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Executive Orders

EXECUTIVE ORDER JML 24-144

Renewal of State of Emergency
Department of Transportation and Development

WHEREAS, pursuant to R.S.48:757, Governor John Bel Edwards declared a state of emergency on October 5, 2017, in Proclamation Number 109 JBE 2017 for repairs to certain roadways on the campus of Southern University and Agricultural and Mechanical College including F Street and H Street (also known as Farm Road);

WHEREAS, in Baton Rouge, Louisiana on the campus of Southern University and Agricultural and Mechanical College, certain roadways, including F Street and H Street (also known as Farm Road), are in need of immediate repairs due to the partial collapse of H Street and its slope destabilization;

WHEREAS, the damage has created significant drainage problems, which have been exacerbated by flooding that continues to be experienced in the area, which could result in loss of life and property;

WHEREAS, Southern University has requested that the Department of Transportation and Development assist in providing matching funds and manpower to assist in making the necessary repairs to the campus roadways and enhancements;

WHEREAS, the Department of Transportation and Development has funds available for use as a match and manpower to help repair the compromised roadways and enhancements on Southern University's campus;

WHEREAS, R.S. 29:724 confers upon the Governor the power to suspend the provisions of any regulatory statute prescribing the procedures for the conduct of state business if strict compliance with the provisions of any statute would in any way prevent, hinder, or delay necessary action in coping with an emergency;

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation Number 109 JBE 2017.

WHEREAS, R.S. 48:757 permits the use of state funds on roads outside of the state and federal highway system upon a finding and declaration of an emergency by the Governor.

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

Section 1: Pursuant to R.S. 48:757, a state of emergency is hereby declared on the campus of Southern University in the City of Baton Rouge for the areas surrounding F and H Streets, for the limited purpose of authorizing the expenditure of state funds to make the necessary repairs to the campus roadways and enhancements.

Section 2: Pursuant to R.S. 29:724, the prohibitions in R.S. 48:757, proscribing the performance of work on a non-state highway system road or street, are hereby suspended to allow for the Department of Transportation and Development to perform the necessary actions to cope with the emergency on Southern University's campus.

Section 3: The Secretary of the Department of Transportation and Development is hereby authorized to provide funds for the express purpose of meeting the total match that is required to perform the necessary repairs and to provide the manpower necessary to make the repairs to the non-state highway system campus roadways, including F Street and H Street and its enhancements, slope, and drainage.

Section 4: This Order is effective upon signature and shall continue in effect from Friday, September 13, 2024 to Sunday, October 13, 2024, unless terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 13th day of September 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2410#010

EXECUTIVE ORDER JML 24-145

Bond Allocation 2024 Ceiling Amendment

WHEREAS, Section 146 of the Internal Revenue Code of 1986 (hereafter the "Act"), as amended (hereafter the "Code"), restricts the total principal amount of certain private activity bonds (hereafter the "Bonds") that exclude interest from gross income for federal income tax purposes under Section 103 of the Code;

WHEREAS, Act No. 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter "Act No. 51 of 1986") authorizes the Governor to allocate the volume limit applicable to the Bonds (hereafter the "ceiling") among the State and its political subdivisions in such a manner as the Governor deems to be in the best interest of the State of Louisiana;

WHEREAS, pursuant to the Act and Act No. 51 of 1986, Executive Order Number JBE 2016-35 was issued to establish:

- (a) the manner in which the ceiling shall be determined,
- (b) the method to be used in allocating the ceiling, (c) the application procedure for obtaining an allocation of Bonds subject to such ceiling, and (d) a system of record keeping for such allocations; and

WHEREAS, the Louisiana Housing Corporation (hereafter the “Corporation”) applied for an allocation of the 2024 ceiling to be used in connection with providing funds for the acquisition, construction, rehabilitation, and equipping of residential rental housing for individuals and families of low and moderate income; and

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2410#011

WHEREAS, on March 8, 2024, Executive Order Number JML 24-32 was issued granting the Corporation an allocation of the 2024 ceiling in the amount of \$57,150,000 for the following projects: Deerwood Apartments Series 2024, Galilee City Apartments Series 2024, and Lakeside Garden Apartments Series 2024; and

EXECUTIVE ORDER JML 24-146

Bond Allocation 2024 Ceiling Amendment

WHEREAS, on June 25, 2024, Executive Order Number JML 24-90 was issued amending JML 24-32 to allow the Louisiana Housing Corporation additional time to utilize the volume cap allocation granted by JML 24-32 for the following projects: Galilee City Apartments Series 2024, Lakeside Garden Apartments Series 2024; and

WHEREAS, Section 146 of the Internal Revenue Code of 1986 (hereafter the “Act”), as amended (hereafter the “Code”), restricts the total principal amount of certain private activity bonds (hereafter the “Bonds”) that exclude interest from gross income for federal income tax purposes under Section 103 of the Code;

WHEREAS, pursuant to Section 5 of JML 24-32, the Governor may amend or modify the time limitations placed on utilization of such allocation.

WHEREAS, Act No. 51 of the 1986 Regular Session of the Louisiana Legislature (hereafter “Act No. 51 of 1986”) authorizes the Governor to allocate the volume limit applicable to the Bonds (hereafter the “ceiling”) among the State and its political subdivisions in such a manner as the Governor deems to be in the best interest of the State of Louisiana;

NOW THEREFORE, I, JEFF LANDRY, 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:

WHEREAS, pursuant to the Act and Act No. 51 of 1986, Executive Order Number JBE 2016-35 was issued to establish:

Section 1: JML 24-32 is hereby modified and amended to allow the Louisiana Housing Corporation additional time to utilize the volume cap allocation granted by JML 24-32 for the following bond issues:

- A. the manner in which the ceiling shall be determined;
- B. the method to be used in allocating the ceiling;
- C. the application procedure for obtaining an allocation of Bonds subject to such ceiling; and
- D. a system of record keeping for such allocations.

Amount of Allocation	Name of Issuer	Name of Project
\$11,800,000	Louisiana Housing Corporation	Galilee City Apartments Series 2024
\$21,350,000	Louisiana Housing Corporation	Lakeside Garden Apartments Series 2024

WHEREAS, the Louisiana Housing Corporation (hereafter the “Corporation”) has applied for an allocation of the 2024 ceiling to be used in connection with providing funds for the acquisition, construction, rehabilitation, and equipping of residential rental housing for individuals and families of low and moderate income;

Section 2: The allocation granted herein shall be used only for the bond issues described in Section 1 and for the general purpose set forth in the “Application for Allocation of a Portion of the State of Louisiana’s Private Activity Volume Cap” submitted in connection with the bond issue described in Section 1.

WHEREAS, on March 8, 2024, Executive Order Number JML 24-33 was issued granting the Corporation an allocation of the 2024 ceiling in the amount of \$218,000,000 for the following projects: Arbours at Lake Charles Series 2024, Benoit Townhomes Series 2024, Glen Oaks Series 2024, Highland Place Townhomes Series 2024, KHA Affordable Properties Series 2024, King Oaks V Series 2024, Landry Commons Series 2024, Loop Commons Series 2024, Millennium Phase III Series 2024, Morningside at Gerstner Place Series 2024, Natchitoches Thomas Apartments Preservation Series 2024, Parkway Commons Series 2024, Renaud Place Series 2024, Ridge Commons Series 2024, Vineyards of Iowa Series 2024; and

Section 3: The extension of time granted herein shall only apply to those bond issues described in Section 1. Any remaining projects granted an allocation by JML 24-32 shall remain subject to those time constraints in JML 24-32 and JML 24-90.

WHEREAS, on July 3, 2024, Executive Order Number JML 24-103 was issued amending JML 24-33 to allow Louisiana Housing Corporation Additional time to utilize the volume cap allocation granted by JML 24-33 for the following project: Natchitoches Thomas Apartment Preservation Series 2024; and

Section 4: The allocation granted herein shall be valid and in full force and effect until December 5, 2024; any unused amount of this 2024 ceiling allocation shall be deemed returned as of December 5, 2024.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana in the City of Baton Rouge, on this 17th day of September, 2024.

WHEREAS, pursuant to Section 4 of JML 24-33, the Governor may amend or modify the time limitations placed on utilization of such allocation.

NOW THEREFORE, I, JEFF LANDRY, 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: JML 24-33 is hereby modified and amended to allow the Louisiana Housing Corporation additional time to utilize the volume cap allocation granted by JML 24-33 for the following bond issues:

Amount of Allocation	Name of Issuer	Name of Project
\$12,000,000	Louisiana Housing Corporation	King Oaks V Series 2024
\$18,000,000	Louisiana Housing Corporation	Natchitoches Thomas Apartments Preservation Series 2024
\$13,750,000	Louisiana Housing Corporation	Renaud Place Series 2024

Section 2: The allocation granted herein shall be used only for the bond issues described in Section 1 and for the general purpose set forth in the “Application for Allocation of a Portion of the State of Louisiana’s Private Activity Volume Cap” submitted in connection with the bond issue described in Section 1.

Section 3: The extension of time granted herein shall only apply to those bond issues described in Section 1. Any remaining projects granted an allocation by JML 24-33 shall remain subject to those time constraints in JML 24-33 and JML 24-103.

Section 4: The allocation granted herein shall be valid and in full force and effect until December 5, 2024; any unused amount of this 2024 ceiling allocation shall be deemed returned as of December 5, 2024.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana in the City of Baton Rouge, on this 17th day of September, 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2410#012

EXECUTIVE ORDER JML 24-147

State of Emergency
Hurricane Francine—September 9, 2024

WHEREAS, the Governor is responsible for meeting the dangers to the state and its citizens presented by emergencies and disasters;

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, *et seq.*, confers upon the Governor of the State of Louisiana emergency powers to address disasters resulting from natural or man-made events that cause or threaten loss of life, injury, or property damage, as well as emergencies, which include actual or potential conditions created by such disasters, in order to ensure that preparations by the State will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;

WHEREAS, when the Governor determines that a disaster or emergency has occurred, or the threat thereof is imminent, La. R.S. 29:724(B)(1) empowers him to declare a state of emergency or disaster by executive order which has the force and effect of law;

WHEREAS, La. R.S. 29:724 authorizes the governor during a declared state of emergency to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, Governor Jeff Landry declared a state of emergency in response to the imminent threat posed by Hurricane Francine on September 9, 2024, in JML 24-142;

WHEREAS, a declaration of emergency or disaster activates the state’s emergency response and recovery program under the command of the director of the Governor’s Office of Homeland Security and Emergency Preparedness (“GOHSEP”);

WHEREAS, GOHSEP is responsible for determining the requirements of the state and its political subdivisions for food, clothing, and other necessities and supplies in a designated emergency area;

WHEREAS, Hurricane Francine made landfall on the Louisiana coast on Wednesday, September 11, 2024, as a Category 2 hurricane with over 100 mile-per-hour winds and was the third and largest storm to hit the United States this year;

WHEREAS, Hurricane Francine brought devastating winds, widespread power outages, and damage to Louisiana;

WHEREAS, on September 16, 2024, the President of the United States declared that a major disaster exists in the State of Louisiana (FEMA-4817-DR) during the period of September 9-12, 2024;

WHEREAS, several parishes have issued emergency declarations, and executed their emergency response plans, and may require assistance from the State of Louisiana to provide resources to protect the life, safety, and welfare of the citizens of Louisiana;

WHEREAS, the State of Louisiana, recognizing the significant impact of Hurricane Francine, desires to minimize this impact on the residents and assist communities in their recovery;

NOW THEREFORE, I, JEFF LANDRY, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, order and direct as follows:

Section 1: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency is hereby declared to exist as a result of the emergency conditions that currently threaten the lives, safety, and property of the citizens of Louisiana.

Section 2: Pursuant to R.S. 29:724 (A)(3), the designated emergency area is the entire State of Louisiana.

Section 3: The Director of GOHSEP is hereby authorized to undertake any activity authorized by law that he deems appropriate in response to this declaration.

Section 4: Pursuant to R.S. 29:732, during a declared state of emergency, the prices charged or value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same market area at or immediately before the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges and attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

Section 5: Pursuant to R.S. 29:724(D)(1), the Louisiana Procurement Code, (R.S. 39:1551, *et seq.*), and Louisiana Public Bid Law (R.S. 38:2211, *et seq.*), and their corresponding rules and regulations are hereby suspended for the purpose of the procurement of any goods or services necessary to respond to this emergency, including emergency contracts, cooperative endeavor agreements, and any other emergency amendments to existing contracts.

Section 6: All departments, commissions, boards, agencies, and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate in actions the State may take in response to this event.

Section 7: This Order is effective Wednesday, September 18, 2024, and shall continue in effect until Friday, October 18, 2024, unless amended, modified, terminated, or rescinded earlier 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 in the City of Baton Rouge, on this 18th day of September, 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2410#013

EXECUTIVE ORDER JML 24-148

Renewal of State of Emergency—Heat-Related Emergencies

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency was declared through Proclamation Number 141 JBE 2023 and has been renewed and extended every thirty (30) days through Executive Order

Number JML 24-134, which is in effect through September 22, 2024;

WHEREAS, when the Governor determines that a disaster or emergency has occurred, or the threat thereof is imminent, R.S. 29:724(B)(1) empowers him to declare a state of emergency by executive order or proclamation, or both;

WHEREAS, the National Weather Service has issued a record number of excessive heat warnings, with heat indices in the 100s, through the summer and into the fall of 2023;

WHEREAS, in addition to the extreme heat, minimal rainfall during these months led to drought conditions throughout most of the state, stressing the abilities of water districts to produce drinking water to its residents and businesses and increasing the threat of wildfires;

WHEREAS, the Office of Public Health advised that several water systems have experienced water outages, equipment breakdown, and boil advisories due to the drought conditions, saltwater intrusion, and increased water demand;

WHEREAS, the Louisiana State Fire Marshal and the Commissioner of the Department of Agriculture and Forestry issued a statewide burn ban on August 7, 2023 that was extended through November 21, 2023 due to the extremely dry conditions;

WHEREAS, although the drought has lessened, heat-related emergencies continue throughout Louisiana;

WHEREAS, the parishes affected by these heat-related emergencies continue to require assistance from the State of Louisiana to provide resources to combat the threats in order to protect the life, safety, and welfare of the citizens of Louisiana;

WHEREAS, R.S. 29:724 authorizes the governor during a declared state of emergency to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules or regulations of any state agency, if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency, and;

WHEREAS, it is necessary to continue the measures provided in Proclamation Number 141 JBE 2023 to further protect the health and safety of the citizens of Louisiana.

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

Section 1: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency is hereby declared to exist in the State of Louisiana as a result of the imminent threat of emergency conditions that threaten the lives and property of the citizens of the State.

Section 2: The Director of the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) is hereby authorized to undertake any activity authorized by law which he deems appropriate in response to this declaration.

Section 3: Pursuant to R.S. 29:732, during a declared state of emergency, the prices charged or value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same

market area at or immediately before the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges and attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

Section 4: Pursuant to R.S. 29:724(D)(1), the Louisiana Procurement Code (R.S. 39:1551, *et seq.*) and Louisiana Public Bid Law (R.S. 38:2211, *et seq.*) and their corresponding rules and regulations are hereby suspended for the purpose of the procurement of any good or services necessary to respond to this emergency, including emergency contracts, cooperative endeavor agreements, and any other emergency amendments to existing contracts.

Section 5: All departments, commissions, boards, agencies and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate in actions the State may take in response to this event.

Section 6: This order is effective upon signature and shall remain in effect from Friday, September 20, 2024, until Sunday, October 20, 2024, unless terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 20th day of September 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2410#014

EXECUTIVE ORDER JML 24-149

Renewal of State of Emergency—Severe Storms and Tornadoes—December 13, 2022

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or manmade causes, in order to ensure that preparations of the state will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;

WHEREAS, when the Governor determines that a disaster or emergency has occurred, or the threat thereof is imminent, R.S. 29:724(B)(1) empowers him to declare a state of emergency by executive order or proclamation, or both;

WHEREAS, the National Weather Service indicated a high risk of numerous severe thunderstorms beginning on the late evening of Tuesday, December 13, 2022 throughout the night into most of the day on Wednesday, December 14, 2022, with the possibility of tornadoes, damaging winds gust, excessive rain, and moderate to large hail;

WHEREAS, by Tuesday night, it was reported that one or more tornadoes had touched down in Caddo, near Four Forks, Louisiana, with several more tornadoes having been

reported in Union, Rapides, Madison, East Carroll, and Franklin parishes;

WHEREAS, the tornadoes caused significant damage and power outages throughout northwest and northcentral Louisiana, with a report of two known deaths related to these tornadoes;

WHEREAS, severe damage was caused by the tornados to the safety, health, and security of the citizens of the state, along with damage to private property and public facilities;

WHEREAS, Proclamation Number 183 JBE 2022 has been renewed and extended every thirty (30) days through Executive Order Number JML 24-135, which is in effect through September 22, 2024, and;

WHEREAS, there is a need to continue Executive Order Number JML 24-135 because several parishes are still working to recover from the damage caused by these storms.

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

Section 1: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency is hereby declared to exist in the State of Louisiana as a result of the imminent threat of emergency conditions that threaten the lives and property of the citizens of the State.

Section 2: The Director of the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) is hereby authorized to undertake any activity authorized by law that he deems appropriate in response to this declaration.

Section 3: Pursuant to R.S. 29:732, during a declared state of emergency, the prices charged or value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same market area at or immediately before the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges and attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

Section 4: Pursuant to R.S. 29:724(D)(1), the Louisiana Procurement Code (R.S. 39:1551, *et seq.*) and Louisiana Public Bid Law (R.S. 38:2211, *et seq.*) and their corresponding rules and regulations are hereby suspended for the purpose of the procurement of any good or services necessary to respond to this emergency, including emergency contracts, cooperative endeavor agreements, and any other emergency amendments to existing contracts.

Section 5: All departments, commissions, boards, agencies and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate in actions the State may take in response to the effects of this severe weather event.

Section 6: This order is effective upon signature and shall remain in effect from Friday, September 20, 2024 to Sunday, October 20, 2024, unless terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of

Louisiana in the City of Baton Rouge, on this 20th day of September 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2410#015

EXECUTIVE ORDER JML 24-150

Renewal of State of Emergency—Hurricane Ida

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake, or other natural or manmade causes, in order to ensure that preparations of this state will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., Governor John Bel Edwards declared a state of emergency in response to the imminent threat posed by Hurricane Ida on August 26, 2021, in Proclamation Number 165 JBE 2021;

WHEREAS, Proclamation Number 165 JBE 2021 has been renewed and extended every thirty (30) days through JML 24-137, which is in effect through Sunday, September 29, 2024;

WHEREAS, Hurricane Ida made landfall on the Louisiana coast as a major hurricane on Sunday, August 29, 2021, bringing devastating winds, widespread power-outages, and severe damage to Louisiana and its citizens.

WHEREAS, on August 27, 2021, President Joseph R. Biden approved an Emergency Declaration for the State of Louisiana, authorizing appropriate assistance under Title V of the Stafford Act, to be coordinated by the United States Department of Homeland Security and the Federal Emergency Management Agency;

WHEREAS, on August 29, 2021, President Biden approved a Major Disaster Declaration for the State of Louisiana, authorizing individual and public assistance for all impacted parishes;

WHEREAS, R.S. 29:724 authorizes the governor during a declared state of emergency to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules or regulations of any state agency, if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, damage from this storm continues to pose a threat to citizens and communities across the Gulf Coast and create conditions that place lives and property in the state in jeopardy;

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

Section 1: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency is hereby declared to continue to exist statewide in the State of Louisiana as a result of the threat of emergency conditions that threaten the lives and property of the citizens of the State.

Section 2: The Director of the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) is hereby authorized to continue to undertake any activity authorized by law that he deems appropriate in response to this declaration.

Section 3: Pursuant to R.S. 29:732, during a declared state of emergency, the prices charged or value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same market area at or immediately before the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable regional or national market trends, or to reasonable expenses and charges and attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

Section 4: Pursuant to R.S. 29:724(D)(1), the Louisiana Procurement Code (R.S. 39:1551, et seq.) and Louisiana Public Bid Law (R.S. 38:2211, et seq.) and their corresponding rules and regulations continue to be suspended for the purpose of the procurement of any goods or services necessary to respond to this emergency, including emergency contracts, cooperative endeavor agreements, and any other emergency amendments to existing contracts.

Section 5: Pursuant to R.S. 29:724(D)(1), the provisions of R.S. 39:126 regarding prior approval of change orders continue to be suspended.

Section 6: All departments, commissions, boards, agencies and officers of the State, or any political subdivision thereof, are authorized and directed to cooperate in actions the State may take in response to the effects of this severe weather event.

Section 7: This Order is effective upon signature and shall continue in effect from Friday, September 27, 2024 to Sunday, October 27, 2024, unless amended, modified, or terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 27th day of September 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2410#018

EXECUTIVE ORDER JML 24-151

Renewal of State of Emergency—Threat of Subsidence, Subsurface Instability, and Presence of Hydrocarbons in Sulphur Mines Salt Dome Area

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, et seq., a state of emergency was declared through Proclamation Number 160 JBE 2023;

WHEREAS, Proclamation Number 160 JBE 2023 has been renewed and extended every thirty (30) days through JML 24-138 which is in effect through Sunday, September 29, 2024;

WHEREAS, when the Governor determines that a disaster or emergency has occurred, or the threat thereof is imminent, R.S. 29:724(B)(1) empowers the Governor to declare a state of emergency by executive order or proclamation, or both;

WHEREAS, local, state, and federal agencies began monitoring subsurface seismic activity occurring in the vicinity of the Sulphur Mines salt dome in Calcasieu Parish in December of 2021, with a true seismic monitoring array being ordered by the Office of Conservation, which came online in January of 2023;

WHEREAS, the Office of Conservation began investigating unexplained hydrocarbon bubbling within the area of concern in January of 2023, as well as monitoring seismicity, and the rate of subsidence in the area of concern;

WHEREAS, on Wednesday September 20, 2023, in response to this subsidence and seepage, Commissioner of Conservation, Monique M. Edwards made a declaration of emergency under the authority of Louisiana Revised Statutes 30:1 *et seq.*, ordering the operator of the salt cavern underneath the area of subsidence to undertake all necessary activities to evaluate and abate any deterioration of the cavern's integrity;

WHEREAS, the State anticipates that further assistance may be needed to assist Calcasieu Parish in their response to this continuing threat; and

WHEREAS, it is necessary to continue the measures provided in Proclamation Number 160 JBE 2023 to further protect the health and safety of the citizens of Louisiana;

NOW THEREFORE I, JEFF LANDRY, 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: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721 *et seq.*, a state of emergency is hereby declared to exist in the Parish of Calcasieu, as a result of seismic activity, lost cavern integrity, increased hydrocarbon bubbling, and accelerated subsidence, that collectively indicate a potential for structural failure that could potentially threaten the lives and property of the citizens of the State.

