 4-15 Feb. 12-Mar. 11	No daily bag limit.	No possession limit.

C. ...

D. Dove Hunting Regulations

1. Shooting hours one-half hour before sunrise to sunset except on opening day of the first split on wildlife management areas and on fields leased through the LDWF experimental dove field leasing program, where hunting will be from 12 p.m. to sunset, except for Elbow Slough Wildlife Management Area which will be open one-half hour before sunrise to sunset.

D.2. - G. ...

H. Statewide Youth Waterfowl Season Regulations. Only youths 17 years of age or younger may hunt. Youth must possess a hunter safety certification or proof of successful completion of a hunter safety course. Youths must be accompanied by one adult 18 years of age or older. If the accompanying adult is in possession of hunter safety certification, a valid hunting license or proof of successful completion of a hunter safety course, this requirement is waived for youth younger than 16 years of age. Adults accompanying youth may not possess a firearm. Youths may possess only one firearm while hunting. The supervising adult shall maintain visual and voice contact with the youth at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 42:1130 (July 2016), amended LR 43:

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 statement, 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 Regular Session of the Louisiana Legislature, 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.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed Rule until 4:30 p.m., Sunday, March 5, 2017 to Steve Smith, Wildlife Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, or via email to ssmith@wlf.la.gov.

Bart R. Yakupzack
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: 2017-2018 Hunting
Regulations and Seasons**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule changes will not create costs or savings for state or local governmental units.

The proposed rule changes do the following: alter possession limits for certain game animals; allows expanded harvests of deer and alters certain hunting seasons by region; changes restrictions on certain game and nuisance animals; alters reporting periods; modifies type and size of allowable shot in certain instances; adjusts weapon carrying restrictions and allowances while hunting; changes hunting color allowances; establishes closure and opening of certain parishes to hunting due to high water; makes certain modifications to Wildlife Management Areas (WMAs); modifies small game categories; alters restrictions on boat motors; modifies access hours to certain areas; modifies vehicle access to certain areas; adjusts certain youth hunting restrictions; and makes technical changes.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule will not impact revenue collections for state or local governmental units.

- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes may create marginal costs or benefits for hunters and persons utilizing Wildlife Management Areas. A majority of the changes pertain to game limits, types of shot used for the hunting of certain species, use of firearms during specific hunting seasons, and use of certain equipment on Wildlife Management Areas. While the aforementioned groups may incur additional costs or benefits as a result of the proposed rules, the impacts will likely be minimal.

- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Bryan McClinton
Undersecretary
1701#029