Section 2: The Director of the Governor's Office of Homeland Security and Emergency Preparedness is hereby authorized to undertake any activity authorized by law which he deems appropriate in response to this declaration.

Section 3: All departments, commissions, boards, agencies, and officers of the State or any political subdivision thereof, are authorized and directed to cooperate in actions, the State may take in response to this incident.

Section 4: This Order is effective upon signature and shall continue in effect from Friday, September 27, 2024 to Sunday, October 27, 2024, unless amended, modified, or terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 27th day of September 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2410#019

EXECUTIVE ORDER JML 24-152

Flags at Half-Staff—Justice Marcus Clark

WHEREAS, the Honorable Justice Marcus R. Clark, retired Louisiana Supreme Court Justice, passed away on Wednesday, September 25, 2024;

WHEREAS, he was born February 24, 1956, and was the son of the late Hilda and Gerald Clark in Sulphur, Louisiana;

WHEREAS, he was a graduate of Sulphur High School in 1974, Northeast Louisiana University, now known as the University of Louisiana at Monroe in 1978 with a Bachelor of Arts Degree in Criminal Justice, and the Louisiana State University Paul M. Hebert Law Center in 1985;

WHEREAS, he worked in the Ouachita Parish District Attorney's Office as an assistant district attorney and in 1990 he was promoted to Chief Felony Drug Prosecutor;

WHEREAS, he helped co-author the Louisiana's Drug Asset Forfeiture Law and co-develop the National TOP Gun Seminar for law enforcement;

WHEREAS, in 1997, he began his judicial service after he ran for and won an open District Judge seat in the 4th Judicial District;

WHEREAS, he served as the judge for the newly established Drug Court from 2000-2001, and he also served as Chief Judge from 2004-2006;

WHEREAS, he served on a number of committees and boards designed to move the judicial system forward;

WHEREAS, in 2009, he was elected as an Associate Justice to the Louisiana Supreme Court to the Fourth Supreme Court District;

WHEREAS, he served on several Supreme Court boards and committees including as Chairman of the Judicial Budgetary Control Board, and as a member of the Internal Audit Committee and the Human Resources Committee, as well as serving as the Supreme Court's liaison to the Louisiana District Judges Association. He also served as a member of the Sheriff's Executive Management Institute Board;

WHEREAS, he retired from the Louisiana Supreme Court in June 2020;

WHEREAS, he is survived by his beloved wife Allyson Ayers Clark, his daughter Nicole Clark Smith (Chase), and son Cooper Charles Clark. He is also survived by two grandchildren, Addie and Patrick Smith, his brother Kenneth Streater (Carmel), sisters Karen Clark McManus (Jim), Phyllis Clark Granger (Mike), numerous nephews and nieces, and Patsy Ayers, his mother-in-law;

WHEREAS, he was as preceded in death by his parents, brother, Gary Clark, and niece, Lynne Streater Ward;

WHEREAS, he will be remembered for his legacy of service and dedication to the legal community, the judiciary, his friends, and his family; and

WHEREAS, Louisiana owes a debt of gratitude to his many contributions to our state.

NOW THEREFORE, I, JEFF LANDRY, 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: As an expression of respect and to honor Justice Marcus R. Clark, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all state buildings from sunrise until sunset on September 30, 2024.

Section 2: This Order is effective upon signature and shall remain in effect until sunset, September 30, 2024.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana on this 27th day of September 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2410#016

EXECUTIVE ORDER JML 24-153

Flags at Half-Staff—Justice Jeffrey Victory

WHEREAS, the Honorable Justice Jeffrey P. Victory, retired Louisiana Supreme Court Justice, passed away on Thursday, September 26, 2024;

WHEREAS, he was born on January 29, 1946, in Shreveport, Louisiana to the late Thomas Edward Victory and Currie Esther Horton and had seven siblings;

WHEREAS, he was a graduate of C.E. Byrd High School and Centenary College of Louisiana, where he was inducted into both the C.E. Byrd High School Hall of Fame and the Centenary College Hall of Fame;

WHEREAS, he graduated from Tulane Law School in 1971, where he was a member of the Tulane Law Review and on a Regional Academic Scholarship;

WHEREAS, he served his country in the Special Forces Airborne, Louisiana National Guard, for six years;

WHEREAS, he practiced law for ten years with the firm of Tucker, Martin, Holder, Jeter, Jackson, & Victory;

WHEREAS, he lived a life of judicial service, being one of only a handful of state judges in recent history to serve at each level of the judiciary;

WHEREAS, he was elected to the First Judicial District Court in Caddo Parish in 1982, where he was ranked first among Caddo Parish district judges in a newspaper poll of attorneys;

WHEREAS, he served on the Louisiana Court of Appeal, Second Circuit from 1991 until he took his seat on the Louisiana Supreme Court in 1995;

WHEREAS, throughout his career, Justice Victory advocated for higher ethical and professional standards for judges and lawyers, as he lectured regularly on judicial ethics to the legal community, and chaired the Judicial College of the Louisiana Supreme Court;

WHEREAS, he was a charter member of the Louisiana Sentencing Commission, which made sentencing recommendations to the Louisiana Legislature and the Governor;

WHEREAS, In 2014, he received the U.S. Chamber of Commerce Institute for Legal Reform's Judicial Achievement award and the Lifetime Achievement Award from the Louisiana Family Forum;

WHEREAS, his career reflected one of carefully reasoned opinions, unquestioned integrity, and humility with a judicial philosophy to discuss all sides of an issue in detail, with the innate skill of finding the weakness in any legal argument;

WHEREAS, he is survived by his beloved wife, Nancy Clark Victory; sisters, Jennifer Victory, Frances Schenkkan, and Ellen Bell; children, Paul Bradford Victory and wife, Michelle, and their daughters, Madilynn and Elizabeth; William Peter Victory; Christopher Thomas Victory; Mary Kathryn Victory, and her sons, Jameson Walters and Prescott Walters as well as numerous nieces and nephews;

WHEREAS, he was preceded in death by his parents, his brother, Stephen Victory, and sisters, Sallie McKenzie and Sharon McGowan;

WHEREAS, he will be remembered for his legacy of service and dedication to the legal community, the judiciary, his friends, and his family; and

WHEREAS, Louisiana owes a debt of gratitude to his many contributions to our state.

NOW THEREFORE, I, JEFF LANDRY, 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: As an expression of respect and to honor Justice Jeffrey P. Victory, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all state buildings from sunrise until sunset on October 1, 2024.

Section 2: This Order is effective upon signature and shall remain in effect until sunset, October 1, 2024.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana on this 30th day of September 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2410#017

EXECUTIVE ORDER JML 24-154

Policy on Free Expression at Louisiana Public Postsecondary Education Institutions

WHEREAS, freedom of speech is an inalienable right of every person, ordained and endowed by their Creator, and guaranteed by the First Amendment to the United States Constitution and La. Const. art. I, § 7;

WHEREAS, La. Const. art. I, § 1 declares that government “is instituted to protect the rights of the individual and for the good of the whole. Its only legitimate ends are to secure justice for all, preserve peace, protect the rights, and promote the happiness and general welfare of the people;”

WHEREAS, La. Const. art. IV, § 5(A) states the Governor “shall faithfully support the constitution and laws of the state and of the United States and shall see that the laws are faithfully executed;”

WHEREAS, constitutionally protected expressive conduct that is abridged or restrained causes harm to the State of Louisiana and its citizens and violates the free speech rights of the speaker to transmit and the audience to receive the expression;

WHEREAS, R.S. 17:3399.32(A) specifically protects expressive activities at public postsecondary education institutions by students, administrators, faculty members, staff members, and invited guests;

WHEREAS, R.S. 17:3399.31(1) defines “Free speech and First Amendment protected activities” to include lawful verbal or written means by which individuals or groups may communicate ideas to one another. These activities include peaceful assembly, lawful protest, speech, distribution of literature, carrying signs, and circulating petitions;

WHEREAS, notwithstanding the clear and unambiguous constitutional and statutory protections afforded by law to expressive activities at public postsecondary education institutions in this State, there continue to be troubling incidents involving university administrators and employees engaging in viewpoint censorship of disfavored speech;

WHEREAS, violence, disruption, intimidation, intolerance, and incivility toward disfavored speakers have now established norms of academic life on college and law school campuses across the United States;

WHEREAS, Act 584 of the 2024 Regular Session enacted R.S. 17:3399.39, which requires each public postsecondary education management board to make reasonable efforts to protect students from discrimination, on the basis of political ideas, affiliations, or ideology;

WHEREAS, R.S. 17:3399.35(5) requires each public postsecondary education, in collaboration with the Board of Regents, to develop and adopt policies on free expression and ensure that those policies prohibit “protests and demonstrations that infringe upon the constitutional rights of others to engage in or listen to expressive activity by creating a substantial and material disruption to the functioning of the institution or to someone's expressive activity in any location reserved for that expressive activity shall not be permitted;”

WHEREAS, the predictable consequence of such disruptive and intimidating conduct on campuses by those who wish to censor unpopular views or drown out disfavored speech is that students, faculty, and administrators who disagree with them will remain silent and self-censor out of fear of retribution, rather than speaking their conscience in the normal process of academic discourse;

WHEREAS, the chilling effect that threats, intimidation, and self-censorship have on free expression and discourse in the academic setting hinders the pursuit of knowledge and is antithetical to the educational environment;

WHEREAS, R.S. 17:3399.32(F) prohibits a postsecondary education institution from sanctioning or disciplining a student's expression as student-on-student discriminatory harassment unless the expression, “targets a victim in violation of this Part and is so severe, pervasive, and objectively offensive and so undermines and detracts from the victim's educational experience that the victim is effectively denied equal access to an institution's resources and opportunities;”

WHEREAS, students are increasingly being encouraged to report conduct that they witness or experience that they interpret as stereotyping, marginalizing, or excluding a person based on their age, color, disability, gender identity, gender expression, genetic information, marital status, national or ethnic origin, pregnancy status, race, religion, retaliation, sex, sexual orientation, veteran status, or other. Such reports while well-intentioned have the effect of chilling speech and other forms of expressive conduct at public postsecondary education institutions;

WHEREAS, the freedom to debate and discuss the merits of competing ideas does not permit individuals to engage in actions beyond the scope of the First Amendment and La. Const. art. I, § 7, such as true threats, criminal conduct, or expressions intended to incite and likely to result in imminent unlawful behavior. However, these are limited exceptions to the fundamental principle of free speech;

WHEREAS, pursuant to R.S. 17:3399.37 each public postsecondary education management board, in collaboration with the Board of Regents shall develop and adopt policies on free expression that meet the requirements of 17:3399.35;

WHEREAS, pursuant to R.S. 17:3399.36 (B) each public postsecondary education is required to submit an annual report to the Governor and the Legislature regarding any barriers to or incidents against free expression that occurred at the institution;

WHEREAS, pursuant to R.S. 17:3121 the Board of Regents is responsible for providing advice and recommendations concerning higher education to the Governor and the Legislature;

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

Section 1: No state agency, department, office, commission, board, entity, officer, or employee of the State of Louisiana shall take any action or permit or cause another

EXECUTIVE ORDER JML 24-155

Day of Observance for Israel

to take any action on their behalf, including during the course of investigating or adjudicating a reported claim of discrimination or bias, that would cause a public postsecondary education institution to deny, abridge, or restrain the lawful exercise of free speech or expression on or immediately adjacent to the grounds of any such institution contrary to R.S. 17:3399.31 *et seq.*

Section 2: The head of every state agency, department, office, commission, board, or entity of the State of Louisiana whose mission or duties arise from, or relate to the function or administration of a public postsecondary education institution, shall ensure its policies are consistent with R.S. 17:3399.31 *et seq.*

Section 3: The annual reports required by R.S. 17:3399.36 (B) shall be submitted to the Office of the Governor and posted on the institution’s website no later than January 31 for the preceding year. Additionally, such annual reports should include all policies of the public postsecondary education institution regarding expressive activities as defined in R.S. 17:3391.31, including policies that allow for a student, administrators, faculty, staff, or student organization to be subject to punitive actions for expressive conduct;

Section 4: This Order shall serve as an official request from the Governor to the Board of Regents to review and provide advice and recommendations on how to improve the freedom of expression policies of public postsecondary education institutions, including but not limited to:

Ensuring the areas generally accessible to the majority of students, administrators, faculty, and staff, such as grassy areas, walkways, or other similar common areas are available as traditional public forums and are open on the same terms to persons who engage in noncommercial expressive activity;

Ensuring the areas that constitute traditional public forums are clearly identified; and

Ensuring that policies for reporting bias or discrimination do not discipline conduct outside of the definition of “student-on-student discriminatory harassment.”

Section 5: All state agencies, departments, offices, commissions, boards, entities, officers, and employees of the State of Louisiana, or any political subdivision thereof, are authorized and directed to cooperate with the implementation of the provisions of this Order.

Section 6: This Order is effective upon my signature and shall remain in effect until amended, modified, terminated, or rescinded.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 1st day of October, 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2410#028

WHEREAS, the State of Louisiana recognizes the inherent value of life, and thus is charged with defending against the indiscriminate slaughter of innocents;

WHEREAS, the State of Louisiana is not only called to condemn all acts of hate and savagery, but also committed to promoting peace and justice;

WHEREAS, the modern state of Israel has been a key ally in the Middle East region and an essential leader in preventing another Holocaust;

WHEREAS, on October 7, 2023, Hamas terrorists killed innocent Israelis en masse;

WHEREAS, on October 7, 2023, Hamas terrorists kidnapped other Israeli women, children, and the elderly;

WHEREAS, on October 7, 2023, Hamas terrorists raped, tortured, and desecrated Israelis;

WHEREAS, despite the numerous challenges and threats to its security and sovereignty, Israel has remained resilient to secure peace and prosperity for the people who live, work, and visit there;

WHEREAS, it is fitting and proper for the State of Louisiana to join with others across the world in solidarity and remembrance of the atrocities Israel suffered on October 7, 2023;

NOW THEREFORE I, JEFF LANDRY, 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: As an expression of respect and to honor the innocent Israelis who suffered the October 7, 2023 terrorist attack, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all state buildings from sunrise until sunset on October 7, 2024

Section 2: This order is effective upon signature and shall remain in effect until sunset, October 7, 2024.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on 4th day of October 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2410#029

EXECUTIVE ORDER JML 24-156

Renewal of State of Emergency—Cybersecurity Incidents

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies, including those caused by breach of cybersecurity, in order to ensure that preparations of this State will be adequate to deal with such

emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;

WHEREAS, pursuant to R.S. 29:724(B)(1), Governor John Bel Edwards declared a state of emergency on December 28, 2023, in Proclamation Number 236 JBE 2023 in response to the threat of intentional cybersecurity breaches of public entities throughout the State of Louisiana;

WHEREAS, Proclamation Number 263 JBE 2023 has been renewed and extended every thirty (30) days through JML 24-141, which is in effect through Sunday, October 6, 2024;

WHEREAS, there have been severe, intentional cybersecurity breaches of public entities throughout the State of Louisiana;

WHEREAS, R.S. 29:724 authorizes the governor during a declared state of emergency to suspend the provisions of any state regulatory statute prescribing procedures for conducting state business, or the orders, rules or regulations of any state agency, if strict compliance with the provision of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;

WHEREAS, the State anticipates various state agencies and political subdivisions will need to continue to work cooperatively to mitigate any damage, current or future, as a result of these cybersecurity breaches.

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

Section 1: Pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721, *et seq.*, a state of emergency is hereby declared to continue to exist statewide in the State of Louisiana as a result of the imminent threat to the citizens of the State.

Section 2: The Director of the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) is hereby authorized to continue to undertake any activity authorized by law that he deems appropriate in response to this declaration.

Section 3: Pursuant to R.S. 29:732, during a declared state of emergency, the prices charged or value received for goods and services sold within the designated emergency area may not exceed the prices ordinarily charged for comparable goods and services in the same market area at or immediately before the time of the state of emergency, unless the price by the seller is attributable to fluctuations in applicable commodity markets, fluctuations in applicable

regional or national market trends, or to reasonable expenses and charges and attendant business risk incurred in procuring or selling the goods or services during the state of emergency.

Section 4: All departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate in actions the state may take in response to the effects of this cybersecurity event.

Section 5: All departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, are further authorized and directed to take all actions necessary to preserve the security and confidentiality of any data related to this emergency, including the execution of Memoranda of Understanding (MOUs), Non-Disclosure Agreements (NDAs), and/or any other related documents.

Section 6: Any departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, that may be affected by this cybersecurity emergency are directed to work with state officials to ensure there is a coordinated response to this event and are further directed to comply with the requirements of the Database Security Breach Notification Law, R.S. 51:3071 *et seq.*

Section 7: Pursuant to R.S. 29:724(D)(1), the Louisiana Procurement Code (R.S. 39:1551 *et seq.*), Louisiana Public Bid Law (R.S. 38:2211, *et seq.*), and the Louisiana Information Technology Procurement Code (R.S. 39:196-200), and their corresponding rules and regulations are hereby suspended if strict compliance therewith would in any way prevent, hinder, or delay necessary action in coping with this emergency.

Section 8: This Order is effective upon signature and shall continue in effect from Friday, October 4, 2024 to Sunday, November 3, 2024, unless terminated sooner.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 4th day of October 2024.

Jeff Landry
Governor

ATTEST BY
THE GOVERNOR
Nancy Landry
Secretary of State
2410#030

Emergency Rules

DECLARATION OF EMERGENCY

Louisiana Economic Development Office of the Secretary

Louisiana Economic Development Procurement Code
(LAC 34:XV.Chapters 1-11)

This Emergency Rule is being published pursuant to emergency provisions of the Administrative Procedure Act, R.S. 49:962 (A)(1)(a) which provide for emergency procedures to establish rules, R.S. 51:921 and R.S. 36:104 which allows Louisiana Economic Development (LED) to promulgate rules and regulations to protect the welfare and prosperity of the citizens of the state, and Act 590 of the 2024 Regular Session, which require LED to promulgate rules to be used by LED in place of state procurement law in R.S.1551-1755.

Louisiana Economic Development has an immediate need to implement its own procurement regulations, which have been reviewed and approved by the commissioner of Administration, as required by Act 590. The proposed *LED Procurement Code* provides flexibility in the selection of methods to be used for the procurement of goods and services, establishes competitive thresholds, outlines exceptions to competitive selection process, sets forth dispute resolution processes, establishes standards for integrity in procurements and provides a broad range of processes and procedures to be followed by LED and those seeking and doing business with LED. A delay in imposition would hinder effective administration of the agency and its ability to assist Louisiana businesses and taxpayers.

This Emergency Rule shall be effective October 7, 2024, and shall remain in effect for a period of 180 days unless renewed by LED or until adoption of final rules, whichever occurs first.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part XV. Louisiana Economic Development Procurement Code

Chapter 1. Purpose, Applicability and Definitions

§101. Purpose and Legislative Authority

A. Goal. It is the goal of Louisiana Economic Development (LED) to procure goods and services in a manner that is open, fair, encourages competition, and affords vendors equal opportunities to compete.

B. Purpose. The purpose of this *LED Procurement Code* is to establish parameters of a procurement program designed to support and facilitate the mission of LED by applying best methods and business practices to the procurement of goods and services and to structure other business arrangements by LED. This *LED Procurement Code* is intended to promote the development and use of procurement processes which promote the pursuit of excellence and the best interests of LED while maintaining the highest possible integrity, broad based competition, fair

and equal treatment of the business community and increased economies and efficiencies for LED.

C. Communication.

1. LED intends to continue as a LaGov agency, using the state's enterprise resource planning, a fully integrated computer system that includes financials, logistics, human resources, payroll and business intelligence, feeding into the Louisiana Checkbook for transparency. Similar workflow and approval processes to other LaGov agencies will be followed, with the exception of individual transactional approvals required by the Office of State Procurement (OSP).

2. LED is to be exempt from OSP's central purchasing authority and individual transactional approval requirements.

3. LED will communicate and collaborate with the Division of Administration, the Office of Planning and Budget, the Office of Statewide Reporting and Accounting Policy, Civil Service, the Department of Revenue, the Office of the Attorney General, and any other state agencies or public entities as may be applicable.

D. Authority. This *LED Procurement Code* is adopted in compliance with the Administrative Procedure Act, R.S. 49:950 et. seq., including the authority for review of LED rules by the House Committee on Commerce, the Senate Committee of Commerce, Consumer Protection, and International Affairs, the House Committee on Appropriations and the Senate Committee on Finance, and pursuant to R.S. 36:104 and Act 590 of the 2024 Regular Session and subject to the approval of the commissioner of Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§103. Applicability

A. Applicability. This *LED Procurement Code* applies to the acquisition by the LED of all goods and services paid with public funds, and shall be used in place of the Louisiana Procurement Code, R.S. 39:1551-1755 and the procurement authority of the chief information officer and Office of Technology Services provided for in R.S. 39:15.1 et. seq.

B. Revocation. If LED's authority to use this *LED Procurement Code* should be revoked by the Division of Administration or otherwise by operation of law, LED shall end use of these provisions in keeping with the revocation notice and shall resume procurements pursuant to applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§105. Definitions

Chief Procurement Officer—the secretary of LED, or their designee, will designate and may change from time to time, one LED staff person to act as LED's Chief Procurement Officer

Commissioner—the commissioner of Administration (COA), the head executive of the Division of Administration.

Consulting Service—work, other than professional, personal or social service, rendered by an independent contractor who possesses specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis, or advice in formulating or implementing programs or services, including but not limited to, such areas as management, data processing, advertising and public relations.

Contract—a written agreement between parties with binding legal effect, for the procurement or disposal of goods and services for LED. Contract types may include but not be limited to: (AGY) Interagency, (CON) Consulting, (COP) Cooperative Endeavors, (MIS) Miscellaneous, (OTH) Other, (PO) Purchase Orders, (PER) Personal Services, (PRO) Professional Services and (SOC) Social Services.

Emergency Procurement—a purchase made after a written determination by the secretary that there exists an emergency condition which creates a threat to public health, welfare, safety or public property, or conservation of public resources, and the emergency condition creates an immediate and serious need for goods or services that cannot be met through the normal procurement methods.

Goods—moveable property, including but not limited to, equipment, materials, supplies, insurance and license agreements for software, and excluding immovable property. Goods are not services.

Governmental Body—any department, office, division, commission, council, board, bureau, committee, institution, agency, government corporation, or other establishment or official of the executive branch of government. For purposes of procurement of personal, professional, consulting, and social services contracts, governmental shall not include the judicial branch of state government.

Governmental Entity—any governmental unit which is not included in the definition of “governmental body” in this Section.

LaPAC—Louisiana’s internet based system for posting vendor opportunities and award information.

LED—Louisiana Economic Development, formerly known as the Department of Economic Development.

LED Procurement Code (LPC)—the rules adopted pursuant to the authority granted by Act 590 of the 2024 Regular Session, for use by LED, in lieu of state procurement statutes when LED procures goods or services or enters other contracts.

Louisiana Authorized Dealer—a company that satisfies the requirements of a resident business as defined in R.S. 39:1556 and is specifically authorized by the manufacturer to sell and/or provide service for its products,

OSP—Office of State Procurement, located within the Division of Administration.

Person—any business, individual, union, committee, club, or other organization or group of individuals.

Personal Service—work rendered by individuals which requires use of creative or artistic skills, such as but not limited to graphic artists, sculptors, musicians, photographers, and writers, or which use requires use of highly technical or individual skills or talents, such as, but

not limited to, paramedicals, therapists, foreign representatives, and expert witnesses for adjudications or other court proceedings. A *Foreign Representative* shall mean a person to represent LED in such foreign country.

Professional Service—work rendered by an independent contractor who has a professed knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, which independent contractor shall include but not be limited to lawyers, doctors, dentists, veterinarians, architects, engineers, landscape architects, accountants and claims adjusters. A profession is a vocation founded upon prolonged and specialized intellectual training which enables a particular service to be rendered.

Request for Proposal (RFP) —the RFP process is a procurement method used for the procurement of supplies, services, highly technical equipment or complex services. RFP responses are evaluated based on the relative merits of each proposer compared to others. An award is to be made to the responsible proposer whose proposal is the most advantageous to LED, with consideration to other evaluation criteria as well as to cost.

Request for Qualifications (RFQ) —the RFQ process is a procurement method used for the procurement of services on a basis of competence and qualifications for a fair and reasonable price. An award is to be made at the discretion of LED to the most qualified proposer(s), whose proposal is the most advantageous to LED.

Secretary—the secretary of Louisiana Economic Development, or their designee.

Services—the furnishing of labor, time or effort by a vendor which may involve, to a lesser degree, the delivery or supply of a product, incidental to the required performance.

Small Entrepreneurship—a business currently certified as a small entrepreneurship by LED in accordance with R.S. 39:2006 (The Hudson Initiative) or a business currently certified as a small and emerging business by LED, in accordance with R.S. 51:941, et.seq. (SEBD Program).

Social Service—work rendered by a person, firm, corporation, organization, governmental body, or governmental entity in furtherance of the general welfare of the citizens of Louisiana, including but not limited to rehabilitation and health support, improvement of living conditions and health.

Sole Source Procurement—a purchase made when there is only one source for a good or service and only one vendor or supplier has the sole ability to meet the requirement of the procurement.

Veteran Owned Small Entrepreneurship—a business currently certified as a veteran or service-connected disabled veteran owned small entrepreneurship by LED, in accordance with R.S. 39:2176 (The Veteran Initiative).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

Chapter 3. Contracts

§301. General Provisions

A. In order to ensure LED and the state are properly protected when entering into contracts, all LED contracts shall be reviewed by legal staff, processed by a contract reviewer familiar with state guidelines, approved and

executed by the secretary or their designee, as may be applicable.

B. LED staff shall attend periodic state training to ensure knowledge and competencies of any applicable regulations, policies and processes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§303. Contractual Provisions

A. Clauses providing for the following may be included in contracts, except upon a written determination by the secretary or their designee that the interests of LED are best served by omitting the clause. Standard clauses may include but not be limited to:

1. beginning and ending dates;
2. description of work and goals and objectives;
3. maximum amount and schedule of payments to be made;
4. deliverables;
5. performance measures;
6. monitoring plan;
7. termination clauses, for cause and convenience;
8. remedies for default;
9. legislative Auditor right to audit;
10. assignability clause;
11. travel requirements in accordance with PPM 49, if applicable;
12. multi-year fiscal funding clause, if the duration of the contract crosses a fiscal year;
13. anti-discrimination clause, if applicable;
14. an itemized budget for cost-reimbursement contracts;
15. a clause requiring that Louisiana law shall apply to all disputes, and that venue for any actions brought against LED arising out of the contract shall be only in the Nineteenth Judicial District Court in East Baton Rouge Parish;
16. responsibility for payment of taxes, when applicable;
17. advance payments on all contracts except those for professional services are allowable if limited to less than or equal to 20 percent of the contract and if necessary to provide for the lowest cost delivery of service. If federal funds are to be advanced, federal guidelines shall prevail on the conditions and amount of the advance. Specific state statutory authority may override the 20 percent limit for certain contracts;
18. prohibition of Discriminatory Boycotts of Israel;
19. any additional clause required by an Executive Order.

B. contracts funded fully or in part by federal funds, in addition to meeting all state requirements, shall meet all applicable federal standards and shall contain all necessary clauses required by federal statutes, rules or regulations.

C. In addition to any required contractual clauses, proof of review and approval by other agencies may be required as follows:

1. contracts for private legal counsel to represent LED must have Attorney General approval, with the concurrence of the commissioner of Administration, in accordance with R.S. 49:258;

2. all contracts must have Civil Service approval, unless exempted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§305. Non-competitive Contracts

A. LED shall have express authority to enter into the following contracts:

1. contracts with values under \$75,001;
2. standardized template contracts, with minimal contractual modifications project to project, such as varying vendor names and financial award amounts. These may include but not be limited to:
 - a. the Louisiana Economic Development Award Program (EDAP);
 - b. certain social service and personal service contracts relative to the LED FastStart Program, with individual values less than \$250,001 within a 12-month period (FastStart);
 - c. the Economic Development Readiness Program (EDRED);
 - d. the Tier 1 Program with the Regional Economic Development Organizations (Tier 1);
 - e. the Louisiana Entertainment Development Fund Program (EDF);
 - f. the State Trade Expansion Program (STEP).
3. personal and professional service contracts;
4. consulting service contracts with values under \$100,001.

B. Except that any contracts for information technology equipment, related services and software purchasing shall be governed by the provisions of Chapter 13.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§307. Competitive Contracts

A. Contracts exceeding the amounts provided in Section 305 shall be awarded as provided for in this Chapter.

B. Contracts for \$100,001 or more and social service contracts for \$250,001 or more, within a 12-month period, shall be awarded in accordance with regulations issued by LED in Chapter 5 of this *LPC*, unless it is determined, in writing by the secretary, that any one of the following conditions is present:

1. Sole Source Procurement. A determination by the secretary, supported by documentation, that only one source exists for the services rendered;
2. Emergency Procurement. A determination by the secretary, supported by, documentation, that an emergency exists which will not permit the delay in procurement necessitated by the RFP procedure;
3. The state legislature has made an appropriation for that particular contractor or contractors via the appropriation bill or other statutes;
4. Local matching funds of greater than ten percent of the contract amount are required to be contributed by the contractor;
5. The contract is with another governmental entity or government body;

6. Funds are specifically designated by the federal government for a particular private or public contractor or political subdivision.

C. Except that any contracts for information technology equipment, related services and software purchasing shall be governed by the provisions of Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

Chapter 5. Competitive Solicitations

§501. General Provisions

A. The secretary shall determine the appropriate solicitation methods to be used in procuring goods and services for LED. Among those methods are:

1. Request for Proposals (RFP);
2. Request for Qualifications (RFQ).

B. Other procurement methods. Other procurement methods may be utilized where there is a written determination by the secretary that it is in the best interest of LED to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§503. Specifications

A. Specifications shall be developed in a manner which are most likely to result in the broadest possible competition while securing quality goods and services which meet the need and expectations of LED.

B. Specifications shall include the following:

1. specifically define the task and desired results of the project;
2. identify LED liaison personnel and resources available to the contractor;
3. specify applicable procedures concerning billing, documentation requirements, progress reports, and final results, if applicable;
4. inform the potential contractors of the criteria and the selection methodology and the weight which will be applied to each significant evaluation criteria to be used in evaluating responses;
5. require potential contractors to include a description of the firm's qualifications and resumes for each of the key personnel;
6. specify the date and time not later than which proposals must be received by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§505. Public Notification

A. Public notification shall be made by the following methods:

1. RFQ's shall be advertised by posting on LED's website;
2. RFP's shall be advertised through a centralized electronic interactive environment administered by the Division of Administration, and in addition, shall be advertised in the official journal of the state at least once. The advertisement shall appear at least 10 calendar days before the last day that proposals will be accepted.

3. In addition, at the discretion of LED, written notice of RFP and RFQs may be provided to persons, firms or corporations who are known by LED to be in a position to furnish such services, at least 10 calendar days before the last day that proposals will be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§507. Right to Reject

A. LED reserves the right to reject any or all responses to a solicitation in whole or in part and to award by items, parts of items, or by any group of items specified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§509. Evaluation and Award

A. Responses to solicitations shall be evaluated in keeping with the criteria, specifications, terms and conditions set forth in the solicitation.

B. The final selection of a contractor shall be made by LED in accordance with the selection criteria established in the RFP or RFQ. An award is to be made to the responsible proposer whose proposal is the most advantageous to LED.

C. Written notice of the award of a contract shall be provided to all proposers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§511. Dispute Resolution

A. Right to protest. Any person who is aggrieved in connection with the solicitation or award of a contract issued by LED shall protest to the secretary. Protests with respect to a solicitation shall be submitted in writing at least two calendar days prior to the opening of bids on all matters. Protests with respect to the award of a contract shall be submitted in writing within fourteen calendar days after contract award.

B. Authority to resolve protests. The secretary shall have authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest of an aggrieved person concerning the solicitation or award of a contract.

C. Decision. If the protest is not resolved by mutual agreement, the secretary shall, within fourteen calendar days, issue a decision in writing. The decision shall:

1. state the reasons for the action taken.
2. inform the protestant of its right to judicial review in the Nineteenth Judicial District Court.

D. Notice of Decision. A copy of the decision under Subsection C of this Section shall be submitted or otherwise furnished to the protestant and any other party intervening.

E. Finality of Decision. A decision under Subsection C of this Section shall be final and conclusive unless one of the following applies:

1. the decision is fraudulent.
2. the person adversely affected by the decision has timely appealed to the court in accordance with R.S. 39:1691(A).

F. Stay of procurements during protests. In the event of a timely protest under Subsection A of this Section, LED shall not proceed further with the solicitation or with the awarding of the contract unless the secretary makes a written determination that the awarding of the contract is necessary without delay to protect the substantial interests of LED. Upon such determination by the secretary, no court shall enjoin progress under the award except after notice and hearing.

G. Award of Costs to Protestants. In addition to any other relief, when the protest is administratively or judicially sustained and the protesting bidder or proposer should have been awarded the contract but is not, the protesting bidder or proposer shall be entitled to the reasonable costs incurred in connection with the solicitation, including bid or proposal preparation costs other than attorney fees, provided that any administrative determination of such costs shall be subject to the written concurrence of the attorney general.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

Chapter 7. Cooperative Procurement

§701. General Provisions

A. Where practical and beneficial to LED, a cooperative arrangement may be employed for the procurement of goods and/or services.

B. LED is eligible to procure any goods or services under the Louisiana State Contract. The items that are available for purchase through state contract have been subjected to a competitive process conducted by OSP. The lists saves LED time and money that would otherwise be spent on performing required competitive procedures.

C. Under certain conditions and as part of the State's cooperative procurement efforts, LED may be able to utilize the General Service Administration (GSA) schedules.

D. If LED elects to make cooperative purchases outside the state contract, documentation will be maintained in LED's procurement files.

1. Any item so purchased, with a price 20 percent or more in excess of state contract pricing, shall require justification for the proposed purchase.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

Chapter 9. Travel, Small Purchases and La Carte

§901. Travel

A. The Office of State Travel (OST), located within the Division of Administration, is responsible for setting Louisiana's general travel regulations, known as Policy and Procedure Memorandum 49 (PPM49).

B. LED shall continue to follow PPM49 for its travel purchases.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§903. Small Purchases

A. Unless otherwise provided by law, "small purchases" means any procurement of supplies or operating services not exceeding \$25,000

B. Except as otherwise provided by this Chapter, all small purchases shall be made in accordance with the following minimum procedures:

1. no competitive process is required for purchases not exceeding \$10,000 per single transaction.

2. price quotations shall be solicited from three or more bona fide, qualified vendors for purchases exceeding \$10,000 but not exceeding \$20,000.

a. Quotations may be made by telephone, facsimile, written, or other means and shall be awarded on the basis of the lowest responsive quotation unless such quotation is impracticable or unreasonable. Whenever possible, at least one of the bona fide, qualified vendors shall be a certified small entrepreneurship or a certified veteran owned small entrepreneurship.

i. LED files shall document and list all solicited vendors and each vendor's contact person, summarize quotations received, indicate the successful vendor and state the reason why any lower quotation was rejected. LED files shall also contain written confirmation of the quotation from the successful vendor.

b. When the price is determined by the secretary to be reasonable, the requirement to solicit three quotations may be waived when purchasing from a certified small entrepreneurship or a certified veteran owned small entrepreneurship. Reasonable is a best value determination based on price, delivery, service, and/or any other related factors. This determination is to be maintained in LED's file.

c. The requirement to solicit at least one (1) certified small entrepreneurship or certified veteran owned small entrepreneurship may be waived for procurements posted on LaPAC.

3. Price quotations shall be solicited from five (5) or more bona fide, qualified vendors for purchases exceeding \$20,000 but not exceeding \$25,000.

a. Quotations may be made by facsimile or written means and shall be awarded on the basis of the lowest responsive price quotation received unless such quotation is impracticable or unreasonable. Whenever possible, at least two of the bona fide, qualified vendors shall be certified small entrepreneurs or certified veteran owned small entrepreneurs. LED files shall document and list all solicited vendors and each vendor's response, summarize quotations received, indicate the awarded quotation, and state LED's reason for any rejection of lower quotations.

b. When the price is determined by the secretary to be reasonable, the requirement to solicit five quotations may be waived when purchasing from a certified small entrepreneurship or certified veteran owned small entrepreneurship. Reasonable is a best value determination based on price, delivery, service, and/or any other related factors. This determination is to be maintained in the LED file.

c. The requirement to solicit at least two certified small entrepreneurship or certified veteran owned small entrepreneurship may be waived for procurements posted on LaPac.

d. A minimum of three working days shall be allowed for receipt of quotations.

e. All written or facsimile solicitations shall include the closing date, time, and all pertinent competitive specifications, including quantities, units of measure, packaging, delivery requirements, ship-to location, terms and conditions, and other information sufficient for a supplier to make an acceptable quotation. Precautionary measures shall be taken to safeguard the confidentiality of vendor responses prior to the closing time for receipt of quotations. No quotation shall be evaluated using criteria not disclosed in the solicitation.

C. The following items are considered small purchases and no competitive process is required for the following:

1. Repair parts for equipment obtained from the original equipment manufacturer or an authorized dealer. A Louisiana authorized dealer shall be used if practicable. This provision does not apply to the stocking of parts.

2. Equipment repairs obtained from the original equipment manufacturer or an authorized dealer. A Louisiana authorized dealer shall be used if practicable.

3. Vehicle repairs not covered by a competitive state contract or the state fleet maintenance repair contract obtained from an authorized dealer. A Louisiana authorized dealer shall be used if practicable.

4. Vehicle body repairs covered by insurance recovery and in accordance with insurance requirements.

5. Purchasing or selling transactions between LED and other state budget units or governmental agencies.

6. Publications, including electronic publications, subscriptions, and web-based subscription services, and/or copyrighted materials purchased directly from the publisher of copyright holder.

7. Publications and/or copyrighted materials purchased by libraries or text rental stores from either subscription services or wholesale dealers which distribute for publishers and/or copyright holders.

8. Public utilities and services.

9. Non-customized training, including educational instructor fees, and related resources (except equipment) used to enhance the performance of LED employees and good standing of LED, including memberships in and accreditations by professional societies and organizations.

10. Materials, supplies, exhibitor fees, and exhibit booths for conferences, seminars, and workshops, or similar events (business, educational, promotional, cultural etc.) for participants in promotional activities which enhance economic development or further LED's mission, duties and/or functions, with the approval of the secretary, if not covered by competitive state contract.

11. Wire, related equipment, time and material changes to accomplish repairs, adds, moves, and/or changes to telecommunication systems.

12. Food, materials, and supplies for teaching and per course training not exceeding \$25,000, where the purchasing, preparing, and serving of food are part of the regularly prescribed course.

13. Renewal of termite service contracts.

14. Commercial internet service not exceeding \$1,500 per subscription per year.

15. Advertising, where permitted by law and the secretary certifies that specific media is required to reach targeted audiences.

16. Publication of articles, manuscripts etc. in professional scientific, research of educational journals/media and/or the purchase of reprints.

17. Royalties and license fees for use rights to intellectual property, such as but not limited to: patents, trademarks, service marks, copyrights, music, artistic works, trade secrets, industrial designs, domain names etc.

18. Equipment moves by the original equipment manufacturer or authorized dealer to ensure equipment operation to original equipment manufacturer specifications, calibration, warrant etc.

29. Mailing lists.

20. Art exhibition rentals and/or loan agreements and associated costs of curatorial fees, transportation, and installation.

21. Parcel services, including but not limited to Federal Express, United Parcel Service, Airborne Express, and Express Mail, when not covered by a competitive state contract.

D. For the following items, when the purchase is in excess of \$10,000 per single transaction, telephone, written, or facsimile price quotation shall be solicited, where feasible, from at least three bona fide, qualified vendors. Whenever possible, at least one of the bona fide, qualified vendors shall be a certified small entrepreneurship or a certified veteran owned small entrepreneurship.

1. Convention and meeting facilities including security services if applicable, provided that any associated food or lodging must be in accordance with PPM 49.

2. Gasoline and fuel purchases not covered by competitive state contract.

3. Air and bus charters in accordance with PPM 49, including group travel that does not qualify for commercial rates available to individual travelers.

E. In the absence of a good faith business basis, no purchase or procurement shall be artificially divided within a cost center, or its equivalent, to avoid the competitive process.

F. Methods of payment for small purchases may include, but not be limited to: P-Card, Purchase Orders, P-1 (ACH or check).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§905. La Carte

A. Louisiana La Carte purchasing cards are credit cards issued for use by state agencies and state employees for the purpose of making purchases on behalf of their departments. It provides an alternative method of payment.

B. Such a card may be issued to an individual LED employees and known as a P-Card, or may be issued to LED itself, and known as a CBA (Controlled Billed Account.)

C. The Office of State Travel (OST), located within the Division of Administration, is responsible for setting regulations on the overall use of the La Carte cards.

D. LED shall continue to follow OST guidelines for use of the La Carte cards, except that the Single Transaction Limit for both CBA and P-cards shall be a maximum of five thousand dollars, or in an amount as otherwise approved in writing by the secretary or their designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

**Chapter 11. Information Technology Equipment,
Related Services and Software
Purchasing**

§1101. General Provisions

A. The purchase, lease, and rental of all information technology equipment, related services, and software by LED shall be exempt from the requirements of R.S. 39:1551-1755, R.S. 39:196-200, and the oversight and procurement authority of the chief information officer and Office of Technology Services (OTS) provided for in R.S. 39:15.1 et. seq., except that LED shall be required to continue as a LaGov agency for use of the enterprise resource planning.

B. LED shall work collaboratively with OTS to establish a transition plan to be completed by June 30, 2025.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§1103. Competitive Thresholds

A. Single procurements of information technology equipment, software, installation, license, modifications, integration, training, hosted software, software subscriptions, support etc., collectively known as IT, and hardware/software maintenance estimated to cost less than \$250,001 during a 12 month period shall be made using procedures approved by the secretary.

B. Procurements of information technology equipment, software, installation, license, modifications, integration, training, hosted software, software subscriptions, support etc., collectively known as IT, and hardware/software maintenance estimated to cost at least \$250,001 but less than \$1 million during a 12 month period shall be made using the competitive methods of an RFQ.

C. Procurements of information technology equipment, software, installation, license, modifications, integration, training, hosted software, software subscriptions, support etc., collectively known as IT, and hardware/software maintenance estimated to cost \$1 million or more during a 12 month period shall be made using the competitive methods of an RFP.

D. LED IT Procurement Support Team. A LED procurement support team may be formed for IT contracts in an amount greater than \$1 million, with the approval of the commissioner. The LED IT procurement support team may include, but not be limited to, one representative per agency from the following: LED; the Attorney General's Office (AG); and the Legislative Fiscal Office (LFO). At least two of the members of each procurement support team should have formal training in computer contract negotiations. The LFO and the AG shall each designate in writing to LED the names of a primary and an alternate team member. At least three members, one from each agency designated, must be present to constitute a quorum.

E. The individual agencies represented on the LED IT procurement support teams will have the following primary responsibilities:

1. Legislative Fiscal Office. The LFO shall have primary responsibility for the financial analysis of RFP's, and review of funding procedures, and certification of specific appropriation for the proposed purpose prior to the final contract award.

2. Attorney General's Office. The AG's Office shall have primary responsibility for developing the legal terms and conditions of draft contracts, evaluating the legal impact of substantive terms and conditions, reviewing to ensure compliance with statutes and regulations, and legal negotiations.