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: January-December 2016

LAC Title	Part #.Section #	Action	Location:		LAC Title	Part #.Section #	Action	Location:		
			Month	LR 42 Page#				Month	LR 42 Page#	
4	V.Chapter 15 (PPM)	Amended	July	981	28	LXXXIII.405,409,705,707	Amended	April	548	
	V.Chapter 53 (PPM)	Adopted	Jan.	2		LXXXIII.613	Amended	July	1017	
	V.Chapter 55 (PPM)	Adopted	Jan.	3		LXXXIII.1107	Adopted	April	548	
	V.Chapter 59 (PPM)	Adopted	Mar.	370		CL305,307,511,711,713,717,719,1509	Amended	Mar.	399	
7	V.919	Amended	Feb.	219	CXL1113,1115,1701,1705,1707,1125-1149	Adopted	May	734		
	V.Chapter 29	Adopted	Mar.	393	CXL1,1335-1343,1349-1357,1703	Amended	Feb.	224		
	V.Chapter 29	Repromulgated	April	540	CXL1.1709-1729,1805-1810,1815,1817,1907	Repealed	Feb.	224		
	XIII.121,123,519,749,763	Amended	Feb.	211	CXL1.1909,1915-1925,2305,2313-2323	Repealed	Feb.	224		
	XV.127	Amended	May	730	CXL1.2401-2415	Repealed	Feb.	224		
	XV.Chapter 3	Amended	Oct.	1644	CXIII.501,903,907,1301,1303	Amended	Feb.	230		
	XXI.1301,1312	Adopted	Mar.	391	CXV.901	Amended	April	557		
	XXI.1311,1321	Amended	Mar.	391	CXV.1103,2307,2318,2907,3309,3701	Amended	Nov.	1877		
	XXI.Chapter 17	Amended	Nov.	1864	CXV.1703	Amended	April	556		
	XXI.Chapter 13	Amended	Dec.	2169	CXV.1707	Repealed	April	556		
	XXIII.103,307,1101,1103	Amended	May	730	CXV.Chapter 23	Amended	Feb.	232		
	XXIII.309	Adopted	May	730	CXV.2318	Amended	Dec.	2176		
	XXIII.727	Repealed	May	730	CXV.2318,2353	Amended	July	1062		
	XXV.Chapter 1	Amended	Feb.	212	CXIX.Chapters 1-17	Repealed	July	1065		
	XXVII.Chapter 1	Amended	Sept.	1498	CXXXI.243	Amended	Feb.	232		
	XXVII.114	Adopted	Sept.	1498	CXXXI.417	Amended	Nov.	1879		
	XXVII.157,161	Repealed	Sept.	1498	CXXXIX.103,2701	Amended	July	1017		
	XXIX.117	Amended	Oct.	1644	CXXXIX.519	Amended	Nov.	1868		
	XXXV.125	Amended	Feb.	218	CXXXIX.2301	Amended	July	1019		
	XXXV.125,127	Amended	Oct.	1649	CXXXIX.2301,2713,2801	Amended	April	549		
	XXXIX.Chapter 5	Adopted	Sept.	1503	CLXV.103,515	Amended	Nov.	1870		
	XXXIX.Chapter 13	Amended	Nov.	1868	CLXV.309,311,313,321,509,511	Amended	Dec.	2173		
	XXXIX.1307,1501,1503	Amended	May	733	CXLV.505	Amended	Nov.	1869		
10	XIII.Chapter 13	Amended	July	1087	CXLV.505,1103,1105	Amended	April	551		
	XIII.1309	Repealed	July	1087	CXLV.1111	Amended	July	1019		
13	I.Chapter 7	Amended	June	867	CLIII.1305	Amended	April	553		
	I.Chapter 9	Amended	Feb.	223	CLV.103,303	Amended	April	553		
	I.Chapter 11	Amended	June	865	CLXI.709,905,1303,1307,1713,1719,1721	Amended	April	554		
	I.1133	Adopted	June	865	CLXI.1901,2103	Amended	April	554		
	I.2715	Amended	Feb.	224	CLXI.1921	Amended	Dec.	2173		
	I.2719	Adopted	Feb.	224	CLXV.103,501,505,513,515,517,521,903	Amended	Jan.	42		
	I.2904,2905	Amended	Jan.	41	CLXV.503,507,509,511,519	Adopted	Jan.	42		
	I.2915	Repealed	Jan.	41	CLXVII.101,103,313,503,509,511,513,515	Amended	Nov.	1870		
	I.3307	Amended	Jan.	35	CLXVII.512	Adopted	Nov.	1870		
	I.3309	Adopted	Jan.	35	CLXVII.517,521,703,705,707,709,713	Amended	Nov.	1870		
	I.3903,3923	Amended	Feb.	222	CLXIX.Chapters 1-23	Adopted	July	1019		
	I.3999	Adopted	Feb.	222	CLXXI.Chapters 1-25	Adopted	July	1043		
	17	I.101,107	Amended	Oct.	1671	32	I.317	Amended	Jan.	51
I.111		Adopted	Oct.	1671	33		I.Chapter 8	Amended	Feb.	235
19	V.100,500,700,900,1100	Adopted	June	905		I.Chapter 39	Amended	Nov.	1884	
	V.701,703	Adopted	Jan.	69		III.311	Amended	Nov.	1883	
22	I.201	Amended	Dec.	2191		III.502,509	Amended	April	563	
	I.337	Amended	Mar.	424		III.504	Amended	Mar.	401	
	III.4703	Amended	Feb.	274		III.506,507,2160,3003,5116,5122,5311	Amended	July	1084	
	III.4761	Adopted	Feb.	274		III.509	Amended	Mar.	402	
	V.Chapter 2	Amended	July	1087		III.1105,1107	Amended	Oct.	1659	
	XI.303,307	Amended	Aug.	1283		III.1507	Amended	Oct.	1660	
	XIII.103,303,503	Amended	April	569		III.2153	Amended	Oct.	1660	
	XIII.303,503	Amended	May	743		III.2307	Amended	Oct.	1658	
	25	V.505	Amended	Jan.		35	III.5901	Amended	July	1084
		28	I.503	Amended		April	563	V.105	Amended	Dec.
IV.301,701,703,2107	Amended		Nov.	1880	V.105,109	Amended	Dec.	2178		
IV.703	Amended		Oct.	1657	V.109,1107,1301,1307,1516	Amended	April	565		
IV.705,803,805	Amended		Jan.	47	V.4909	Repealed	Dec.	2178		
IV.2005,2007	Amended		Jan.	46	V.4999	Amended	Dec.	2179		
IV.2009	Repealed		Jan.	46	V.10303	Amended	Feb.	280		
V.221,233	Amended		Jan.	46	VII.10505-10513,10516,10517,10519	Amended	Feb.	244		
VI.Chapters 1,3	Amended		July	1070	VII.10514,10515,10518,10524,10531	Adopted	Feb.	244		
VI.305,315	Amended		Oct.	1658	VII.10521,10523,10525-10529,10534	Amended	Feb.	244		
XXXIII.Chapters 1-21	Repealed		April	558	VII.10532,10533,11101	Adopted	Feb.	244		
XLIII.133,905	Amended		Feb.	234	VII.10535-10543,11103	Amended	Feb.	244		
XLIII.540,543	Amended		Dec.	2177	VII.10536	Repealed	Feb.	244		
LXIII.Chapters 1-19	Repealed		July	1067	IX.107,1105,1113,1117,1123	Amended	May	736		
LXXIX.2109,2323	Amended		July	1063	IX.2701	Amended	May	735		
LXXXIII.301,405,613	Amended	Dec.	2172	34	I.5521,5523,5525	Adopted	June	869		
LXXXIII.301,611	Amended	Dec.	2171		V.Chapter 5	Amended	Jan.	51		
37	XIII.Chapter 1 XIII.Chapter 3 XIII.317,319,321,323	Amended	Nov.	1932	37	XIII.Chapter 1 XIII.Chapter 3 XIII.317,319,321,323	Amended	Nov.	1932	
		Amended	July	1095			Amended	July	1095	
		Amended	July	1095			Adopted	July	1095	