3. Louisiana Economic Development. LED shall have primary responsibility for the determination of the compliance of proposals with the functional requirements, drafting of RFP's, the evaluation of RFP's, the award of the contract and for all management decisions of the procurement process.

F. The LED IT Procurement Support Team shall operate as a super-evaluator, following an initial evaluation by LED's team, and, as a minimum, the LED IT Procurement Support Team shall review the RFP proposals, review LED evaluations of proposals, and review draft contract terms. There will be at least one group meeting to review proposals and it shall make a written group recommendation to LED.

G. LED shall review and consider any group recommendations, however, the final determination of an award shall be made by the secretary, in writing, which shall be considered the Final Agency Determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 39:1554.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

Anne G. Villa
Deputy Secretary

2410#027

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing**

Hospital Services
Inpatient Hospital Services
Other Rural Hospitals
(LAC 50:V.1201 and 1225)

The Department of Health, Bureau of Health Services Financing hereby adopts LAC 50:V.Chapter 12 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. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Effective September 16, 2024, this Emergency Rule will ensure that other rural hospitals remain financially viable so that the access to medical care that they provide to Medicaid beneficiaries in their communities will continue to be available and will improve in the future. Without these

proposed rate increases, impacted hospitals could be forced to close which will jeopardize the health and welfare of citizens living in the communities that they serve.

It is anticipated that this Emergency Rule will result in a fiscal impact of \$12,544,995 to the Medicaid Program for state fiscal year 2024-2025.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals Services

Chapter 12. Other Rural Hospitals

Subchapter A. General Provisions

§1201. Qualifying Criteria

A. To qualify as an other rural, non-state hospital, the hospital shall meet the following criteria:

1. is a non-state owned hospital;
2. has no more than 60 licensed beds as of October 1, 2024, excluding distinct part psychiatric unit beds, distinct part rehabilitation unit beds, and nursery bassinets;
3. does not qualify as a rural hospital as defined in R.S. 40:1189.3;
4. is not located within one of Louisiana's delineated metropolitan statistical areas (MSA) per the 2023 American Community Survey's census estimates program;
5. has an operational emergency room; and
6. is located in a city with a population of less than 23,000 per the 2020 United States Census Bureau.

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 51:

Subchapter B. Reimbursement Methodology

§1225. Other Rural Hospitals

A. Effective for dates of service on or after September 16, 2024, the inpatient hospital per diem rates paid to other rural, non-state hospitals shall be as follows.

1. Acute Care Services. The per diem rate for acute care services shall be 85 percent of the small rural hospital acute per diem rate in effect.
2. Psychiatric Services. The per diem rate for psychiatric services shall be 85 percent of the small rural hospital psychiatric per diem rate in effect.
3. Neonatal Intensive Care Unit (NICU) Services. The per diem rate for NICU services shall be 85 percent of the small rural hospital NICU per diem rate in effect.
4. Nursery Boarder Baby Services. The per diem rate for nursery boarder baby services shall be 85 percent of the small rural hospital nursery boarder baby per diem rate in effect.

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 51:

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.

Public Comments

Kim Sullivan, Bureau of Health Services Financing, 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.

Michael Harrington, MBA, MA
Secretary

2410#001

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Hospital Services
Outpatient Hospital Services
Other Rural Hospitals
(LAC 50:V.7901)

The Department of Health, Bureau of Health Services Financing hereby adopts LAC 50:V.Chapter 79 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. 49:962, and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Effective September 16, 2024, this Emergency Rule will ensure that other rural hospitals remain financially viable so that the access to medical care that they provide to Medicaid beneficiaries in their communities will continue to be available and will improve in the future. Without these proposed rate increases, impacted hospitals could be forced to close which will jeopardize the health and welfare of citizens living in the communities that they serve.

It is anticipated that this Emergency Rule will result in a fiscal impact of \$10,405,408 to the Medicaid Program for state fiscal year 2024-2025.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 79. Other Rural Hospitals

§7901. Qualifying Criteria

A. In order to qualify as an other rural, non-state hospital effective for dates of service on or after October 1, 2024 the hospital shall meet the following criteria:

1. is a non-state owned hospital;
2. has no more than 60 licensed beds as of October 1, 2024, excluding distinct part psychiatric unit beds, distinct part rehabilitation unit beds, and nursery bassinets;
3. does not qualify as a rural hospital as defined in R.S. 40:1189.3;
4. is not located within one of Louisiana's delineated metropolitan statistical areas (MSA) per the 2023 American Community Survey's census estimates program;
5. has an operational emergency room; and
6. is located in a city with a population of less than 23,000 per the 2020 United States Census.

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 51:

§7903. Reimbursement Methodology

A. Effective for dates of service on or after September 16, 2024, reimbursement rates paid to other rural, non-state hospitals for outpatient hospital services shall be as follows.

1. Surgery Services. The reimbursement amount for outpatient hospital surgery services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

2. Clinic Services. The reimbursement amount for outpatient hospital facility fees for clinic services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

3. Laboratory Services. The reimbursement amount for outpatient clinical diagnostic laboratory services shall be the Medicaid fee schedule amount on file for each service.

4. Rehabilitation Services. The reimbursement amount for outpatient rehabilitation services shall be an interim payment equal to the Medicaid fee schedule amount on file for each service, and a final reimbursement amount of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

5. Other Outpatient Hospital Services. The reimbursement amount for outpatient hospital services other than surgery services, clinic services, clinical diagnostic laboratory services, and rehabilitation services shall be an interim payment equal to 95 percent of allowable Medicaid cost as calculated through the cost report settlement process.

B. If a qualifying hospital's outpatient costs is greater in subsequent cost reporting periods than the initial implementation year cost report period's cost, outpatient costs shall be subjected to a cap prior to determination of cost settlement amount. Calculation of reimbursable costs shall be as follows.

1. An average cost per Medicaid outpatient unduplicated encounter per day shall be established using Medicaid cost report and paid claims data from the initial cost report period of implementation. The average unduplicated encounter cost per day shall be calculated by dividing the total outpatient allowable costs for all Medicaid outpatient services by the number of paid unduplicated encounters per day. Clinical diagnostic laboratory services and vaccines are not included in this calculation.

2. To determine the capped limit for each subsequent year's allowable cost settlement reimbursement, the base year outpatient per unduplicated encounter per day cost shall be multiplied by the unduplicated encounters from the applicable subsequent cost reporting period's Medicaid paid claims data and then increased by 3 percent cumulatively for each year subsequent to the initial implementation year.

3. Final reimbursement shall be 95 percent multiplied by the lesser of capped cost amount calculated per §7903.B.2 or allowable reimbursable cost calculated per §7903.A.

C. A 3 percent cost increase threshold shall be applied to reimbursement after the initial year of implementation. Calculation shall be as follows.

1. An outpatient per unit cost shall be established using Medicaid cost report and paid claims data from the initial year of implementation. The outpatient per unit cost shall be calculated by dividing the total outpatient reimbursable costs (95 percent of allowable costs) for all Medicaid outpatient services by the number of paid claim units. Clinical diagnostic laboratory services are not included in this calculation.

2. To determine the threshold for each subsequent year's allowable cost settlement reimbursement, the base year outpatient per unit cost shall be multiplied by the units from current Medicaid cost report and paid claims data and then increased by 3 percent for each year subsequent to the initial implementation year.

3. Reimbursement shall be the lesser of 95 percent of allowable Medicaid cost as calculated through the cost report settlement process for the applicable year or the threshold calculated per §7903.B.2.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 51:

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.

Public Comments

Kim Sullivan, Bureau of Health Services Financing, 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.

Michael Harrington, MBA, MA
Secretary

2410#002

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 49—Suspension of Certain Statutes Regarding Cancellations, Terminations, Non-Renewals and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by Hurricane Francine

Governor Jeff Landry declared a State of Emergency in Louisiana on September 9, 2024, determining that a disaster or emergency has occurred, or is imminent. Pursuant to R.S. 29:724(B)(1), the governor declared a state of emergency or disaster by issuing Executive Order Number JML 24-142 which has the force and effect of law.

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:962, as further specified by R.S. 22:11, and pursuant to the authority granted by R.S. 22:1 et seq., adopts Emergency Rule 49 effective September 9, 2024. Emergency Rule 49 will remain in effect until September 18, 2024.

Emergency Rule 49 is issued to address the statewide public health emergency declared in the state of Louisiana. Additionally, Emergency Rule 49 is issued pursuant to Executive Order Number JML 24-142, declared on September 9, 2024, by Governor Jeff Landry.

Emergency Rule 49 is issued to address the significant rainfall and devastation caused by Hurricane Francine and its aftermath which has created emergency conditions threatening the health, safety, and welfare of Louisiana citizens. Emergency Rule 49 applies to insureds who reside in or have insured property located in one of the following twenty-five (25) parishes: Ascension, Assumption, Cameron, East Baton Rouge, Iberia, Iberville, Jefferson, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, and West Baton Rouge. Emergency Rule 49 is issued under the authority of the commissioner of insurance for the State of Louisiana, pursuant to R.S. 22:11 and Executive Order Number JML 24-142 issued on September 9, 2024.

Emergency Rule 49 shall apply to any and all types of insurers as set forth in R.S. 22:48, and any and all kinds of insurance as set forth in R.S. 22:47, including, but not limited to all property and casualty insurers, all life insurers, all annuity insurers, and all health maintenance organizations (HMOs), managed care organizations (MCOs), preferred provider organizations (PPOs), pharmacy benefit managers (PBMs), and third party administrators (TPAs) acting on behalf of an HMO, MCO, PPO. It also applies to any other insurance related entities licensed by the commissioner of insurance or conducting business in (collectively known as “health insurance issuers”) as well as their insureds, policyholders, members, subscribers, enrollees, and certificate holders.

The aftermath of Hurricane Francine has caused widespread disruptions to daily life and created a significant threat to the public health, safety, and welfare of Louisiana citizens. This event has also impacted the state’s economy and may result in financial hardship for Louisiana citizens regarding all matters related to all types of insurers and all kinds of insurance and threatening access to adequate insurance coverage following an event of this magnitude when such insurance coverage is especially important. To respond to this emergency and to protect and safeguard the public health, safety, and welfare of Louisiana citizens, the issuance of Emergency Rule 49 is necessary.

Title 37

INSURANCE

Part XI. Rules

Chapter 49. Emergency Rule 49—Suspension of Certain Statutes Regarding Cancellations, Terminations, Non-Renewals and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by the State of Emergency Declared by Governor Jeff Landry on September 9, 2024, Due to Hurricane Francine

§4901. Benefits, Entitlements, Protections and Applicable Parishes

A. The benefits, entitlements and protections of Emergency Rule 49 shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders (hereinafter “insureds”) who, as of 12:01 a.m. on September 9, 2024, have an insurance policy, insurance contract, or certificate of coverage for any of the kinds of insurance enumerated in §4903, as delineated below, and who meet one of the following criteria.

1. Any person who, as of September 9, 2024, resided in one of the following twenty-five (25) parishes, to wit: Ascension, Assumption, Cameron, East Baton Rouge, Iberia, Iberville, Jefferson, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, and West Baton Rouge. Said person is entitled to the protections of Emergency Rule 49 for the kinds of insurance set forth in §4903.A and B.

2. For the kinds of insurance enumerated in §4903.B, any person whose primary place of employment was in, or whose permanent employer had assigned said person to a business located in, one of the twenty-five (25) parishes identified in §4901.A.1, shall be eligible for the benefits, entitlements and protections of Emergency Rule 49 if said person verifies such employment status by written documentation to his health insurance issuer. No health insurance issuer shall unreasonably withhold eligibility to insureds upon receipt of such written documentation.

3. For the kinds of insurance enumerated in §4903.A, any insured who does not reside in one of the twenty-five (25) parishes enumerated in §4901.A.1, but has filed with an authorized insurer or surplus lines insurer a notice of loss on a property claim for damage caused by Hurricane Francine and its aftermath to property located in one of the twenty-five (25) parishes enumerated in §4901.A, shall be entitled to contact the insurer and request the benefits, entitlements, and protections of Emergency Rule 49. These insurers are directed to work with their insureds who have filed a notice of loss on a property claim for damage caused by Hurricane Francine and its aftermath and provide accommodation as applicable, relevant, and appropriate.

B. Emergency Rule 49 shall apply to any authorized insurer as defined in R.S. 22:46(3) operating in Louisiana, and to any approved unauthorized insurer, eligible unauthorized insurer, or domestic surplus lines insurer as defined in R.S. 22:46(27) operating in Louisiana (sometimes hereinafter referred to as a surplus lines insurer).

C. Emergency Rule 49 shall apply to every health and accident insurer, health maintenance organization (HMO), managed care organization (MCO), preferred provider organization (PPO), pharmacy benefit manager (PBM), and third party administrator (TPA) acting on behalf of a health insurance issuer, HMO, MCO, PPO, and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana (collectively known as “health insurance issuers”).

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4903. Applicability and Scope

A. Emergency Rule 49 shall apply to any and all kinds of insurance set forth in R.S. 22:47, including, but not limited to, life, vehicle, liability, workers' compensation, burglary and forgery, fidelity, title, fire and allied lines, steam boiler and sprinkler leakage, crop, marine and transportation, miscellaneous, homeowners, credit life, credit health and accident, credit property and casualty, annuity, surety, and industrial fire. The applicability of Emergency Rule 49 to health and accident insurance is specified in §4903.B.

B. Emergency Rule 49 shall apply to any and all kinds of health and accident insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs except those subject only to licensure and financial solvency regulation pursuant to R.S. 22:1016, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance, and any and all other health insurance.

C. Section §4915 and Section §4927.B of Emergency Rule 49 shall apply to only those kinds of insurance provided for in §4903.A and those types of insurers specified in §4901.B.

D. Sections §4913, §4919, §4921, §4925, §4927.A, §4931, §4933, and §4935 of Emergency Rule 49 shall apply only to those kinds of insurance provided for in §4903.B and those health insurance issuers specified in §4901.C.

E. All provisions of Emergency Rule 49 not expressly limited in §4903.C and D shall apply to all types of insurers and all kinds of insurance as defined in §4901 and §4903.

F. Nothing in §4903 shall be interpreted to apply the provisions of Emergency Rule 49 to policies of insurance issued for the benefit of insureds not subject to the Benefits, Entitlements, and Protections enumerated in §4901.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4905. Cancellation, Nonrenewal, and Nonreinstatement

A. Emergency Rule 49 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the types of insurance enumerated in §4903 that was in force and effect at 12:01 a.m. on September 9, 2024, and any such notice shall be null and void and have no force of effect. Furthermore, any such notice shall be reissued de novo to the insured in accordance with existing statutory requirements after the expiration of Emergency Rule 49 as provided for in §4949.

B. Insurers may issue a notice of cancellation for non-payment of premium during the pendency of Emergency Rule 49. When any such notice is issued during the pendency of Emergency Rule 49, the applicable notice period required by statute or the policy may begin to run, but in no event may the insurer cancel the insurance policy for non-payment of premium until after the expiration of Emergency Rule 49.

C. No policy shall be cancelled or nonrenewed solely because of a claim that is filed during or is caused by Hurricane Francine or its aftermath.

D. Unless otherwise expressly authorized in writing by the commissioner, the cancellation, nonrenewal or nonreinstatement of any insurance policy related to any of the types of insurance enumerated in §4903 is hereby suspended and shall not be allowed until after the expiration of Emergency Rule 49 as provided for in §4949.

E. All cancellation, nonrenewal, or nonreinstatement provisions, including, but not limited to, R.S. 22:272, 22:887, 22:977, 22:978, 22:1068, 22:1074, 22:1266, 22:1267, and 22:1335 are hereby suspended, except to the extent such provisions apply to acts or practices constituting fraud or intentional misrepresentations of material fact.

F. As set forth in §4937, Emergency Rule 49 shall not prevent an insurer from cancelling or terminating an insurance policy for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4907. Renewal

A. The renewal conditions of all kinds of insurance enumerated in §4903 that are subject to renewal after the effective date of Emergency Rule 49 are suspended and shall be deferred until the expiration of Emergency Rule 49 as provided for in §4949. All policies subject to renewal after the effective date of Emergency Rule 49 shall continue in full force and effect at the previously established premium until the expiration of Emergency Rule 49 as provided for in §4949. The previously established premium for renewals by authorized insurers shall be based on the rate structure, rating plan and manual rules that are approved by the Commissioner of Insurance, regardless of whether their effective date was before or during Emergency Rule 49. The previously established premium by authorized insurers for renewals of commercial deregulated insurance policies shall be based on the rate structure, rating plan and manual rules set forth in any filing submitted to the Commissioner of Insurance before or during Emergency Rule 49.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4909. Written Request for Cancellation by Insured

A. Except as provided for in §4937 herein, a cancellation shall not occur prior to the expiration of Emergency Rule 49 unless upon the documented written request or written concurrence of the insured. This written consent may be in electronic format.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4911. New Policies

A. Emergency Rule 49 shall not apply to any new insurance policy for any of the kinds of insurance

enumerated in §4903 if said insurance policy is issued on or after September 18, 2024.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4913. Claims Notification

A. All claims notification procedures, including, but not limited to, R.S. 22:975(A)(3)-(5), Regulation 33, and Regulation 74, are suspended.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4915. Premium Offset

A. All insurers subject to Emergency Rule 49 receiving a claim from an insured owing a premium may offset the premium owed by the insured against any claim payment made to the insured under the insurance policy. Section §4915 shall not apply to health insurance issuers as defined in §4901.C.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4917. Obligation of Insured to Pay Premium

A. Unless otherwise cancelled in accordance with the provisions of §4909 herein, nothing in Emergency Rule 49 shall be construed to exempt or excuse an insured from the obligation to pay the premiums otherwise due for actual insurance coverage provided.

B. Those insureds entitled to the benefits, entitlements and protections of Emergency Rule 49 are advised that this suspension is not a waiver, but only an extension or grace period to facilitate your payment of the premium.

C. Insurers are directed to work with and assist their affected insureds who reside in the impacted parishes with the payment of the premium that would have become due during this moratorium period by either establishing for the insured a payment plan for the unpaid premium or providing to the insured a further extension for the payment of the unpaid premium.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4919. Timely Payment of Health Claims

A. Only to the extent necessary to permit the pending of claims during a premium payment delinquency by the insured, the provisions of R.S. 22:1832-1834 and Regulation 74 related to timely payment of claims are hereby suspended.

B. For any policy of insurance described in §4903.B which, as a result of nonpayment of premium, would be subject to cancellation or termination but for the suspension ordered in §4905, the health insurance issuer may pend all claims which would not have been denied under such cancellation or termination until the health insurance issuer receives the delinquent premium payment or until such time

the health insurance issuer is subsequently entitled to cancel or terminate the policy for non-payment of premium.

C. The health insurance issuer shall notify providers of the possibility for denied claims when and insured is in the grace period.

D. Once a health insurance issuer receives the delinquent premium payment during the grace period, all pending claims associated for the time period to which such payment applies shall be processed and adjudicated. The health insurance issuer shall notify the health care provider that the claim is no longer pending and is being processed and adjudicated for payment. Furthermore, the suspension provided for in §4919.A shall be automatically lifted, and all applicable timely payment requirements reinstated upon the date of the payment of premium.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4921. Nonpayment of Health Claims

A. In the event a health insurance issuer pends a claim, as permitted pursuant to Emergency Rule 49, and is subsequently entitled to cancel or terminate a policy for nonpayment of premium, the health insurance issuer shall pay any remaining claims for which payment is required under Emergency Rule 49. After the first month of the grace period has lapsed, the health insurance issuer may deny payment on pended claims for services rendered to the insured during the period of nonpayment.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4923. Insureds Obligation to Cooperate in Claim

Process

A. Emergency Rule 49 shall not relieve an insured who has a claim filed before or during the pendency of Emergency Rule 49 from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to the claim.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4925. Physician Credentialing

A. The commissioner hereby suspends physician credentialing pursuant to R.S. 22:1009 such that there are no credentialing requirements with regard to any and all licensed physicians who provide medical services to insureds identified in §4901.A or §4901.B between 12:01 a.m. on September 9, 2024, and the expiration of Emergency Rule 49 as provided for in §4949.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4927. New Rate or Premium

A. For all health insurance issuers specified in §4901.C, any rate increases that were filed prior to the effective date of Emergency Rule 49, or any rate increase that did not

require a filing with the commissioner regarding which notice had already been sent to the group policyholder prior to the effective date of Emergency Rule 49, may be implemented as scheduled. No other rate increase may be implemented unless approved by the commissioner.

B. For all other insurers, as specified in §4901.B, Emergency Rule 49 shall not affect the right of any insurer to file for and/or implement a new rate or premium for any insurance policy for the types of insurance enumerated in §4903.A if the new rate or premium has been approved by the commissioner of insurance.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4929. Imposition of Interest, Penalty, or Other Charge

A. The commissioner hereby suspends the imposition of any interest, penalty, or other charge and declares that no interest, penalty, or other charge shall accrue or be assessed against any insured as the result of the suspensions ordered in Emergency Rule 49.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4931. Continuation of Health Coverage

A. The commissioner of insurance hereby suspends R.S. 22:1046. In furtherance thereof, a health insurance issuer who has issued a group health insurance policy shall provide to all members or certificate holders under said group policy the option for the continuation of coverage, which said option shall begin on the day after the end the expiration of Emergency Rule 49 as provided for in §4949. This section is only applicable in those situations where the employer to whom the group policy had been issued remains in business and continues to offer said group health insurance to active employees for the duration of Emergency Rule 49.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4933. Prescription Drug Coverage

A. Health insurance issuers shall allow insured individuals to obtain refills of their prescriptions even if the prescription was recently filled, consistent with approval from patients' health care providers and/or pharmacists. This provision does not apply to prescription drugs with a high likelihood of abuse, such as opioids that are restricted to 7-day prescriptions.

B. The commissioner of insurance hereby suspends any provisions in the Louisiana Insurance Code which place restrictions on replacement prescriptions pertaining to mail order prescriptions. Mail order prescriptions shall be mailed to an alternate address if requested by the insured.

C. All health insurance issuers shall waive any and all restrictions relative to out-of-network access to pharmacy services or prescriptions.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4935. Telemedicine Access

A. Health insurance issuers shall waive any coverage limitations restricting telemedicine access to providers included within a plan's telemedicine network.

B. Health insurance issuers shall waive any requirement that the patient and provider have a prior relationship in order to have services delivered through telemedicine.

C. Health insurance issuers shall cover mental health services provided by telemedicine consultation to the same extent the services would be covered if provided through an in-person consultation. This shall not be interpreted to require coverage of telemedicine services that cannot be appropriately provided remotely.

D. Health insurance issuers shall waive any requirement limiting coverage to provider-to-provider consultations only and shall cover telemedicine consultations between a patient and a provider to the extent the same services would be covered if provided in person.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4937. Fraud or Material Misrepresentation

A. Emergency Rule 49 shall not prevent an insurer from cancelling or terminating an insurance policy for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4939. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 49 upon the written request by the insurer setting forth in detail each and every reason for the exemption and then only if the commissioner determines that compliance with Emergency Rule 49 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4941. Sanctions for Violations

A. The commissioner of insurance retains the authority to enforce violations of Emergency Rule 49. Accordingly, any insurer enumerated in Emergency Rule 49, or any other entity doing business in Louisiana and/or regulated by the commissioner of insurance who violates any provision of Emergency Rule 49 shall be subject to regulatory action by the commissioner under any applicable provisions of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4943. Sixty Day Period to Initiate Adjustment of Property Claims

A. In accordance with R.S. 22:1892(A)(3), Hurricane Francine and its aftermath qualifies as a catastrophic loss event that requires insurers to initiate loss adjustment of a property damage claim within thirty (30) days after notification of loss by the insured claimant.

B. In furtherance of R.S. 22:1892(A)(3), the severity of the devastation caused by Hurricane Francine and its aftermath qualifies for an additional thirty (30) days for insurers to initiate loss adjustment of a property claim after notification of loss by the insured claimant.

C. Therefore, insurers shall have a total of sixty (60) days to initiate loss adjustment of a property damage claim after notification of loss by the insured claimant.

D. This declaration is based on the representation that the additional time period is necessary due to the large volume of claims resulting directly from Hurricane Francine and its aftermath, and with the admonition that insurers will promptly identify, evaluate, and resolve these claims. Insurers must continue to provide timely service to their insured claimants by promptly acknowledging receipt of claims and making appropriate assignments for the adjustment of claims.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4945. Authority

A. The commissioner of insurance reserves the right to amend, modify, alter, extend, or terminate all or any portion of Emergency Rule 49.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4947. Severability Clause

A. If any section or provision of Emergency Rule 49 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other section or provision or the application of Emergency Rule 49 to any person or circumstance that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Emergency Rule 49 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§4949. Effective Date

A. Emergency Rule 49 became effective at 12:01 a.m. on September 9, 2024, and shall continue in full force and effect until 11:59 p.m. on September 18, 2024.

AUTHORITY NOTE: Promulgated in accordance with Executive Order Number JML 24-142, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

Timothy J. Temple
Commissioner

2410#006

DECLARATION OF EMERGENCY

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

2024 Recreational Red Snapper Season Closure

Louisiana’s recreational red snapper season was previously set by the Wildlife and Fisheries Commission at its regular March 2024 meeting to be open daily until further notice and subsequently modified on July 7 to a weekends (Friday, Saturday, and Sunday) only season and further modified back to a daily season on August 19. Under the provisions of state management, NOAA Fisheries has delegated season and bag limit authority as well as allocated a quota to Louisiana. Landings estimates generated from the LA Creel program indicate that the annual private recreational and state charter red snapper allocation for Louisiana has been met. In order to avoid further exceeding the established allocation, the season must be closed.

In accordance with the emergency provisions of R.S. 49:962, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency 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 by the commission at its regular March 2024 meeting and in LAC 76:VII.335.G.5 to modify the recreational red snapper season, size, and bag limits under the provisions of NOAA delegated state management, the secretary hereby declares:

The season for the private recreational and state charter harvest of red snapper in Louisiana state waters and federal waters off Louisiana shall close at 11:59 p.m. on October 6, 2024 and shall remain closed until the start of the 2025 season, currently scheduled for May 23, 2025, unless modified. Effective with this closure, no person shall recreationally harvest or possess red snapper whether within or without Louisiana waters.

This modification does not apply to federally permitted charter boats operating under federal law during federally established seasons and under federally established rules for those vessels.

Madison D. Sheahan
Secretary

2410#022

DECLARATION OF EMERGENCY

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

**Opening of the Oyster Season
Little Lake Public Oyster Seed Grounds**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:962, 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 5, 2024, which authorized the secretary of the Department of Wildlife and Fisheries to take emergency action to open public oyster seed grounds or reservations if sufficient quantities of oysters are available and to adjust sack limits, notice is hereby given that the secretary of the Department of Wildlife and Fisheries declares the state-owned water bottoms within the Little Lake Public Oyster Seed Grounds, as described in *Louisiana Administrative Code* (LAC) 76:VII.521, shall open to the harvest of market oyster only at one-half hour before sunrise on Monday, October 14, 2024.

These actions shall not supersede public health closures as ordered by the Louisiana Department of Health.

During this oyster season opening, the following provisions shall be in effect:

1. Any vessel from which any person(s) takes or attempts to take oysters from the public oyster seed grounds described above, shall be restricted to a daily limit of sacks of oysters per vessel. The daily limit shall not exceed 30 sacks of oysters per vessel and the possession limit shall be twice the daily limit. A sack of oysters for the purposes of this Declaration of Emergency shall be defined as the size described in R.S. 56:440. If sacks smaller than the size described in R.S. 56:440 are used, the daily harvest and possession limits shall be based on the number of sacks used, not the size of the sack or other measures. The possession limit shall not apply to vessels operating under a valid Oyster Cargo Vessel Permit, and these properly-permitted vessels shall not harvest oysters while operating under the cargo permit.

2. This opening is limited to harvesting only market oysters for direct sale (sacking).

3. If any person on a vessel takes or attempts to take oysters from the public oyster ground described above, all oysters contained on that vessel will be deemed to have been taken from said seed ground from the time harvest begins until all oysters are off-loaded dockside.

4. All oysters harvested from the seed grounds for the purpose of market shall be uncontaminated, sealed and not gaping as described in R.S. 56:433.

5. All oysters harvested from the seed grounds for the purpose of direct sale shall measure a minimum of 3 inches from hinge to bill as described in R.S. 56:433.

6. Prior to leaving the seed ground with oysters harvested from said area, all oysters must be sacked, the number of sacks recorded in a log book, and each sack shall be properly tagged.

7. All vessels located in the seed grounds during those times between one-half hour after sunset and one-half hour before sunrise must have all oyster scrapers unshackled.

8. Every vessel harvesting oysters from the public oyster seed grounds shall report harvest information to the department no later than 9 p.m. each day fished. Vessels shall provide the following information: Captain's name, date of harvest, oyster harvester number, vessel number, the total number of sacks harvested that day, or the total number of barrels of seed removed, and the oyster harvest area fished. Electronic Reporting shall be required and shall be performed in a manner prescribed by the Department.

The secretary of LDWF is authorized to take emergency action as necessary to:

1. Close areas if oyster mortalities are occurring, to delay the season or close areas where significant spat catch has occurred with good probability of survival, where it is found that there are excessive amounts of non-living reef material in seed oyster loads, if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered.

2. Reopen an area previously closed if the threat to the resource has ended, or open areas if substantial oyster resources are located.

Prior to any action, the secretary shall notify the chair of the commission of the intention to make any or all of the changes indicated above.

Notice of any opening, delaying or closing of a season will be made by public notice at least 72 hours prior to such action unless such closure is ordered by the Department of Health for public health concerns.

Madison D. Sheahan
Secretary

2410#024

Rules

RULE

Department of Children and Family Services Licensing Section

Child Welfare Home Certification—Child Placing Agencies (LAC 67:V.7316)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq., the Department of Children and Family Services (DCFS) has adopted LAC 67:V, Subpart 8, Chapter 73, Child Placing Agencies, Section 7316, DCFS Certified Relative/Kinship Foster Homes.

The department has adopted Section 7316 as pursuant to federal register 88 FR 66700, Title IV-E agencies may claim federal reimbursement for an eligible child who is placed in a relative or kinship licensed or approved foster family home when the agency uses different licensing standards for relative or kinship foster family homes. This Rule is hereby adopted on the day of promulgation and is effective November 1, 2024.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 73. Child Placing Agencies

§7316. DCFS Certified Relative/Kinship Foster Homes

A. Pursuant to federal register 88 FR 66700, Sections 7315.A.1-10, 7315.A.12-14, 7315.B.-C., 7315.E.1.k, 7315.E.4-5, 7315.F.12, 7315.G.1-4, 7315.G.10-15, 7315.N, 7315.P.-R. shall not apply to relative/kinship family homes as defined by child welfare policy and certified by DCFS for foster placement. These homes shall only be required to follow the certification standards detailed in child welfare policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 50:1446 (October 2024), effective November 1, 2024.

David Matlock
Secretary

2410#067

RULE

Department of Children and Family Services Licensing Section

Licensee Portal—Child Residential Care Class B, Residential Homes (Type IV), Child Placing Agencies General Provisions, and Juvenile Detention (LAC 67:V.6956, 7108, 7311, and 7507)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:950 et seq., the Department of Children and Family Services (DCFS) has amended LAC

67:V., Subpart 8, Chapter 69, Child Residential Care, Class B, Section 6956, Chapter 71, Residential Homes-Type IV, Section 7108, Chapter 73, Child Placing Agencies—General Provisions, Section 7311; and repealed LAC 67:V., Subpart 8, Chapter 75, Juvenile Detention Facilities, Section 7507.

The department has amended Sections 6956, 7108, and 7311 in order to implement the licensee portal for the submission of electronic corrective actions plans by the providers. This electronic submission will streamline the corrective action plan approval process for providers. This change does not give the department any additional authority or remove any authority currently held by the department. Section 7507 has been repealed; effective July 1, 2024, the Department of Children and Family Services (DCFS) no longer holds the licensing authority of juvenile detention facilities. This Rule is hereby adopted on the day of promulgation, and is effective November 1, 2024.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 8. Residential Licensing

Chapter 69. Child Residential Care, Class B

§6956. Corrective Action Plans

A. A corrective action plan (CAP) shall be submitted for any and all deficiencies noted by Licensing Section staff regarding any licensing law or standard, or any other required statute, ordinance, or standard. The CAP and related documents shall be submitted using the Sanswrite licensee portal or by a method as requested by the department. The request for submission of the CAP does not restrict the actions which may be taken by DCFS. If the department does not specify an earlier timeframe for submitting the CAP, the CAP shall be submitted within 10 calendar days from the date of the inspection or receipt of the deficiencies, if mailed or emailed. The CAP shall include a description of how the deficiency will be corrected, the date by which correction(s) shall be completed, and outline the steps the provider plans to take in order to prevent further deficiencies from being cited in these areas and the plan to maintain compliance with the licensing standards. If the CAP is not sufficient and/or additional information is required, the provider shall be notified and informed to submit additional information within 3 calendar days. If it is determined that all areas of noncompliance or deficiencies have not been corrected, the department may revoke the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S.46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 50:1446 (October 2024), effective November 1, 2024.

Chapter 71. Residential Homes—Type IV

§7108. Corrective Action Plans

A. A corrective action plan (CAP) shall be submitted for any and all deficiencies noted by Licensing Section staff regarding any licensing law or standard, or any other required statute, ordinance, or standard. The CAP and related documents shall be submitted using the Sanswrite licensee portal or by a method as requested by the department. The

request for submission of the CAP does not restrict the actions which may be taken by DCFS. If the department does not specify an earlier timeframe for submitting the CAP, the CAP shall be submitted within 10 calendar days from the date of the inspection or receipt of the deficiencies, if mailed or emailed. The CAP shall include a description of how the deficiency will be corrected, the date by which correction(s) shall be completed, and outline the steps the provider plans to take in order to prevent further deficiencies from being cited in these areas, and the plan to maintain compliance with the licensing standards. If the CAP is not sufficient and/or additional information is required, the provider shall be notified and informed to submit additional information within 3 calendar days. If it is determined that all areas of noncompliance or deficiencies have not been corrected, the department may revoke the license.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S.46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 43:257 (February 2017), amended LR 50:1446 (October 2024), effective November 1, 2024.

Chapter 73. Child Placing Agencies—General Provisions

§7311. Licensing Requirements—Foster Care, Adoption, Transitional Placing

A. - K.3. ...

L. Corrective Action Plans—Foster Care, Adoption, Transitional Placing

1. A corrective action plan (CAP) shall be submitted for all deficiencies noted by Licensing Section staff regarding any licensing law or standard, or any other required statute, ordinance, or standard. The CAP and related documents shall be submitted using the Sanswrite licensee portal or by a method as requested by the department. The request for submission of the CAP does not restrict the actions which may be taken by DCFS. If the department does not specify an earlier timeframe for submitting the CAP, the CAP shall be submitted within 10 calendar days from receipt of the deficiencies. Receipt of the deficiencies by any staff person constitutes notice to the child-placing agency. The CAP shall include a description of how the deficiency will be corrected, the date by which correction(s) will be completed, and outline the steps the child-placing agency plans to take in order to prevent further deficiencies from being cited in these areas, and the plan to maintain compliance with the licensing standards. If the CAP is not sufficient and/or additional information is required, the provider shall be notified and informed to submit additional information within five calendar days. If it is determined that all areas of noncompliance or deficiencies have not been corrected, the department may revoke the license.

L.2. - N.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 45:359 (March 2019), effective April 1, 2019, LR 46:681 (May 2020), effective June 1, 2020, amended LR 47:350 (March 2021), effective April 1, 2021, repromulgated LR 47:441 (April 2021), amended LR 47:1847 (December 2021), LR 49:848 (May 2023), effective June 1, 2023, amended LR 50:1447 (October 2024), effective November 1, 2024.

Chapter 75. Juvenile Detention Facilities

§7507. Licensing Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1110.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 38:1561 (July 2012), amended LR 38:3104 (December 2012), LR 39:1006 (April 2013), effective July 1, 2013, amended LR 42:395 (March 2016), amended by the Department of Children and Family Services, Licensing Section, LR 45:652 (May 2019), effective June 1, 2019, LR 49:848 (May 2023), effective June 1, 2023, repealed LR 50:1447 (October 2024), effective November 1, 2024.

David Matlock
Secretary

2410#068

RULE

Board of Elementary and Secondary Education

Criminal Background Checks and Reporting Requirements
(LAC 28:LXXIX.123; CXV.501; CXXXI.303,
and Chapter 19)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:LXXIX in *Bulletin 741(Nonpublic)—Louisiana Handbook for Nonpublic School Administrators* and LAC 28:CXV in *Bulletin 741—Louisiana Handbook for School Administrators* and LAC 28:CXXXI in *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. Revisions to Louisiana Revised Statute 17:8.9 and 17:15 require criminal background checks (CBC) for the purposes of certification. The amendments align policy with statute to establish a timeline for implementation of the requirement and reporting requirements for educators and school systems. Further, sanctions and actions applied to educator credentials are updated. Finally, new Praxis exams are being adopted to replace existing exams. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

Chapter 1. Operation and Administration

§123. Personnel

A. - A.3. ...

B. No person who has been convicted of or has pled nolo contendere to a crime listed in R.S. 15:587.1(C) shall be hired by any elementary or secondary school as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or as a temporary, part-time, or permanent school employee of any kind.

1. - 2. Repealed.

C. - D.1. ...

E. - E.2. Repealed.

F. - F.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:15, 17:22(6), 17:391.1-391.10, 17:411, and 17:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2344 (November 2003), amended LR 31:3074 (December 2005), LR 39:1439 (June 2013), LR 44:2132 (December 2018), LR 50:1447 (October 2024).

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 5. Personnel

§501. Criminal Background Checks

A. - A.3 ...

B. No person who has been convicted of or has pled nolo contendere to a crime listed in R.S. 15:587.1(C) shall be hired by a public elementary or secondary school as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or as a temporary, part-time, or permanent employee of any kind, including any person employed to provide cafeteria, transportation, or janitorial or maintenance services by any person or entity that contracts with a school or school system to provide such services.

1. - 2. Repealed.

C. ...

D. - D.2. Repealed.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:15, and 17:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1265 (June 2005), amended LR 33:431 (March 2007), LR 34:607 (April 2008), repromulgated LR 35:443 (March 2009), amended LR 35:1473 (August 2009), LR 39:2200 (August 2013), LR 44:2132 (December 2018), LR 50:1448 (October 2024).

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 3. Initial Teacher Certification

Subchapter B. Testing Required for Certification

§303. Certification Exams and Scores

A. - I.1.d.i. ...

ii. Family and Consumer Sciences (5122), effective 6/8/14 - 8/31/25, score 153; or

iii. Family and Consumer Sciences (5123), effective 9/1/24, score 151.

e. - f. ...

g. Technology Education.

i. Technology Education (0051 or 5051), effective 1/1/12 - 8/31/25, score 159; or

ii. Technology and Engineering Education (5053), effective 9/1/24, score 157.

I.2. - P.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6), R.S. 17:3902, and R.S. 17:8.1-8.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 37:558 (February 2011), LR 38:1951 (August 2012), LR 46:01375 (October 2020), amended LR 48:416 (March 2022), repromulgated LR 48:1018 (April 2022), LR 48:2099 (August 2022), LR 48:2554 (October 2022), LR 48:2730 (November 2022), LR 49:36 (January 2023), repromulgated LR 49:2096 (December 2023), amended LR 50:21 (January 2024), repromulgated LR 50:173 (February 2024), amended LR 50:1448 (October 2024).

Chapter 19. Actions and Sanctions to Louisiana Educator Credentials

§1901. Overview

A. Educator credentials can be sanctioned for a conviction of certain criminal offenses, for the submission of fraudulent documentation, for professional license censure, for failure to meet the standards for effectiveness, or for participation in cheating. This chapter presents the circumstances that result in sanction, the criteria under which reinstatement or issuance may be obtained, and the circumstances under which a credential may be rescinded. Conditions and mandates for issuance and sanction outlined in this Chapter will be the same for all educator credentials issued by the Louisiana Department of Education.

B. The LDOE shall maintain and make available on the department website the identity of any person whose educator credential has been denied, suspended, or revoked for any of the following:

1. The person has been convicted of or has pled nolo contendere to a crime listed in R.S. 15:587.1(C), or any felony, even if adjudication was withheld or a pardon or expungement was granted.

2. The person has been found to have submitted fraudulent documentation to the board or the department as part of an application for a Louisiana credential.

3. The person has been found to have facilitated cheating on any state assessment as determined by the board.

C. The LDOE shall make available on the department website records regarding an individual's credential status, including period(s) of validity, sanctions, and actions. Status shall be determined by documents on file with LDOE that indicate criteria for certification have been met and verify no disqualifying factors as outlined in this Chapter.

D. An educator credential may be rescinded when the LDOE is notified that the credential was issued in violation of law or policy. The department shall notify the educator and may rescind the credential.

E. Annually, BESE shall make available on the board website a report detailing the number of appeals filed with the board for the prior calendar year, the offense upon which the appeal is based, the disposition of each appeal, and the number of teacher certifications or other authorizations to teach issued as the result of all successful appeals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.1, R.S. 17:6, R.S. 17:7(6), R.S. 17:8.7, R.S. 17:8.9, and R.S. 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1750 (July 2022), amended LR 50:1448 (October 2024).

§1903. Definitions

Department or *LDOE*—the Louisiana Department of Education, may also be referenced as LDE.

Records Review—official board procedure for consideration of an educator appeal regarding credential issuance, reinstatement, or sanction.

Rescission—removal of a credential, endorsement, or authorization issued in violation of law or policy. This is not considered a sanction.

Sanction—action or censure imposed upon educator credentials by the LDOE and/or BESE including but not limited to denial, suspension, revocation, reprimand, investigation, or monitor.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6), R.S. 17:8.7, R.S. 17:8.9, and R.S. 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1750 (July 2022), amended LR 50:1448 (October 2024).

§1904. Criminal History Review for Certification

A. Effective beginning January 1, 2025, an applicant for an initial educator credential shall undergo a criminal history record check in accordance with this Section. For an applicant or recipient of an educator credential, the LDOE shall:

1. Request information from the Louisiana Bureau of Criminal Identification and Information, referred to in this Section as the “state bureau,” and the Federal Bureau of Investigation, referred to in this Section as the “federal bureau,” concerning whether the person has been arrested for, convicted of, or pled nolo contendere to any criminal offense.

2. Require and provide the procedure for the submission of a person’s fingerprints to the state bureau, and from the state bureau to the federal bureau, in a form acceptable to the state bureau.

3. Review rap backs in accordance with R.S. 15:587.1 and this Section for any person with an educator credential when the person applies to have a credential renewed, advanced, or otherwise modified.

B. An applicant for an educator credential shall submit required forms to obtain a state and federal criminal history check.

C. Beginning January 1, 2025, an application for certification renewal, advancement, or modification shall require state and federal criminal history checks for individuals for whom LDOE records do not include a state and federal criminal history check for certification purposes within the past five years.

D. The LDOE may require state and federal criminal history checks as otherwise requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:8.7, R.S. 17:8.9, R.S. 17:15, R.S. 15:587.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 50:1449 (October 2024).

§1907. Reporting Requirements

A. An LEA must notify the LDOE upon the termination, resignation, or resignation in lieu of termination of an employee who holds a Louisiana educator credential within 10 days of separation of service when the action results from:

1. conviction or plea of nolo contendere for an offense outlined in R.S. 15:587.1 or for any felony whatsoever;

2. - 4. Repealed.

A.5. - E. ...

F. Upon final conviction or plea of nolo contendere to any felony offense or any offense listed in R.S. 15:587.1(C), an individual who has an educator credential issued by the board or department shall report the fact of the conviction or plea to the LDOE within two business days, exclusive of weekends and holidays.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.1, R.S. 17:6, R.S. 17:7(6), R.S. 17:8.7, R.S. 17:8.9, and R.S. 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1751 (July 2022), amended LR 50:1449 (October 2024).