LAC Title	Part #.Section #	Action	Location:		LAC Title	Part #.Section #	Action	Location:	
			Month	LR 42 Page#				Month	LR 42 Page#
37	XIII.Chapter 9	Amended	Nov.	1938	48	XCI.315,801	Amended	Dec.	2182
	XIII.911	Adopted	Nov.	1938		XCI.Chapters 13-15	Adopted	Dec.	2182
	XIII.Chapter 27	Repealed	Jan.	65		I.1905	Amended	Oct.	1669
	XIII.Chapter 29	Repealed	Jan.	66		I.3901	Adopted	Jan.	64
	XIII.Chapter 101	Amended	Nov.	1940		I.Chapter 40	Amended	Nov.	1886
40	I.2519,2701,2705,2707,5101,5113,5315	Amended	Feb.	283		I.4001	Amended	Nov.	1888
	I.5157	Amended	Oct.	1696		I.6037	Amended	July	1090
	I.5399	Amended	Feb.	283		I.Chapter 90	Amended	Feb.	219
	I.6605	Amended	May	763		I.Chapter 92	Amended	June	893
	XXI.101	Adopted	Mar.	445		I.9287,9293	Repealed	June	893
42	III.120	Amended	April	575		I.Chapters 97-99	Adopted	Nov.	1891
	XI.2405	Amended	April	574		I.12501,12503	Amended	Jan.	61
43	XVII.Chapter 3	Amended	Mar.	418		I.12524	Repealed	Jan.	61
	XVII.Chapter 33	Amended	Mar.	413		I.12537	Adopted	Aug.	1298
	XIX.401	Adopted	Oct.	1669		I.19121	Adopted	June	904
	XIX.405,423	Amended	Oct.	1669	50	I.Chapter 197	Adopted	Nov.	1931
XIX.Chapter 7	Amended	Nov.	1957	IX.Chapter 9		Amended	Sept.	1525	
46	VIII.Chapter 5	Amended	Sept.	1515		I.105	Amended	June	892
	VIII.509,511,513,515,517	Adopted	Sept.	1515		I.3103	Amended	Sept.	1521
	VIII.Chapter 8	Adopted	Sept.	1513		I.3103,3105,3301,3507,3509	Amended	May	754
	VIII.Chapter 10	Adopted	Sept.	1515		I.3511	Amended	Feb.	276
	XXI.1303	Amended	June	868		I.Chapters 101-103	Adopted	May	756
	XXIX.1515,1517	Adopted	Jan.	52		II.20001	Amended	Sept.	1522
	XXXIII.304,313	Amended	Jan.	59		II.20029	Adopted	Jan.	63
	XXXIII.301,801	Amended	June	872		III.101	Adopted	June	901
	XXXIII.710,712	Amended	Jan.	58		III.301	Adopted	June	901
	XXXIII.714	Repealed	Jan.	58		III.505	Amended	July	1091
	XXXIII.Chapter 8	Adopted	Jan.	56		III.803	Amended	Sept.	1531
	XXXIII.903	Amended	Jan.	56		III.2313	Adopted	Nov.	1888
	XXXIII.Chapter 11	Repealed	Jan.	56		III.2317	Adopted	May	755
	XXXIII.1502-1511	Adopted	Jan.	53		III.2317	Amended	Nov.	1889
	XXXIII.1503-1513	Repealed	Jan.	53		V.965	Amended	Mar.	406
	XXXIII.1709,1711	Amended	Oct.	1661		V.967	Amended	Feb.	274
	XXXVII.707,901,903,905,907,909,1107	Amended	Mar.	404		V.1701	Adopted	Mar.	406
	XXXVII.709	Repealed	Mar.	404		V.1703	Adopted	April	573
	XXXVII.2001	Amended	Mar.	404		V.2711	Repealed	Aug.	1298
	XLI.742	Adopted	May	744		V.6701	Adopted	Mar.	407
	XLV.1307	Amended	Sept.	1519		V.6703	Adopted	April	573
	XLV.1307	Amended	Dec.	2197		VII.32915	Adopted	Feb.	275
	XLV.Chapters 23,53	Amended	Aug.	1284		IX.905	Amended	Sept.	1524
	XLV.2321,2325,2327,2329,2335,2365	Repealed	Aug.	1284		XI.10301	Amended	Sept.	1520
	XLV.2367,2369,2371,2373	Repealed	Aug.	1284		XI.16301	Amended	Sept.	1524
	XLV.3519	Amended	May	752		XV.4101	Amended	Sept.	1521
	XLV.5303,5313,5361,5375	Adopted	Aug.	1284		XV.8717,8719	Amended	April	572
	XLV.6905	Amended	Dec.	2197		XV.9501	Amended	Aug.	1298
	XLV.8315	Adopted	April	570		XV.Chapter 129	Amended	June	902
	XLV.Chapter 97	Amended	April	570		XV.12902,12910,12912	Repealed	June	902
	XLVII.1703	Amended	Feb.	274		XV.12903	Amended	Nov.	1931
	XLVII.3324	Adopted	May	753		XXI.701	Amended	June	898
	XLVII.Chapter 35	Amended	June	875		XXI.703	Adopted	June	898
	XLVII.3534,3536,3542,4509	Repealed	June	875		XXI.6101	Amended	June	900
	XLVII.3547	Adopted	June	875		XXI.9501	Amended	June	897
	XLVII.3703	Amended	June	873		XXI.12101	Amended	June	896
	XLVII.3709	Adopted	June	873		XXI.13709	Amended	Sept.	1520
	XLVII.4507	Amended	Mar.	405		XXI.14301	Amended	June	898
	XLVII.4513	Amended	April	571		XXI.16107,16701,16901	Amended	Jan.	62
	LIII.2519	Amended	Sept.	1519		XXI.16343	Adopted	Jan.	62
	LIII.2525,2745	Amended	July	1090		XXI.16901,16903	Amended	June	900
	LIII.2535	Amended	June	891		XXII.Chapters 61-69	Repealed	May	753
LIV.151,181,187,193,195,501	Amended	Aug.	1299		XXVII.331	Adopted	Nov.	1890	
LV.101,301,303,304,305,306,307,310,312	Amended	April	575		XXVII.353	Amended	Feb.	277	
LV.313,1005	Amended	April	575	51	XXVII.Chapter 5	Amended	July	1091	
LVII.518,519	Amended	Aug.	1301		XXXIII.Chapters 61-67	Amended	Jan.	59	
LXI.1315	Amended	Dec.	2196		XII.311,355,357,363,367,903,1105,1113	Amended	Mar.	408	
LXI.1509,2701	Amended	Mar.	443		XII.344	Amended	July	1094	
LXIII.701,705,1503,2103	Repromulgated	July	1089		XII.346	Adopted	July	1094	
LXIII.Chapter 8	Amended	Oct.	1662		XII.358,361,1102	Adopted	Mar.	408	
LXIII.808	Repealed	Oct.	1662		XII.1117,1119,1125,1133,1135,1139,1503	Amended	Mar.	408	
LXIII.901	Adopted	Oct.	1662		XII.1903,1907	Amended	Mar.	408	
LXIII.902,903,904	Repromulgated	Oct.	1662	52		I.1201,1203,1205,1207,1209,1309	Amended	Oct.	1654
LXVI.705,713,901,1105,1107,1109,1113	Amended	Dec.	2189			III.Chapter 7-8	Amended	Mar.	428
LXVI.1123,1201,1211,1213,1215,1217	Amended	Dec.	2189	55	V.1701	Amended	Feb.	279	
LXVII.305	Amended	Nov.	1886			V.1703	Repealed	Feb.	279
LXVII.2901	Amended	Jan.	53		VII.317	Amended	Jan.	66	
LXVII.10308,10309,10313	Amended	June	870		IX.107	Amended	Oct.	1671	
LXVII.10317	Repealed	June	870		IX.107,133,143,183	Amended	Mar.	427	
LXVII.10319	Adopted	June	870		IX.155	Repealed	Mar.	427	
LXVII.30701,30901,31101	Amended	June	871	56		V.1103	Amended	Mar.	403
LXVII.31103	Adopted	June	871						
LXXV.103,107,109,119,121,123,130,131	Amended	Oct.	1665	58	I.2513	Repealed	Jan.	69	
LXXV.501,505	Amended	Oct.	1665			IX.Chapter 3	Adopted	Nov.	1961
XCI.103,105,301,303,305,307,309,311,313	Amended	Dec.	2182						