§1909. Criminal History Reporting

A. ...

B. Court dispositions that are set aside pursuant to Articles 893 or 894 of the *Louisiana Code of Criminal Procedure*, expunged, or first offenders pardon, will be treated as convictions for the purpose of sanction.

C. ...

D. Sanction regarding a credential issued by the LDOE shall apply for the following:

1. - 2. ...

E. Misdemeanor and felony criminal convictions, or plea of nolo contendere, for an offense listed in R.S. 15:587.1 shall be referenced as prohibited convictions for which denial, suspension, and/or revocation is mandated and issuance or reinstatement shall never be considered.

F. With the exception of convictions listed in R.S. 15:587.1, records review eligibility may be considered under the following conditions:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.1, R.S. 17:6, R.S. 17:15, R.S. 17:7(6), R.S. 17:8.7, R.S. 17:8.9, and R.S. 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1752 (July 2022), amended LR 50:31 (January 2024), LR 50:1449 (October 2024).

§1911. Submission of Fraudulent Documents

A. A Louisiana teaching credential will be denied or if currently issued will be suspended if an educator presents fraudulent documentation as part of an application for a credential to BESE or the LDOE.

B. The department will verify prior to determining that an educator has submitted fraudulent documentation as part of an application for a credential. Upon confirmation of the information, the LDOE will deny or suspend the credential pending official board action per sanction proceedings.

C. - D. ...

1. five years have passed since the date of the relevant sanction;

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(6), R.S. 17:6, R.S. 17:8.7, R.S. 17:8.9, and R.S. 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1753 (July 2022), amended LR 50:1449 (October 2024).

§1913. Professional License Censure

A. ...

B. An application for a Louisiana educator credential may be denied if the educator is found to have had a professional credential related to the area of issuance censured by the issuing agency.

C. - E. ...

1. completion of the terms and conditions of censure;

2. attainment of the eligibility for or reinstatement of censured licensure; and

3. compliance with criminal background check provisions where censure was due to potential criminal actions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6), R.S. 17:8.7, R.S. 17:8.9, and R.S. 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1753 (July 2022), amended LR 50:1449 (October 2024).

§1917. Test Irregularities and Test Security Violations

A. - B. ...

1. After an investigation has been completed by the school system, department staff will attempt to contact and inform the educator that the LDOE has information regarding participation in cheating and is proceeding under this Section to sanction the credential.

2. - 5. ...

6. Individuals who have been found to have participated in cheating in the administration of standardized tests, will be reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse by the LDOE. Such individuals will be notified in accordance with this Section.

B.7. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(6), R.S. 17:8.7, R.S. 17:8.9, and R.S. 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1753 (July 2022), amended LR 50:1450 (October 2024).

§1919. Records Review for Appeal of Sanction

A. - I. ...

1. In criminal cases, the felony conviction occurred more than 10 years prior with no additional convictions or repeat offenses, and the conviction does not involve violence, sex, children, or any crime outlined in R.S. 15:587.1.

2. ...

J. An educator meeting criteria for provisional approval will be issued a Louisiana educator credential, appropriate to the qualifications of the educator, and valid for a period of 90 days. The provisional approval is subject to ratification by the board at the next convening meeting of BESE. If a forthcoming records review is not ratified by the board, sanctions may be enforced.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.1, R.S. 17:6, R.S. 17:7(6), R.S. 17:8.7, R.S. 17:8.9, and R.S. 17:3902.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1754 (July 2022), amended LR 50:1450 (October 2024).

Kimberly Tripeaux
Interim Executive Director

2410#047

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Disposal of Coal Combustion Residuals
(LAC 33:VII.Chapter 10)(SW068)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the

secretary has amended the Solid Waste regulations, LAC 33:VII.Chapter 10 (SW068).

This Rule creates a new Chapter in the regulations in order to combine existing state and federal requirements for coal combustion residual (CCR) landfills and/or surface impoundments in Louisiana. This new Chapter adopts by reference the federal CCR Rule promulgated by the Environmental Protection Agency (EPA) at 40 CFR 257 Subpart D, and will include existing state requirements for permitting and other existing state requirements for CCR units, including monitoring and financial assurance. Adoption of the federal Rule will allow LDEQ to obtain delegated authority from EPA for implementing the federal requirements and issuing required permits. Once the Rule is adopted and EPA has delegated authority, regulated CCR units will be able to receive a single permit from LDEQ to meet both programs.

The Environmental Protection Agency (EPA) promulgated the Federal CCR Rule in April 2015, requiring federal regulations for facilities that operate CCR landfill and surface impoundments. In 2016, the WIIN Act was passed by Congress allowing states to manage CCR units under state permitting programs. In order to regulate the CCR units in Louisiana, new regulations are required for operating CCR units in the state. The basis and rationale for this proposed Rule are to provide for a single, merged program implemented under state authority for the regulation of coal combustion residue units in Louisiana. This Rule creates a new Chapter in the regulations in order to combine existing state and federal requirements for CCR landfills and/or surface impoundments. This new Chapter will adopt by reference the federal CCR Rule promulgated by EPA at 40 CFR 257 Subpart D, and will include existing state requirements for permitting and other existing state requirements for CCR units, including monitoring and financial assurance. Adoption of the federal Rule will allow LDEQ to obtain delegated authority from EPA for implementing the federal requirements and issuing required permits. Once the Rule is adopted and EPA has delegated authority, regulated CCR units will be able to receive a single permit from LDEQ to meet both programs. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.B(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 1. Solid Waste Regulations

Chapter 10. Coal Combustion Residuals (CCR) Waste Management

§1001. Applicability

A. Except as provided in LAC 33:VII.1001.B, this Chapter applies to:

1. owners and operators of new and existing coal combustion residuals (CCR) landfills and surface impoundments that dispose of or otherwise engage in solid waste management of CCR generated from the combustion of coal located at electric utilities and independent power producers;

2. owners and operators of new or existing CCR disposal units located off-site of electric utility or independent power producer facilities;

3. owners and operators of inactive CCR surface impoundments located at active electric utilities and independent power producers regardless of the fuel currently used to produce electricity at the facility;

4. a lateral expansion of a CCR landfill or surface impoundment; and

5. any CCR management practice that does not meet the definition of beneficial use of CCR in 40 CFR 257.53.

B. This Chapter does not apply to:

1. owners and operators of CCR landfills that ceased receiving CCR before October 19, 2015;

2. CCR surface impoundments that no longer contain water or can no longer impound liquids;

3. cooling water ponds, process water ponds, wastewater treatment ponds, stormwater holding ponds, or aeration ponds;

4. wastes, including fly ash, bottom ash, boiler slag, and flue gas desulfurization materials, generated at facilities that are not part of an electric utility or independent power producer, such as manufacturing facilities, universities, and hospitals;

5. fly ash, bottom ash, boiler slag, or flue gas desulfurization materials generated primarily from the combustion of fuels (including other fossil fuels) other than coal, for the purpose of generating electricity unless the fuel burned consists of more than 50 percent coal on a total heat input or mass input basis, whichever results in the greater mass feed rate of coal;

6. beneficial use of CCR, as defined in 40 CFR 257.53;

7. CCR placement at active or abandoned, underground, or surface coal mines;

8. owners and operators of municipal solid waste landfills that receive CCR;

9. owners and operators of commercial industrial nonhazardous waste landfill (CINWL) facilities, authorized by an LDEQ state permit issued under LAC 33:VII.Chapters 5 and 7; or

10. the use of *mandatory modifications* as defined in LAC 33:VII.115.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 50:1450 (October 2024).

§1002. Definitions

A. Terms provided in 40 CFR 257.53 are adopted by reference as of July 1, 2022, with the exception of *Aquifer* and *Uppermost Aquifer*. In addition to the definitions referenced above, the definitions listed below will be utilized for this Chapter.

Act—the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.).

Aquifer—a continuous geologic formation, group of formations, or part of a formation that contains enough saturated permeable materials to yield usable quantities of water to wells or springs. For the purposes of these regulations, a usable quantity of water is enough water to yield a groundwater sample within 24 hours after purging a monitoring well.

Contamination (Environmental)—the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

Contamination (Solid Waste)—the admixture of any solid waste with any amount of hazardous waste or any other type of waste not meeting the definition of solid waste.

Department—the Louisiana Department of Environmental Quality as created by R.S. 30:2001 et seq.

Liner—layer or layer(s) of materials beneath and on the sides of a solid waste disposal facility that are designed to restrict the escape of wastes or their constituents from the facility.

Major Modification—any change in a site, facility, process or disposal method, or operation that substantially deviates from the permit or tends to substantially increase the impact of the site, facility, process or disposal method, or operation on the environment.

Minor Modification—any modification that does not meet the criteria for a major modification.

Modification—any change in a site, facility, unit, process or disposal method, or operation that deviates from the specifications in the permit. Routine or emergency maintenance that does not cause the facility to deviate from the specifications of the permit is not considered a modification.

Monitoring Well—any permanent cased hole that is drilled, augured, bored, cored, driven, washed, dug, jetted, or otherwise constructed to obtain hydrologic and water quality data, which is usually installed at or near a known or potential source of groundwater contamination to satisfy regulatory requirements for groundwater monitoring at the regulated units.

Permit—a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, closure or post-closure of a certain facility used or intended to be used to process or dispose of solid waste in accordance with the Act, these regulations, and specified terms and conditions.

Person—an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of the state, interstate body, or the federal government or any agency of the federal government.

Site—the physical location, including land area and appurtenances, of an existing or proposed storage, processing, or disposal facility. A site may consist of a number of facilities, each subject to a permit to process or dispose of solid waste.

Uppermost Aquifer—The geologic formation (excluding the vadose zone) nearest the natural ground surface that is an aquifer, as well as lower (deeper) geologic formations that are aquifers and are hydraulically connected within the facility's property boundary. An aquifer can yield usable quantities of groundwater and for the purposes of this regulation, an aquifer is defined as being capable of yielding a groundwater sample from a monitoring well within 24 hours without purging a monitoring well dry. The upper limit of the uppermost aquifer is measured at a point nearest to the natural ground surface to which the aquifer rises during the wet season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 50:1451 (October 2024).

§1003. CCR Standards

A. The department hereby incorporates by reference 40 CFR Part 257, Subpart D, *Standards for the Disposal of Coal Combustion Residuals in Landfills and Surface Impoundments*, July 1, 2022, except 40 CFR 257.50, 257.51, and all amendments made to the Federal regulations by the July 30, 2018 Final Rule (83 FR 36435), including the addition of 257.90(g).

B. Except as provided in LAC 33:VII.1001, facilities that manage or dispose of CCR generated from the combustion of coal at electric utilities or independent power producers in an existing landfill, or an existing or inactive surface impoundment, shall submit a permit application to the department for a new solid waste permit or a modification to an existing solid waste permit, as applicable, in accordance with LAC 33:VII.Chapter 5, within 365 days of the effective date of this regulation.

C. Except as provided in LAC 33:VII.1001, the disposal or management of CCR in a new or lateral expansion of a CCR landfill or surface impoundment is prohibited unless such activity is authorized by a permit issued in accordance with LAC 33:VII.509, 513, and 517.

D. The duration of any permit issued for the disposal or management of CCR shall be a maximum of 10 years, and shall comply with the requirements of LAC 33:VII.509.D.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 50:1452 (October 2024).

§1004. CCR Permit Requirements

A. Permitting Requirements

1. Any person who processes and/or disposes of CCR shall submit a timely permit application as required under this Chapter and shall operate in compliance with all terms and conditions of the effective permit.

2. All permit application contents listed in LAC 33:VII.519 and all permit conditions listed in LAC 33:VII.529 shall apply for each permit issued under this Chapter.

3. All permits issued to CCR facilities shall be issued with an effective period not to exceed 10 years, and may be issued for a period of less than 10 years in accordance with LAC 33:VII.509.D.2.

a. A renewal application shall be submitted no later than 365 days prior to expiration of the permit in accordance with LAC 33:VII.509.D.2.a., once a permit has been issued for a facility.

b. Submittal of a timely permit renewal application shall administratively extend the effectiveness of the terms and conditions of the current permit until final action is taken on the renewal application.

4. Each facility processing and/or disposing of CCR subject material to the permitting requirements of this Chapter shall operate under a permit for the active life of the facility and duration of post-closure care, until such time the department deems closure and post-closure complete and terminates permit coverage.

5. The owner or operator shall obtain a permit modification in accordance with LAC 33:VII.517 prior to making a change in a CCR unit, or initiating any change that is a deviation from the specifications in 40 CFR Part 257, subpart D and/or the existing permit.

6. The owner/operator of any permitted CCR facility shall submit an application for a permit modification to incorporate any changes necessary to ensure that coal ash units continue to maintain compliance with revised federal CCR standards.

7. All proposed changes in ownership shall comply with the provisions specified in LAC 33:I.Chapter 19.

B. Permit Application Requirements

1. Each CCR permit renewal application or permit modification application shall contain the information required by application forms and instructions prescribed by the department, including the substantive information required by this Section and 40 CFR part 257 subpart D.

2. A new permit application or permit renewal application under this Chapter shall include information in LAC 33:VII.519 and 709.A.-D. All major permit modifications or minor permit modification applications under this Chapter shall be processed in accordance with LAC 33:VII.517.

3. All technical reports in an application shall be prepared and signed by a professional engineer licensed in the state of Louisiana.

4. All certifications and verifications executed by a licensed professional engineer in an application shall be accompanied by all material technical reports relied upon by the professional engineer licensed in the state of Louisiana for certification.

5. Maps shall be provided with the application. In addition, topographic, aerial, and facility layout maps shall be provided that visually describe surrounding features and facility layout and identify unit-related details.

6. The permit application shall include a verification that the design, construction, and operation of the CCR landfill, lateral expansion, or surface impoundment meet the requirements of 40 CFR 257.70-84.

7. Property owner information shall be provided in the application in accordance with LAC 33:VII.519.B.1.

8. Any fee required by LAC 33:VII.Chapter 15 shall be submitted with the permit application.

C. Geology

1. The application shall be prepared and signed in accordance with LAC 33:VII.801 and 803. It shall include a summary of the geologic conditions at the facility and the relation of the geologic units and aquifers to each CCR unit. In addition to the groundwater monitoring requirements of 40 CFR 257.90-98, the requirements of LAC 33:VII.805.A shall also apply.

2. Previously prepared documents shall be submitted by the permit applicant, unless otherwise instructed by the department, but shall be supplemented or updated, as necessary, to provide the requested information.

3. Sources and references for previously prepared documents for permit applications shall be provided.

D. An applicant shall submit documentation in the application demonstrating compliance with applicable land use and/or location restrictions, in accordance with 40 CFR 257.3-1-3-3 and 257.60-64.

E. Design Criteria

1. An applicant shall submit documentation in the permit application demonstrating compliance with applicable design criteria, in accordance with 40 CFR 257.70-74.

a. The liner system beneath a new landfill, or any lateral expansion of a landfill under 40 CFR 257.70(b), shall include a composite geomembrane liner at least 30-mil thick that shall be installed directly above and in uniform contact with a 3 foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec.

b. The liner system beneath a retrofitted or new surface impoundment shall meet the requirements of LAC 33:VII.1004.E.1.a. and include a composite geomembrane liner at least 30-mil thick installed directly above and in uniform contact with a 3 foot recompacted clay liner having a hydraulic conductivity no greater than 1×10^{-7} cm/sec.

2. For new or lateral expansions of CCR landfill and surface impoundments, the owner or operator shall submit subsurface soil information. A sufficient number of borings shall be performed to establish the subsurface stratigraphy and determine geotechnical properties beneath the unit. The borings shall be to a sufficient depth to identify the uppermost aquifer and any underlying hydraulically interconnected aquifer. All borings shall be conducted in accordance with established field exploration methods. The subsurface soil information shall be prepared and included in the application and certified in accordance with 40 CFR Part 257 and LAC 33:VII.803. The subsurface soil information shall include:

a. a lithological description of all borings drilled at the unit location to test soils and characterize groundwater;

b. a unit map drawn to scale showing the surveyed locations and elevations of the borings and monitoring wells;

c. cross-sections prepared from the borings and monitoring wells depicting the generalized strata beneath the unit;

d. boring logs for all soil boring and monitoring wells, including a description of materials encountered and any discontinuities such as fractures, fissures, slickensides, lenses, or seams;

e. a description of the geotechnical data and geotechnical properties of the subsurface soil materials, including the suitability of the soils and strata for the intended uses; and,

f. a demonstration that all geotechnical tests were performed in accordance with industry practice and recognized procedures.

F. The applicant shall submit documentation in the permit application demonstrating compliance with Chapter 10 and 40 CFR Part 257, subpart D, including submittal of the most recent annual inspection report prepared pursuant to 40 CFR 257.83(b)(2) and 257.84(b)(2), certified by a professional engineer in the state of Louisiana.

G. Groundwater Monitoring Zone and Unit Siting

1. Facilities shall monitor the groundwater quality of the entirety of the *uppermost aquifer*, as defined in LAC 33:VII.1002.A., beneath the permitted unit on a semiannual basis.

a. Monitoring wells shall be installed at the facility in accordance with 40 CFR 257.91, and shall be completed and/or plugged and abandoned in accordance with LAC 33:VII.805.A.3.-6.

b. A sufficient number of wells shall be installed in the uppermost aquifer, to ensure the entirety of the zone is monitored. Depending on the thickness of the aquifer, monitoring wells may be required to be installed at the top of aquifer, middle of the aquifer, and/or bottom of the aquifer of use of well screens that encompass the length of the aquifer may be utilized, as long as well screens do not exceed 10 feet in length.

c. The geology beneath the permitted unit shall be characterized as well as the aquifer(s) beneath the permitted unit.

2. If there are statistically significant increases (SSIs) above background concentrations while in detection monitoring, or if there are statistically significant levels (SSLs) above groundwater protection standards while in assessment monitoring, the department may require the installation of additional monitoring wells in the next (deeper) aquifer(s). Additionally, vertical and horizontal delineation of the aquifer(s) shall be required.

a. If there are SSIs or SSLs then monitoring of the uppermost aquifer shall continue.

b. If there are SSIs or SSLs in any portion of the uppermost aquifer zone, monitoring wells shall be installed into the next (deeper) aquifer to ensure groundwater quality beneath the permitted unit.

c. If there are SSIs or SSLs in the aquifer beneath the uppermost aquifer, monitoring wells shall be installed in the next aquifer to determine and monitor groundwater quality beneath the permitted unit.

3. The facility shall monitor all aquifers with groundwater wells on a semiannual basis and address any contamination identified during the investigation/delineation conducted in accordance with Paragraph G.2. of this Section.

4. The base of the CCR unit (surface impoundments, new landfills, or lateral expansions of landfill) shall be at least 5 feet above the uppermost aquifer that is being monitored.

H. Groundwater Monitoring and Corrective Action Information in Permit Applications

1. An applicant shall submit or reference the following information in the permit application:

a. a description and details of the groundwater monitoring system that demonstrates compliance with the requirements of this Chapter; and

b. a description and details of the groundwater sampling and analysis program that demonstrates compliance with the requirements of this Chapter.

2. Detection Monitoring

a. The owner or operator shall submit sufficient information, such as supporting data, analyses, and where applicable, the most recent alternate source demonstration to support a detection monitoring program that meets the requirements of LAC 33:VII.1003.A.

b. In addition to the requirements of LAC 33:VII.1003.A, facilities shall comply with the notification requirements of LAC 33:VII.805.C.6.a.i and ii.

3. Assessment Monitoring

a. If any Appendix III constituents in 40 CFR Part 257 have been detected in the groundwater at SSIs above background concentrations, and no alternate source demonstration has been made before issuance of a permit modification required by LAC 33:VII.1003.B., the owner or operator to support an assessment monitoring program that meets the requirements of this Chapter shall submit:

- i. sufficient information;
- ii. supporting data; and
- iii. analyses.

b. A facility may remain in detection monitoring if an alternate source demonstration is submitted for the SSIs and approved by the department within 90 days of detection of SSIs.

c. If an alternate source demonstration is still under review or additional investigation is ongoing 90 days after the detection of SSIs, the facility shall initiate the assessment monitoring requirements.

d. If the alternate source demonstration is denied, the facility shall initiate the assessment monitoring requirements.

e. In addition to the requirements of this Chapter, when a facility initiates assessment monitoring requirements, the facility shall submit an assessment work plan to the department in accordance with LAC 33:VII.805.D.6.

4. Corrective Action

a. If any Appendix IV constituents in 40 CFR Part 257 have been detected in the groundwater at SSLs above groundwater protection standards, the owner or operator shall submit:

- i. sufficient information;
- ii. supporting data; and
- iii. analyses to establish a corrective action program that meets the requirements of this Chapter and 40 CFR 257.96-98.

b. A facility may remain in assessment monitoring if an alternate source demonstration for the SSLs is submitted and approved by the department within 90 days of identification of the SSLs.

c. If an alternate source demonstration is still under review or additional investigation is ongoing 90 days after the detection of SSLs, the facility shall initiate the corrective action monitoring requirements.

d. If the alternate source demonstration is denied, the facility shall initiate the corrective action requirements.

e. In addition to the requirements of this Chapter, when a facility initiates corrective action requirements, the facility shall submit a plan to the department in accordance with LAC 33:VII.805.D.7.

I. Groundwater Monitoring Parameters

1. A facility shall collect semiannual samples for the parameters set forth in 40 CFR Part 257, Appendix III for detection monitoring.

2. A facility in assessment monitoring shall collect semiannual samples for all the parameters set forth in 40 CFR 257.95(b), Appendix III, and at a minimum, those parameters detected during the 40 CFR Part 257, Appendix IV sampling event. Sampling for all Appendix IV parameters shall occur annually. The results of the semiannual sampling events are to be placed into the facility's operating record.

3. In addition to monitoring the parameters in Paragraphs I.1 and 2 of this Section, the facility shall also monitor groundwater for parameters that provide a reliable indication of the presence of CCR contaminants in the groundwater. The facility shall follow LAC 33:VII.805.C.7.a.i-iv to determine the additional monitoring parameters.