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58	XI.701	Adopted	Oct.	1691	67	III.5573	Amended	Oct.	1650		
	XVII.301	Adopted	Nov.	1960		III.5577	Adopted	June	864		
	XVIII.105	Adopted	Jan.	70		III.Chapter 73	Repealed	April	542		
	XIX.103	Amended	Nov.	1959		V.1103	Amended	June	862		
	XIX.107	Adopted	Nov.	1959		V.6703,6708,7105,7111,7305,7311,7313	Amended	Feb.	219		
61	I.1607	Amended	Jan.	39	70	V.7313,7315	Amended	Sept.	1508		
	I.1615-1629	Repealed	Jan.	39		V.Chapter 75	Amended	Mar.	395		
	I.1617,1619	Adopted	Oct.	1656		II.305	Adopted	Dec.	2195		
	I.1633-1637	Amended	Jan.	37		IX.Chapters 1-3	Amended	May	757		
	I.1641	Adopted	Jan.	37		73	I.1901	Amended	Aug.	1302	
	I.1667	Amended	Jan.	36			76	I.339	Adopted	Mar.	444
	I.1693	Amended	Jan.	40		V.126		Amended	Oct.	1692	
	I.1695	Repromulgated	Jan.	40		V.701		Amended	June	909	
	I.1701,1703	Adopted	Jan.	40		VII.110		Amended	Oct.	1694	
	I.4919	Adopted	Feb.	281		VII.335		Amended	June	908	
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	III.1229,1938,1940,1980	Amended	Oct.	1650		VII.367		Amended	Jan.	70	
	III.1701	Adopted	Feb.	280		VII.367		Amended	Dec.	2196	
	V.101,303,304,703,907,1103,1307,1503	Amended	May	744		VII.385		Adopted	Oct.	1695	
	V.2501,2503,2713,2717,3101,3103	Amended	May	744		VII.539		Adopted	Oct.	1694	
	67	I.Chapter 3	Amended	June		860		XV.101	Amended	Oct.	1692
		I.311	Adopted	June		860					
III.1942		Repealed	Feb.	222							