J. Closure and Post-Closure Care Permit Application Information

1. The applicant shall submit documentation in the permit application demonstrating compliance with 40 CFR 257.100-104.

2. Submit closure and post-closure care cost estimate(s) required by LAC 33:VII.Chapter 13.

K. In addition to the requirements of 40 CFR 257.105, the owner or operator shall keep records throughout the term of the permit. These records include applications, notifications, and reports required by this Chapter and 40 CFR 257.105, data, and supplemental information used to complete applications and reports required by this Chapter.

L. Documents that have already been submitted to the department for review and approval or posted on the publicly accessible website prior to the effective date of LAC 33:VII.Chapter 10 shall be submitted to the department upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 50:1452 (October 2024).

§1005. Semiannual Groundwater Monitoring Reports

A. The owner or operator shall submit semiannual groundwater monitoring reports to the department in the format specified by LAC 33:VII.805.C.5.a within 90 days of initiation of the semiannual sampling and analysis events, in addition to the annual groundwater monitoring and corrective action report required, as set forth in 40 CFR 257.90(e). The annual, semiannual, and corrective action groundwater monitoring reports shall comply with the requirements of 40 CFR 257.90(e) and LAC 33:VII.805.C.5.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 50:1454 (October 2024).

§1006. Public Notice and Public Hearing Procedures

A. Public Notice

1. Applicability. This Section applies to permit applications for initial permits, permit renewals, and major modifications of CCR landfills and surface impoundments, which are subject to the requirements of this Chapter. The public notice and public comments requirements in LAC 33:VII.513.B.7. and 8. shall apply to permit applications for initial and renewal permits for CCR landfills and surface impoundments subject to the provisions of this Chapter, as well as major modification and final permit decisions issued pursuant to LAC 33:VII.Chapter 10, except as otherwise provided in this Section.

2. Pre-Application Public Notice

a. Prior to the submittal of a permit application, the applicant shall publish a public notice of intent to submit a

permit application within 45 days prior to submission of the application in accordance with LAC 33:VII.513.B.7.

b. Proof of publication shall be posted on the facility's public CCR website.

3. Post-Application Public Notice

a. After submittal of the permit application to the Louisiana Department of Environmental Quality, Office of Environmental Services, the applicant shall publish a public notice of submission within 45 days after submittal of the application in accordance with LAC 33:VII.513.B.8.

b. Proof of publication shall be posted on the facility's public CCR website.

4. Draft Permit Decision

a. Once an application is deemed technically complete and a draft permit has been prepared, the draft permit shall be submitted for public notice in accordance with LAC 33:VII.513.G. and notification of public notices shall be published on the facility's public CCR website.

b. The draft permit shall be sent to the local public library in the parish where the facility is located, LDEQ regional offices, and/or governing authority for public review.

c. The draft permit shall be made available for public review in the department's electronic document management system.

d. The public comment period will be a minimum of 30 days for permit applications and major modifications.

e. The department will review and consider all public comments received during the public comment period prior to making a final decision on a permit.

5. Final Permit Decision

a. After the public notice period has ended, the department will issue a final decision on the permit in accordance with LAC 33:VII.513.H.

b. No later than 20 days following the issuance of a final permit decision for a standard permit, the department shall publish a notice of final permit decision, in accordance with LAC 33:VII.513.I, on the department's website.

c. The notice will be sent to those persons who commented on the draft permit decision or those who have requested to be provided written notice.

B. Public Hearing

1. Applicability. Any public hearings held by the administrative authority will be conducted in accordance with LAC 33:VII.509.E. A public hearing shall be held for any CCR facility permit if the administrative authority determines, on the basis of comments received and/or other information, that a hearing is necessary or appropriate.

2. The proceedings of all public hearings conducted pursuant to this Section shall be recorded and a copy of the recording, or a verbatim transcript recording, shall be filed in the record of the hearing.

3. The department retains the discretion to hold a public hearing on any permit application that does not require a public hearing.

4. Public notices of public hearings will be published in accordance with LAC 33:VII.509.E.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 50:1454 (October 2024).

§1007. Financial Assurance

A. Financial assurance for CCR units shall be established and maintained for the duration of the active life of the facility, post-closure care period, and any corrective action for known releases when needed in accordance with LAC 33:VII.519.B.8.c.

B. The financial assurance requirements in LAC 33:VII.1303 and 1399 shall apply to CCR units.

C. The financial assurance shall be submitted to the department within 60 days of approval of permit modification or permit application.

D. Updated financial assurance shall be submitted to the department within 60 days of any changes to the cost estimate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 50:1455 (October 2024).

§1008. Enforcement

A. The failure of any person to comply with this Chapter or the terms and conditions of any permit granted or order issued thereunder shall constitute a violation of the Act.

B. CCR units are subject to LAC 33:VII.Chapter 9, if a violation of the Act occurs.

C. Investigation shall be undertaken to determine:

1. whether a violation has occurred or is about to occur;

2. the scope and nature of the violation; and

3. the persons or parties involved.

D. The results of an investigation may be given to any complainant who provided the information prompting the investigation, upon written request and, if advisable, to the person under investigation, if the identity of such person is known.

E. When the administrative authority determines that a violation of the Act or these Chapter 10 regulations or the terms and conditions of any permit issued hereunder has occurred or is about to occur, he shall initiate one or more of the actions set forth in R.S. 30:2025, or as otherwise provided by appropriate rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 50:1455 (October 2024).

Aurelia S. Giacometto
Secretary

2410#031

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Imports and Exports of Hazardous Waste Multi-Rule
and e-Manifest Update
(LAC 33:V.Chapter 1, 1021, Chapter 11, Chapter 13, 1516,
1531, Chapter 38, Chapter 41, and 4911)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.105, 109, 110, 1021, 1101, 1107, 1108, 1113, 1123, 1127, 1301, 1307, 1309, 1516, 1531, 3835, 3855, 3857, 3871, 3877, 3879, 4105, 4143, 4145, and 4911 (Log # HW127ft).

This Rule is identical to federal regulations found in 40 CFR 260.2(b) and (d); 260.4(a); 260.5; 260.11(g) and (g)(1); 261.4(d)(1) and (4), (e)(1) and (4); 261.6(a)(3)(i), and (5); 261.39(a)(5)(i), (iv)-(vi), (ix), and (xi); 261.10(d); 261.12(d); 261.41(c); 262.20(a)(1); 262.21(f)(5)-(8); 262.24(c), (e), and (g)-(h); 262 Subpart H; 263.10 and (d); 263.20(a)(2), (8) and (9), (c), (e)(2), (f)(2), and (g); 263.21(a)-(c), 264.12(a); 264.71(a)(2) and (3), (d), (j), and (l); 264.1086(c)(4)(i) and (d)(4)(i); 265.12(a); 265.71(a)(2) and (3), (d), (j), and (l); 266.70(b); 266.80(a); 273.20; 273.39; 273.40; 273.56; 273.62(a); and 273.70, which are applicable in Louisiana. For more information regarding the federal requirement, contact William Little at (225) 219-3985. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:963.A(2) and (3).

The Rule adopts four federal rules under Subtitle C of the Resource Conservation and Recovery Act (RCRA): three rules related to the import and export of hazardous waste, and one rule related to fees associated with the hazardous waste e-Manifest system submitted solely to the U.S. Environmental Protection Agency (EPA). This Rule incorporates the Imports and Exports of Hazardous Waste Rule, the Confidentiality Determinations for Hazardous Waste Export and Import Documents Rule, the Conforming Changes to Canada-Specific Hazardous Waste Import-Export Recovery and Disposal Operation Codes Rule, and the Hazardous Waste Electronic Manifest User Fee Rule. This Rule:

- amends the existing regulations regarding the import and export of hazardous wastes into and from the United States of America, enables electronic submittal to the EPA of all import and export related documents, and enables electronic validation of consent for export shipments subject to consent requirements;
- applies a confidentiality determination such that no person can assert confidential business information claims for documents related to the import, export, transit of hazardous waste, and export of excluded cathode ray tubes;
- makes conforming changes to regulations related to 12 hazardous waste import and export recovery and disposal operations used in notices submitted to the EPA by U.S.

importers and exporters, and in movement documents that accompany import and export shipments to solely reflect revisions made in Canadian regulations; and

- establishes the methodology the EPA will use to determine the user fees applicable to the national electronic manifest system.

The basis and rationale for this Rule are to mirror federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963(B)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality— Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or individual unit at a treatment, storage, and disposal (TSD) facility under LAC 33:V.706. Definitions appropriate to these rules and regulations, including solid waste and hazardous waste, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

A. - D.4. ...

a. Except as provided in Subparagraphs D.4.b and d of this Section, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of LAC 33:V.Subpart 1 or to the notification requirements of Subsection A of this Section, when:

a.i. - c. ...

d. In order to qualify for the exemption in Subparagraphs D.4.a.i and ii of this Section, the mass of a sample that will be exported to a foreign laboratory, or that will be imported to a U.S. laboratory from a foreign source, shall not exceed 25 kg.

5. Treatability Study Samples

a. Except as provided in Subparagraphs D.5.b and d of this Section, persons who generate or collect samples for the purpose of conducting treatability studies as defined in LAC 33:V.109 are not subject to any requirement of LAC 33:V.Chapters 10, 11, 13, 15, or 49, or to the notification requirements of Subsection A of this Section, nor are such samples included in the quantity determinations of LAC 33:V.1009 and 1013.C when:

a.i. - c.iii.(e). ...

d. In order to qualify for the exemption in Subparagraph D.5.a of this Section, the mass of a sample that will be exported to a foreign laboratory or testing facility, or that will be imported to a U.S. laboratory or testing facility from a foreign source shall not exceed 25 kg.

D.6. - R.8.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq., and in particular, 2186(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007), LR 33:2097 (October 2007), LR 34:614 (April 2008), LR 34:1008 (June 2008), LR 34:1893 (September 2008), LR 34:2395 (November 2008), LR 35:1878 (September 2009), LR 36:2553 (November 2010), LR 38:791 (March 2012), amended by the Office of the Secretary, Legal Division, LR 40:1336 (July 2014), LR 42:2178, 2181 (December 2016), LR 43:1151 (June 2017), repromulgated by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:1523 (August 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:896 (July 2020), LR 47:1851 (December 2021), amended by the Office of the Secretary, Legal Affairs Division LR 50:1456 (October 2024).

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Competent Authorities—Repealed.

* * *

Concerned Countries—the countries of export or import, and any countries of transit.

* * *

Country of Export—any country from which a *transboundary movement of hazardous waste* is planned to be initiated, or is initiated.

Country of Import—any country to which a *transboundary movement of hazardous waste* is planned, or takes place, for the purpose of submitting the waste to *recovery operations* therein.

Country of Transit—any country other than the *exporting* or *importing* country across which a *transboundary movement of hazardous waste* is planned or takes place.

* * *

EPA—United States Environmental Protection Agency.
EPA Acknowledgement of Consent—Repealed.

* * *

Exporting Country—any designated OECD member country from which a *transboundary movement of waste* is planned or has commenced.

* * *

Importing Country—any designated OECD member country to which a *transboundary movement of waste* is planned or takes place for the purpose of submitting the waste to *recovery operations* therein.

* * *

Organization for Economic Cooperation and Development (OECD) Area—Repealed.

* * *

Recovery Operations—activities leading to resource recovery, recycling, reclamation, direct reuse or alternative uses.

* * *

Transboundary Movement—any movement of hazardous waste from an area under the national jurisdiction of one country to an area under the national jurisdiction of another country.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008), LR 34:615 (April 2008), LR 34:1009 (June 2008), LR 34:1894 (September 2008), LR 34:2396 (November 2008), LR 36:1235 (June 2010), repromulgated LR 36:1535 (July 2010), amended LR 36:2554 (November 2010), LR 38:774, 781 (March 2012), repromulgated LR 38:1009 (April 2012), amended by the Office of the Secretary, Legal Division, LR 40:1338 (July 2014), LR 41:2600 (December 2015), LR 42:565 (April 2016), LR 42:2178 (December 2016), LR 43:1138 (June 2017), repromulgated by the Office of the Secretary, Legal Affairs and Criminal Investigation Division, LR 43:1531 (August 2017), LR 46:898 (July 2020), LR 47:1852 (December 2021), amended by the Office of the Secretary, Legal Affairs Division LR 50:1457 (October 2024).

§110. Incorporation by Reference

A. - F.2. ...

G. The following materials are available for purchase from the Organization for Economic Cooperation and Development, Environment Directorate:

1. *Guidance Manual for the Control of Transboundary Movements of Recoverable Wastes*, copyright 2009, Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedures and Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure, IBR, approved for LAC 33:V.Chapter 11.Subchapter B.

2. Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:814 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:656 (April 1998), LR 24:1690 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:270 (February 2000), LR 27:291 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 34:1010 (June 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:899 (July 2020), amended by the Office of the Secretary, Legal Affairs Division LR 50:1458 (October 2024).

Chapter 10. Generators of Hazardous Waste

[Editor's Note: Chapter 10 consolidates and reorganizes the requirements for generators formerly contained in LAC:V.108 and Chapter 11.]

Subchapter B. Recordkeeping and Reporting for Small Quantity Generators and Large Quantity Generators

§1021. Annual Report for Large Quantity Generators

A. - B. ...

C. Exports of hazardous waste to foreign countries are not required to be reported on the annual report. A separate annual report requirement is set forth in 262.83(g), as incorporated by reference at 40 CFR Part 262, Subpart H, which is incorporated by reference in LAC 33:V.Chapter 11.Subchapter B for hazardous waste exporters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:920 (July 2020), amended by the Office of the Secretary, Legal Affairs Division LR 50:1458 (October 2024).

Chapter 11. Manifest, Import and Export Requirements

[Editor's Note: The generator requirements in Chapter 10 et al. were consolidated and reorganized in LAC 33:V.Chapter 10.]

Subchapter A. General

§1101. Applicability

[Editor's Note: Parts of 1101 were either revised or moved to LAC 33:V.1003 as part of the consolidation and reorganization of the generator requirements in LAC 33:V.Chapter 10.]

A. ...

B. Any person who exports or imports hazardous waste shall comply with LAC 33:V.1017 and LAC 33:V.Chapter 11.Subchapter B.

C. ...

D. Manifest Copy Submission Requirements for Certain Interstate Waste

1. Shipments In any case in which the state where waste is generated or transported to a designated facility requires that the waste be regulated as a hazardous waste or otherwise be tracked through a hazardous waste manifest, the designated facility that receives the waste shall, regardless of the state where the facility is located:

a. complete the facility portion of the applicable manifest;

b. sign and date the facility certification;

c. submit a final copy of the manifest to the e-Manifest system for data processing purposes; and

d. pay the appropriate fee per manifest to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in the *Code of Federal Regulations* at 40 CFR 265, Subpart FF (Fees for the Electronic Hazardous Waste Manifest Program), up to date as of July 1, 2021.

E. Applicability of Electronic Manifest System and User Fee Requirements to Facilities Receiving State-Only Regulated Waste Shipments

1. For purposes of this Section, state-only regulated waste means:

a. a nonRCRA waste that a state regulates more broadly under its state regulatory program; or

b. a RCRA hazardous waste that is federally exempt from manifest requirements, but not exempt from manifest requirements under state law.

2. Any case where a state requires a RCRA manifest to be used under state law to track the shipment and transportation of a state-only regulated waste to a receiving facility, the facility receiving such a waste shipment for management shall:

a. comply with the provisions of LAC 33:V.1516.B and C; and

b. pay the appropriate per manifest fee to EPA for each manifest submitted to the e-Manifest system, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in the *Code of Federal Regulations* at 40 CFR 265, Subpart FF (fees for the electronic hazardous waste manifest program), up to date as of July 1, 2021.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:398 (May 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 22:20 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:660 (April 1998), LR 24:1106 (June 1998), LR 24:1693 (September 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:709 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:822 (May 2006), LR 38:782 (March 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:40 (January 2018), LR 46:928 (July 2020), amended by the Office of the Secretary, Legal Affairs Division LR 50:1458 (October 2024).

§1107. Manifest Requirements

A. General Requirements. The revised manifest form and procedures in 40 CFR Parts 260.10, 261.7, 262.20, 262.21,

262.27, 262.32, 262.34, 262.54, and 262.60, shall be effective as of September 5, 2006. As of September 5, 2006, Uniform Hazardous Waste Manifest forms shall be obtained only from EPA-registered and approved sources as identified by the Manifest Registry. Contact the Office of Environmental Services, or access the U.S. Environmental Protection Agency's website to obtain information on EPA-registered and approved sources.

1. A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal, or a treatment, storage, and disposal facility that offers for transport a rejected hazardous waste load, shall prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22 and, if necessary, EPA Form 8700-22A.

A.2. - F.2. ...

3. Restriction on Use of Electronic Manifests. A generator may prepare an electronic manifest for the tracking of hazardous waste shipments involving any RCRA hazardous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the use of the electronic manifest system, except that a generator may sign by hand and retain a paper copy of the manifest signed by hand of the initial transporter, instead of executing the generator copy electronically, enabling the transporter and subsequent waste handlers to execute the remainder of the manifest copies electronically.

4. ...

5. Special Procedures When Electronic Manifest is Unavailable. If a generator has prepared an electronic manifest for a hazardous waste shipment, but the electronic manifest system becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, then the generator shall obtain and complete a paper manifest and if necessary, a continuation sheet (EPA Forms 8700-22 and 8700-22A) in accordance with the manifest instructions, and use these paper forms from this point forward in accordance with the requirements of LAC 33:V.1107.D.

6. ...

7. Reserved.

8. Post-receipt Manifest Data Corrections. Any post-receipt data corrections may be submitted at any time by any interested person after facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest (e.g., waste handler) named on the manifest. Generators may participate in the post-receipt data corrections process electronically by following the process described in LAC 33:V.1516.L, which applies to corrections made to either paper or electronic manifest records.

G. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 12:319 (May 1986), LR 16:220 (March 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:1256 (November 1992), LR 20:1109 (October 1994), LR 21:266, 267 (March 1995), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1693 (September

1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2470 (November 2000), LR 27:42 (January 2001), LR 27:709 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 33:89 (January 2007), repromulgated LR 33:281 (February 2007), amended LR 33:2101 (October 2007), LR 34:622 (April 2008), LR 38:775 (March 2012), amended by the Office of the Secretary, Legal Division, LR 42:566 (April 2016), LR 43:1140 (June 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:928 (July 2020), amended by the Office of the Secretary, Legal Affairs Division LR 50:1458 (October 2024).

§1108. Manifest Tracking Numbers, Manifest Printing, and Obtaining Manifests

A. 40 CFR 262.21, up to date as of July 1, 2021, is hereby incorporated by reference. 40 CFR 262.21 establishes standards and procedures for registrants who apply early to, and obtain approval from, the Director, Office of Solid Waste, US EPA, to print and distribute hazardous waste manifest forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1256 (November 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 36:2274 (October 2010), LR 50:1459 (October 2024).

§1113. Exports of Hazardous Waste

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:944 (September 1995), LR 22:20 (January 1996), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), LR 27:710 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:824 (May 2006), LR 33:2102 (October 2007), LR 34:72 (January 2008), LR 34:622 (April 2008), LR 38:782 (March 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:40 (January 2018), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division LR 46:929 (July 2020), repealed by the Office of the Secretary, Legal Affairs Division LR 50:1459 (October 2024).

§1123. Imports of Foreign Hazardous Waste

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:20 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:824 (May 2006), LR 33:2103 (October 2007), repealed by the Office of the Secretary, Legal Affairs Division, LR 50:1459 (October 2024).

§1125. Unmanifested Foreign Hazardous Waste

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:21 (January 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2103 (October 2007), repealed by the Office of the Secretary, Legal Affairs Division, LR 50:1459 (October 2024).

Subchapter B. Transboundary Shipments of Hazardous Waste

§1127. Transboundary Shipments of Hazardous Waste for Recovery and Disposal

A. Applicability

1. The requirements of this Subchapter shall apply to the transboundary movements of hazardous waste.

2. Any person (including exporter, importer, disposal facility operator, or recovery facility operator) who mixes two or more wastes (including hazardous and nonhazardous wastes) or otherwise subjects two or more wastes (including hazardous and nonhazardous wastes) to physical or chemical transformation operations, and thereby creates a new hazardous waste, becomes a generator and assumes all subsequent generator duties under RCRA and any exporter duties, if applicable, under this Subchapter.

B. Definitions, General Conditions, and Exports and Imports of Hazardous Wastes. Any transboundary movement of hazardous waste shall meet the requirements of the *Code of Federal Regulations* at 40 CFR Part 262, Subpart H (Transboundary Movements of Hazardous Waste for Recovery or Disposal), up to date as of October 1, 2021, which are hereby incorporated by reference.

C. Confidentiality Determinations for Hazardous Waste Export and Import Documents. No claim of business confidentiality may be asserted by any person with respect to information contained in cathode ray tube export documents. The provisions of the *Code of Federal Regulations* at 40 CFR 260.2(d), July 1, 2021, are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 24:661 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2471 (November 2000), LR 27:293 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2103 (October 2007), LR 34:72 (January 2008), LR 34:1012 (June 2008), LR 38:783 (March 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:930 (July 2020), amended by the Office of the Secretary, Legal Affairs Division LR 50:1460 (October 2024).

Chapter 13. Transporters

§1301. Applicability

A. - E. ...

F. A transporter of hazardous waste that is being imported from or exported to any other country for purposes of recovery or disposal is subject to this Chapter and to all other relevant requirements of 40 CFR Part 262, Subpart H, which is incorporated by reference in LAC 33:V.Chapter 11.Subchapter B.

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), LR 24:1694 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 32:824 (May 2006), LR 38:789 (March 2012), amended by the Office of the Secretary, Legal Division, LR 42:567 (April 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:930 (July 2020), amended by the Office of the Secretary, Legal Affairs Division LR 50:1460 (October 2024).

§1307. The Manifest System

A. A transporter may not accept hazardous waste from a generator or another transporter unless it is accompanied by a manifest form (EPA Form 8700-22, and if necessary, EPA Form 8700-22A), signed by the generator in accordance with the provisions of LAC 33:V.1107, or is provided with an electronic manifest that is obtained, completed, and transmitted in accordance with LAC 33:V.1107.A.9, and signed with a valid and enforceable electronic signature as described in LAC 33:V.1107.G. The transportation of any hazardous wastes without a manifest shall be deemed a violation of these regulations and the Act. For exports of hazardous waste subject to 40 CFR Part 262 Subpart H, which is incorporated by reference in LAC 33:V.Chapter 11.Subchapter B, a transporter may not accept hazardous waste without a manifest signed by the generator in accordance with this Chapter, as appropriate, and for exports occurring under the terms of a consent decree issued by EPA on or after December 31, 2016, a movement document that includes all information required by 40 CFR 262.83(d).