Potpourri

POTPOURRI

Department of Agriculture and Forestry Office of Forestry

Severance Tax Values—2017

In accordance with LAC 7:XXXIX.105, the Louisiana Department of Agriculture and Forestry, Office of Forestry, hereby publishes the current average stumpage market value of trees, timber and pulpwood for 2017.

Product	Value Per Ton	Tax Rate	Tax Per Ton (2017)
Pine Sawtimber	\$32.64	2.25%	\$0.73
Hardwood Sawtimber	\$35.93	2.25%	\$0.80
Pine Chip-n-Saw	\$16.74	2.25%	\$0.38
Pine Pulpwood	\$10.20	5.00%	\$0.51
Hardwood Pulpwood	\$10.00	5.00%	\$0.50

Mike Strain, DVM
Commissioner

1701#036

POTPOURRI

Department of Children and Family Services Office of Family Support Economic Stability Section

Temporary Assistance for Needy Families (TANF) Caseload Reduction

The Department of Children and Family Services hereby gives notice that, in accordance with federal regulations at 45 CFR 261.40, the Temporary Assistance to Needy Families (TANF) caseload reduction report for Louisiana is now available to the public for review and comment.

In order to receive a caseload reduction credit for minimum participation rates, the agency must submit a report based on data from the Family Independence Temporary Assistance Program (FITAP) and the Strategies to Empower People Program (STEP) containing the following information:

1. a listing of, and implementation dates for, all state and federal eligibility changes, as defined at §261.42, made by the state after FY 2005;
2. a numerical estimate of the positive or negative impact on the applicable caseload of each eligibility change (based, as appropriate, on application denials, case closures, or other analyses);
3. an overall estimate of the total net positive or negative impact on the applicable caseload as a result of all such eligibility changes;
4. an estimate of the state's caseload reduction credit;
5. a description of the methodology and the supporting data that it used to calculate its caseload reduction estimates;

6. a certification that it has provided the public an appropriate opportunity to comment on the estimates and methodology, considered their comments, and incorporated all net reductions resulting from Federal and State eligibility changes; and

7. a summary of all public comments.

Copies of the TANF caseload reduction report may be obtained by writing Brandy Bonney, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804-9065, by telephone at (225) 342-4096, or via e-mail at brandy.bonney.dcf@la.gov.

Written comments regarding the report should also be directed to Ms. Bonney. These must be received by close of business on February 20, 2017.

Marketa Garner Walters
Secretary

1701#014

POTPOURRI

Office of the Governor Coastal Protection and Restoration Authority

Deepwater Horizon Oil Spill: Louisiana Trustee Implementation Group Final Restoration Plan #1: Restoration of Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; and Birds

ACTION:

Notice of Availability of Final Restoration Plan

SUMMARY:

In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), notice is hereby given that the state and federal Deepwater Horizon (DWH) oil spill natural resource trustee agencies for the Louisiana Trustee Implementation Group (Louisiana TIG) have approved the "Louisiana Trustee Implementation Group Final Restoration Plan #1: Restoration of Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; and Birds" (final restoration plan 1). The Louisiana TIG prepared this final restoration plan 1 in accordance with the DWH programmatic damage assessment and restoration plan/programmatic environmental impact statement (PDARP/PEIS), the DWH record of decision (ROD), and OPA. This final restoration plan 1 describes the DWH natural resource damage assessment (NRDA) restoration planning process, identifies a reasonable range of restoration alternatives to address a portion of the injuries to resources and habitats caused by the DWH oil spill, and proposes from those alternatives a suite of preferred restoration alternatives on which the Louisiana TIG intends to conduct engineering and design (E and D). For the projects identified as preferred restoration alternatives in this final restoration plan 1, the Louisiana TIG may, after completion of the E and D process discussed in this plan, select some or all of those projects for

implementation using DWH NRDA funds. Those selected projects would then be fully evaluated under NEPA and OPA in a future draft restoration plan which would be provided to the public for review and comment in accordance with the appropriate Louisiana and federal laws. The purpose of this notice is to inform the public of the availability of the final restoration plan 1.

ADDRESSES:

Obtaining the Document: You will be able to download the final restoration plan 1, which is expected to be released January 20, 2017, at <http://la-dwh.com/>. Alternatively, you may request a CD of the final restoration plan 1 (see FOR FURTHER INFORMATION CONTACT). You will also be able to review copies of the document at the public repositories listed at <http://la-dwh.com/>.

FOR FURTHER INFORMATION CONTACT:

Liz Williams at LATIG@la.gov.

SUPPLEMENTARY INFORMATION:

Background

On or about April 20, 2010, the mobile offshore drilling unit Deepwater Horizon, which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252-MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The DWH oil spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The DWH state and federal natural resource trustees (trustees) conducted the natural resource damage assessment (NRDA) for the DWH oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. §2701 et seq.). Pursuant to OPA, federal and state agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service (NPS), U.S. Fish and Wildlife Service (USFWS), and Bureau of Land Management (BLM);
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;

- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority (CPRA), Oil Spill Coordinator's Office (LOSCO), Department of Environmental Quality (LDEQ), Department of Wildlife and Fisheries (LDWF), and Department of Natural Resources (LDNR);
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- State of Texas Parks and Wildlife Department, General Land Office, and Commission on Environmental Quality.

Upon completion of the NRDA, the trustees reached and finalized a settlement of their natural resource damage claims with BP in a consent decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that consent decree, restoration projects in Louisiana are now chosen and managed by the Louisiana Trustee Implementation Group (TIG). The Louisiana TIG is composed of the following trustees:

- DOI, as represented by the NPS, USFWS, and BLM;
- NOAA, on behalf of the U.S. Department of Commerce;
- USDA;
- EPA;
- CPRA;
- LDNR;
- LDEQ;
- LOSCO; and
- LDWF.

A Notice of Availability of the Draft Restoration Plan #1: Restoration of Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; and Birds was published in the *Louisiana* and *Federal Registers* on October 20 and November 1, 2016, respectively. The Louisiana TIG provided the public with a period to review and comment on the draft restoration plan 1 from October 20-December 9, 2016, and held one public meeting on November 30, 2016, in Baton Rouge, LA. The Louisiana TIG considered the public comments received, which informed the TIG's analyses and selection of the restoration alternatives in the final restoration plan 1. A summary of the public comments received, and the Louisiana TIG's responses to those comments, are addressed in Chapter 5 of the final restoration plan 1.

Overview of the Final Restoration Plan

The final restoration plan 1 is being released in accordance with the Oil Pollution Act (OPA), the natural resources damage assessment (NRDA) regulations found in

the *Code of Federal Regulations* at 15 C.F.R. 990, the National Environmental Policy Act (42 U.S.C. §4321 et seq.), the consent decree, and final PDARP/PEIS.

The total estimated cost for the proposed engineering and design activities for the six restoration projects selected is \$22,300,000. Details on the engineering and design activities for the restoration projects are provided in the final restoration plan 1.

Administrative Record

When they are completed, the documents comprising the administrative record will be available electronically at the following locations:

- <http://www.doi.gov/deepwaterhorizon>; or
- <http://la-dwh.com/AdminRecord.aspx>.

Authority

The authorities for this action are the Oil Pollution Act of 1990 (33 U.S.C. §2701 et seq.), the National Environmental Policy Act (42 U.S.C. §4321 et seq.), the implementing Natural Resource Damage Assessment regulations found at 15 C.F.R. 990, the Louisiana Oil Spill Prevention and Response Act (La. R.S. 30:2451 et seq.), and the implementing natural resource damage assessment regulations found at *Louisiana Administrative Code* 43:XXXI.101 et seq.

Michael Ellis
Executive Director

1701#037

POTPOURRI

**Office of the Governor
Division of Administration
Office of Facility Planning and Control**

Contract Limit Adjustment

Pursuant to authority granted by Act 759 of the Regular Session of 2014, the Office of Facility Planning and Control within the Division of Administration has determined that, effective upon the date of this publication, except as provided in paragraphs (2) and (3) of R.S. 38:2212(C), the term *contract limit* as used in chapter 10 of title 38 (Public Bid Law) shall be equal to the sum of \$152,550 per project, including labor, materials, and equipment as per the rates in the latest edition of the *Associated Equipment Dealers Rental Rate Book* and administrative overhead not to exceed fifteen percent. This limit was adjusted after applying the annual percentage increase in the Consumer Price Index in the preceding year.

It is the responsibility of the approving authority to comply with all applicable requirements of R.S. 38:2212 in regards to the contract limit as adjusted herein.

Mark A. Moses
Director

1701#002

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
The Ohio Oil Co	Haynesville	S	J P & Lonnie Lowe Unit P	001-A	27795
American Republics Corp	Bancroft	L	J M Whitman & John R Black	001	22962
Davis Oil Company	Bully Camp	L	Cyclamina Sud; F Ducos	001	135842
United Gas Pub Serv Co	Wildcat-No La Monroe Dist	M	Ethridge	001	12644
R O Roy	Wildcat-No La Shreveport Dist	S	Trixie Wimberly	001	32992
Louisiana Oil & Rerefining Co.	Wildcat-No La Shreveport Dist	S	Bodcaw Fee	B-8	5773
DGH Petroleum, Inc.	Caddo Pine Island	S	South Light	014	232639
C.B. Mc Gee	Bethany Longstreet	S	Worley	001	185356
Lewis Oil Corporation	Caddo Pine Island	S	Vespy	004	9104
C.B. Mc Gee	Bethany Longstreet	S	Worley	001	185356
Lewis Oil Corporation	Caddo Pine Island	S	Vespy	004	9104
BKV Ventures, LLC	Basile, East	L	East Basile SWD	002-D	81194 (30)
BKV Ventures, LLC	Bayou Mallet, South	L	Winston Atteberry SWD	001	81888
BKV Ventures, LLC	Basile, East	L	S-1 Ra Sub; Joseph P Fontenot	003-ALT	88720
BKV Ventures, LLC	Bayou Mallet, South	L	U W Rb Sua; Atteberry	003	127384
BKV Ventures, LLC	Section 28	L	St Martin Land Co C	004	144185
BKV Ventures, LLC	Bayou Mallet, South	L	Burton Cormier SWD	001	154404
BKV Ventures, LLC	Bayou Mallet, South	L	Atteberry	005	167441
BKV Ventures, LLC	Bayou Mallet, South	L	Frank J Bollich Jr et al	004	173399
BKV Ventures, LLC	Bayou Mallet, South	L	Burton Cormier	003	178564
BKV Ventures, LLC	Richie, East	L	Frank Zaunbrecher	001	179485
BKV Ventures, LLC	Bayou Mallet, South	L	Frank J Bollich Jr et al	003	186487
BKV Ventures, LLC	Bayou Mallet, South	L	Frank J Bollich Jr et al SWD	001	188147
BKV Ventures, LLC	Richie, East	L	Vua; Lawrence Dischler	001	196693
BKV Ventures, LLC	Bayou Mallet, South	L	Frank J Bollich Jr et al	002	201704
BKV Ventures, LLC	Basile, East	L	S-1 Ra Sub; Joseph P Fontenot	001	202368
BKV Ventures, LLC	Section 28	L	E C Stuart SWD	002	202930
BKV Ventures, LLC	Bayou Mallet, South	L	Frank J Bollich Jr et al	007	212219
BKV Ventures, LLC	Bayou Mallet, South	L	Frank J Bollich Jr Fly Partnsp	001	218970
BKV Ventures, LLC	Fenton, West	L	U HBV Ra Sua; Cagle	1	224479
BKV Ventures, LLC	Basile, East	L	Joseph Fontenot Estate	001	227995

Richard P. Ieyoub
Commissioner

1701#034

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