B. ...

C. The transporter shall ensure that the manifest accompanies the hazardous waste. The transporter shall ensure that a movement document that includes all information required by 40 CFR 262.83(d) also accompanies the hazardous waste in the case of exports occurring under the terms of a consent issued by EPA to the exporter on or after December 31, 2016. The transporter shall ensure that a movement document that includes all information required by 40 CFR 262.84(d) also accompanies the hazardous waste in the case of imports occurring under the terms of a consent issued by EPA to the country of export or the importer on or after December 31, 2016.

D. - E.1. ...

2. a shipping paper containing all the information required on the manifest (excluding the EPA identification number, generator certification and signature) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by 40 CFR 262.83(d) or 262.84(d) accompanies the hazardous waste;

E.3. - F.1.d. ...

2. rail transporters shall ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports or imports occurring under the terms of a consent issued by EPA on or after December 31, 2016, a movement document that includes all information required by 40 CFR 262.83(d) or 262.84(d) accompanies the hazardous waste at all times;

a. Intermediate rail transporters are not required to sign the manifest, movement document, or shipping paper.

F.3. - G.3. ...

4. for paper manifests only:

a. send a copy of the manifest to the e-Manifest system in accordance with the allowable methods specified in LAC 33:V.1516.B.7; and

b. for shipments initiated prior to the automated export system filing compliance date, when instructed by the exporter to do so, give a copy of the manifest to a United States Customs official at the point of departure from the United States of America.

H. - L. ...

M. Reserved.

N. ...

O. Post-Receipt Manifest Data Corrections. After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. Transporters may participate electronically in the post-receipt data corrections process by following the process described in LAC 33:V.1516.L.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 18:1256 (November 1992), LR 20:1109 (October 1994), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:710 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:824 (May 2006), amended by the Office of the Secretary, Legal Division, LR 42:567 (April 2016), amended by the Office of the Secretary, Legal Affairs Division, LR 50:1460 (October 2024).

§1309. Compliance with the Manifest

A. The transporter shall deliver the entire quantity of hazardous waste which he has accepted from a generator or a transporter, except as provided in Subsection B of this Section, to:

1. ...

2. the alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery;

A.3. - B. ...

1. for a partial load rejection or for regulated quantities of container residues, a copy of the original manifest that includes the facility's date and the signature, the manifest tracking number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the Discrepancy block of the original manifest. The transporter shall retain a copy of this manifest in accordance with LAC 33:V.1311, and give remaining copies of the original to the rejecting facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter shall obtain a new manifest to accompany the shipment, and the new manifest shall include all of the required information in LAC 33:V.1516.C.5.a.(i)-(vi);

2. for a full load rejection that will be taken back by the transporter, a copy of the original manifest which includes the rejecting facility's date and signature and that attests to the rejection, the description of the rejection in the discrepancy block, and the name, address, phone number, and ID number for the alternate facility, or generator, to which the shipment shall be delivered. The transporter shall retain a copy of the manifest and give a copy to the rejecting designated facility. If the original manifest is not used, the transporter shall obtain a new manifest for shipment.

C. - E. ...

F. Emergency Condition. If the hazardous waste cannot be delivered in accordance with Paragraph A.1, 2 or 4 of this Section because of an emergency condition other than rejection of the waste by the designated facility, or alternate designated facility, then the transporter shall contact the generator for further instructions and shall revise the manifest according to the generator's instructions.

G. Transporters without Agency Authority. If the hazardous waste is not delivered to the next designated transporter in accordance with Paragraph A.3 of this Section, and the current transporter is without contractual authorization from the generator to act as the generator's agent with respect to transporter additions or substitutions, then the current transporter shall contact the generator for further instructions prior to making any revisions to the transporter designations on the manifest. Afterwards, the current transporter may make such revisions if:

1. the hazardous waste is not delivered in accordance with Paragraph A.3 of this Section because of an emergency condition; or

2. the current transporter proposes to change the transporter(s) designated on the manifest by the generator, to add a new transporter during transportation, to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety; and

3. the generator authorizes the revision.

H. Transporters With Agency Authority. If the hazardous waste is not delivered to the next designated transporter in accordance with Paragraph A.3 of this Section, and the current transporter has authorization from the generator to act as the generator's agent, then the current transporter may change the transporter(s) designated on the manifest, or add a new transporter during transportation without the generator's prior explicit approval, provided that:

1. the current transporter is authorized by a contractual provision that provides explicit agency authority for the transporter to make such transporter changes on behalf of the generator;

2. the transporter enters in Item 14 of each manifest in which a change is made, the following statement of its agency authority: "Contract retained by generator confers agency authority on initial transporter to add or substitute additional transporters on generator's behalf;" and

3. the change in designated transporters is necessary to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety.

I. Generator Liability. The grant by a generator of authority to a transporter to act as the agent of the generator with respect to changes to transporter designations under

Paragraph B.3 of this Section does not affect the generator's liability or responsibility for complying with any applicable requirement under this Chapter, or grant any additional authority to the transporter to act on behalf of the generator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2472 (November 2000), LR 27:44 (January 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:825 (May 2006), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:930 (July 2020), amended by the Office of the Secretary, Legal Affairs Division LR 50:1461 (October 2024).

Chapter 15. Treatment, Storage, and Disposal Facilities

§1516. Manifest System for Treatment, Storage, and Disposal (TSD) Facilities

A. - B. ...

1. If a facility receives a hazardous waste shipment accompanied by a manifest, the owner or operator, or his or her agent, shall:

- a. sign and date each copy of the manifest;
- b. note any discrepancies in the manifest (as defined in Paragraph C.1 of this Section) on each copy of the manifest;
- c. immediately give the transporter at least one copy of the manifest;
- d. within 30 days after the delivery, send a copy of the manifest to the generator; and
- e. retain at the facility a copy of each manifest for at least three years from the date of delivery.

2. - 3. ...

4. Within three working days of the receipt of a shipment subject to LAC 33:V.Chapter 11.Subchapter B, the owner or operator of the facility shall provide a copy of the movement document bearing all required signatures to the foreign exporter, to the competent authorities of the countries of export and transit that control the shipment as an export and transit of hazardous waste respectively; and on or after the electronic import-export reporting compliance date, to EPA electronically using EPA's Waste Import Export Tracking System (WIETS), or its successor system. The original copy of the movement document must be maintained at the facility for at least three years from the date of signature. The owner or operator of a facility may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on EPA's WIETS, or its successor system, provided that copies are readily available for viewing and production if requested by any EPA or authorized state inspector. No owner or operator of a facility may be held liable for the inability to produce the documents for inspection under this Section if the owner or operator of a facility can demonstrate that the inability to produce the document is due exclusively to technical difficulty with EPA's WIETS, or its successor system, for which the owner or operator of a facility bears no responsibility.

5. The owner or operator of a facility receiving hazardous waste subject to LAC 33:V.Chapter 11.Subchapter B from a foreign source shall:

a. list the relevant consent number from consent documentation supplied by EPA to the facility for each waste listed on the manifest matched to the relevant list number for the waste from Block 9b. (If additional space is needed, the owner or operator should use a continuation sheet(s) (EPA Form 8700-22A)); and

b. send a copy of the manifest within 30 days of delivery to EPA using the addresses listed in 40 CFR 262.82(e), until the facility can submit such a copy to the e-Manifest system according to Paragraph B.7 of this Section.

6. ...

7. **Paper Manifest Submission Requirements.** Beginning on June 30, 2021, the requirement to submit the top copy (page 1) of the paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing may be met by the owner or operator only by transmitting an image file of page 1 of the manifest and any continuation sheet to the EPA system, or by transmitting both a data file and the image file corresponding to page 1 of the manifest and any continuation sheet to the EPA system, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services.

C. - I. ...

J. **Imposition of User Fee for Manifest Submissions.** An owner or operator who is a user of the electronic manifest system may be assessed a user fee by EPA for the submission and processing of each electronic manifest and paper manifest. EPA shall update the schedule of user fees and publish them to the user community, as provided in 40 CFR 264.1313. An owner or operator subject to user fees under this Section shall make user fee payments in accordance with the requirements of 40 CFR 264.1314, subject to the informal fee dispute resolution process of 40 CFR 264.1316, and subject to the sanctions for delinquent payments under 40 CFR 264.1315.

K. ...

L. **Post-Receipt Manifest Data Corrections.** After facilities have certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) shown on the manifest. Interested persons shall meet the requirements of the *Code of Federal Regulations* at 40 CFR 264.71(l), up to date as of July 1, 2021, which are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:825 (May 2006), amended LR 33:2104 (October 2007), LR 34:623 (April 2008), LR 34:1012 (June 2008), LR 38:777, 789 (March 2012), amended by the Office of the Secretary, Legal Division, LR 42:568 (April 2016), LR 43:1141 (June 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:932 (July 2020), amended by the Office of the Secretary, Legal Affairs Division LR 50:1462 (October 2024).

§1531. Required Notices

A. The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source shall submit the notices required by the *Code of Federal*

Regulations at 40 CFR 264.12, October 1, 2021, which are hereby incorporated by reference.

B. Reserved.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 18:1256 (November 1992), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:666 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2473 (November 2000), LR 27:294 (March 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2105 (October 2007), LR 38:789 (March 2012), LR 50:1462 (October 2024).

Chapter 38. Universal Wastes

Subchapter B. Standards for Small Quantity Handlers of Universal Waste

§3835. Exports

A. A small quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of LAC 33:V.Chapter 11.Subchapter B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:573 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:684 (April 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 50:1463 (October 2024).

Subchapter C. Standards for Large Quantity Handlers of Universal Waste

§3855. Tracking Universal Waste Shipments

A. Receipt of Shipments. A large quantity handler of universal waste shall keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste received shall include the following information:

1. - 3. ...

B. Shipments Off-Site. A large quantity handler of universal waste shall keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste sent shall include the following information:

B.1. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:576 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1762 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3121 (December 2005), LR 50:1463 (October 2024).

§3857. Exports

A. A large quantity handler of universal waste who sends universal waste to a foreign destination is subject to the requirements of LAC 33:V.Chapter 11.Subchapter B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:577 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:685 (April 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 50:1463 (October 2024).

Subchapter D. Standards for Universal Waste Transporters

§3871. Exports

A. A universal waste transporter transporting a shipment of universal waste to a foreign destination is subject to the requirements of LAC 33:V.Chapter 11.Subchapter B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:685 (April 1998) amended by the Office of the Secretary, Legal Affairs Division, LR 50:1463 (October 2024).

Subchapter E. Standards for Destination Facilities

§3877. Tracking Universal Waste Shipments

A. The owner or operator of a destination facility shall keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, movement document, or other shipping document. The record for each shipment of universal waste received shall include the following information:

A.1. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:1762 (September 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 31:3121 (December 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 50:1463 (October 2024).

Subchapter F. Import Requirements

§3879. Imports

A. Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of LAC 33:V.Chapter 11.Subchapter B and this Chapter, immediately after the waste enters the United States, as indicated in Paragraphs A.1-3 of this Section.

1. - 3. ...

B. Reserved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:578 (May 1997), amended by

the Office of Waste Services, Hazardous Waste Division, LR 24:685 (April 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 50:1463 (October 2024).

Chapter 41. Recyclable Materials

§4105. Requirements for Recyclable Material

A. - A.1. ...

a. industrial ethyl alcohol that is reclaimed, except that exports and imports of such recyclable materials shall comply with LAC 33:V.Chapter 11.Subchapter B:

i. a person initiating a shipment for reclamation in a foreign country, and any intermediary arranging for the shipment, shall comply with the requirements applicable to a primary exporter in LAC 33:V.Chapter 11.Subchapter B, export such materials only upon consent of the receiving country and in conformance with the Louisiana State Acknowledgment of Consent as defined in LAC 33:V.Chapter 11.Subchapter B, and provide a copy of the Louisiana State Acknowledgment of Consent to the shipment to the transporter transporting the shipment for export;

1.a.ii. - 3. ...

4. Hazardous waste that is exported to or imported for purpose of recovery is subject to LAC 33:V.Chapter 11.Subchapter B.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:219 (March 1990), LR 17:362 (April 1991), repromulgated LR 18:1256 (November 1992), amended LR 18:1375 (December 1992), LR

20:1000 (September 1994), LR 21:266 (March 1995), LR 22:837 (September 1996), LR 23:579 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:685 (April 1998), LR 24:1108 (June 1998), LR 24:1742 (September 1998), LR 25:482 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:713 (May 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 32:608 (April 2006), LR 38:779 (March 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:42 (January 2018), LR 46:945 (July 2020), amended by the Office of the Secretary, Legal Affairs Division LR 50:1464 (October 2024).

§4143. Recyclable Materials Utilized for Precious Metal Recovery

A. - B.4. ...

5. persons who export precious metals to or import precious metals from other countries for recovery are subject to the requirements of LAC 33:V.Chapter 11.Subchapter B and LAC 33:V.4311.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and specifically 2180.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:685 (April 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 32:611 (April 2006), LR 36:2554 (November 2010), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:945 (July 2020), amended by the Office of the Secretary, Legal Affairs Division LR 50:1464 (October 2024).

§4145. Spent Lead-Acid Batteries Being Reclaimed

A. ...

If Your Batteries:	And If You:	Then You:	And You:
1. will be reclaimed through regeneration (such as by electrolyte replacement);		are exempt from LAC 33:V. Subpart 1 except for LAC 33:V. Chapters 1 and 49, and LAC 33:V.1005 and 3105, Table 1, and the notification requirements at Section 3010 of RCRA and LAC 33:V.105;	are subject to LAC 33:V. Chapters 1 and 49 and LAC 33:V.1005 and 3105, Table 1.
2. will be reclaimed other than through regeneration;	generate, collect, and/or transport these batteries;	are exempt from LAC 33:V. Subpart 1 except for LAC 33:V.Chapters 1 and 49, and LAC 33:V.1005 and 3105, Table 1, and the notification requirements at Section 3010 of RCRA and LAC 33:V.105;	are subject to LAC 33:V. Chapters 1 and 49 and LAC 33:V.1005 and 3105, Table 1, and applicable provisions under LAC 33:V.Chapter 22.
3. will be reclaimed other than through regeneration;	store these batteries, but you aren't the reclaimer;	are exempt from LAC 33:V. Subpart 1 except for LAC 33:V.Chapters 1 and 49, and LAC 33:V.1005 and 3105, Table 1, and the notification requirements at Section 3010 of RCRA and LAC 33:V.105;	are subject to LAC 33:V. Chapters 1 and 49 and LAC 33:V.1005 and 3105, Table 1, and applicable provisions under LAC 33:V.Chapter 22.
4. will be reclaimed other than through regeneration;	store these batteries before you reclaim them;	must comply with LAC 33:V.4145.B and, as appropriate, other regulatory provisions described in LAC 33:V.4145.B;	are subject to LAC 33:V. Chapter 49 and LAC 33:V.1005 and 3105, Table 1, and applicable provisions under LAC 33:V.Chapter 22.
5. will be reclaimed other than through regeneration;	don't store these batteries before you reclaim them;	are exempt from LAC 33:V. Subpart 1 except for LAC 33:V. Chapters 1 and 49 and LAC 33:V.1005 and 3105, Table 1, and the notification requirements at Section 3010 of RCRA and LAC 33:V.105;	are subject to LAC 33:V. Chapter 49 and LAC 33:V.1005 and 3105, Table 1, and applicable provisions under LAC 33:V.Chapter 22.

If Your Batteries:	And If You:	Then You:	And You:
6. will be reclaimed through regeneration or any other means.	export these batteries for reclamation in a foreign country.	are exempt from LAC 33:V.Chapters 3, 5, 7, 13, 15, 17,19, 21, 22, 23, 25, 27, 28, 29, 30, 32, 33, 35, 37, and 43, and the notification requirements at section 3010 of RCRA. You are also exempt from LAC 33:V.Chapters 10 (except for 1005 and 1017) and 11 (except for Subchapter B).	are subject to LAC 33:V.Chapters 1 and 49 as applicable and LAC 33:V.1005, 1017, and 3105, Table 1, and LAC 33:V.Chapter 11.Subchapter B.
7. will be reclaimed through regeneration or any other means	transport these batteries in the U. S. to export them for reclamation in a foreign country.	are exempt from LAC 33:V.Chapters 3, 5, 7, 13, 15, 17,19, 21, 22, 23, 25, 27, 28, 29, 30, 31, 32, 33, 35, 37, 41, and 43, and the notification requirements at section 3010 of RCRA.	shall comply with applicable requirements in LAC 33:V.Chapter 11.Subchapter B.
8. will be reclaimed other than through regeneration.	import these batteries from foreign country and store these batteries but you aren't the claimer.	are exempt from LAC 33:V.Chapters 3, 5, 7, 10 (except for 1005 and 1017), 11 (except for Subchapter B), 13, 15, 17,19, 21, 23, 25, 27, 28, 29, 30, 32, 33, 35, 37, and 43, and the notification requirements at Section 3010 of RCRA.	are subject to LAC 33:V. Chapters 1 and 49, LAC 33:V.1005, 1017, and 3105, Table 1, LAC 33:V.Chapter 11.Subchapter B, and applicable provisions under LAC 33:V.Chapter 22.
9. will be reclaimed other than through regeneration.	import these batteries from foreign country and store these batteries before you reclaim them.	shall comply with LAC 33:V.4145.B, and as appropriate other regulatory provisions described in 4145.B.	are subject to LAC 33:V. Chapters 1 and 49, LAC 33:V.1005, 1017, 1103, and 3105, Table 1, LAC 33:V.Chapter 11.Subchapter B, and applicable provisions under LAC 33:V.Chapter 22.
10. will be reclaimed other than through regeneration.	import these batteries from foreign country and don't store these batteries before you reclaim them.	are exempt from LAC 33:V.Chapters 3, 5, 7, 10 (except for 1005), 11 (except for Subchapter B), 13, 15, 17,19, 21, 23, 25, 27, 28, 29, 30, 32, 33, 35, 37, 43, and the notification requirements at Section 3010 of RCRA.	are subject to LAC 33:V. Chapters 1 and 49, LAC 33:V.1005, 1017, and 3105, Table 1, LAC 33:V.Chapter 11.Subchapter B, and applicable provisions under LAC 33:V.Chapter 22.

B. - B.2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 13:237 (April 1987), LR 23:579 (May 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:287 (February 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 32:611 (April 2006), LR 32:830 (May 2006), LR 38:790 (March 2012), amended by the Office of the Secretary, Legal Affairs Division, LR 46:945 (July 2020), LR 50:1464 (October 2024).

Chapter 49. Lists of Hazardous Wastes

[Editor's Note: Chapter 49 is divided into two Sections: category I hazardous wastes, which consist of hazardous wastes from nonspecific and specific sources (F and K wastes), acute hazardous wastes (P wastes), and toxic wastes (U wastes) (LAC 33:V.4901); and category II hazardous wastes, which consist of wastes that are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).]

§4911. Conditional Exclusion for Used, Broken Cathode Ray Tubes (CRTs) Undergoing Recycling

A. - A.5. ...

a. In addition to the applicable conditions specified in Paragraphs A.1-4 of this Section, exports of used, broken CRTs shall comply with the requirements of the *Code of Federal Regulations* at 40 CFR 261.39 (conditional exclusions for used, broken cathode ray tubes (CRTs), and processed CRT glass undergoing recycling), up to date as of July 1, 2021, which is hereby incorporated by reference.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 31:3122 (December 2005), amended LR 34:645 (April 2008), amended by the Office of the Secretary, Legal Affairs Division, LR 41:2601 (December 2015), amended by the Office of the Secretary, Legal Affairs Division, LR 50:1465 (October 2024).

Aurelia S. Giacometto
Secretary

2410#020

RULE

**Office of the Governor
Board of Architectural Examiners**

**General Disciplinary Guidelines
(LAC 46:I.1907)**

Editor's Note: The following Rule is being repromulgated to correct typographical errors upon submission. The original Rule can be viewed in the September 20, 2024 *Louisiana Register* on page 1264.

Notice is hereby given that the Board of Architectural Examiners, in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144.C, has amended LAC 46:I.1907.E pertaining to its General Disciplinary Guidelines.

The amendment to §1907.E concerns the fine which shall be imposed, absent aggravating or mitigating circumstances, upon firms found to have practiced architecture with an expired certificate of authority. For a firm found to have practiced architecture with an expired certificate of authority, the fine imposed will be reduced to \$250 for practicing architecture three months to six months; \$500 for practicing architecture six months to twelve months or fraction thereof, and \$500 per year for practicing architecture for more than one year or fraction thereof. This Rule is hereby adopted on the day of promulgation.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part I. Architects

Chapter 19. Rules of Conduct: Violations
§1907. General Disciplinary Guidelines

A. - D. ...

E. Absent aggravating or mitigating circumstances, the following discipline shall be imposed for the following violations. The maximum penalty for any violation is a \$5,000 fine per violation, revocation, and public reprimand.

Violation	Provision	Discipline
* * *		
Individual practice with an expired license	R.S. 37:152.B provides that no architect shall use his seal or stamp or do any other act as an architect unless he is at the time duly registered. R.S. 37:153.A.3 prohibits practicing architecture at a time when current renewal has not been obtained in accordance with the law.	Fine is based on length of time of such practice: three (3) months to six (6) months - \$500 fine; six (6) months to twelve (12) months or fraction thereof - \$1,000 fine; after one (1) year or fraction thereof, \$1,000 fine per year. Public reprimand.
Firm practice with an expired certificate of authority	R.S. 37:154.A provides that no person, corporation, company, firm, business entity, or individual shall practice, of offer to practice, architecture in this state without being certified in accordance with the provisions of this Chapter or attempt to use an expired certificate of registration.	Fine is based on length of time of such practice: three (3) months to six (6) months - \$250 fine; six (6) months to twelve (12) months or fraction thereof - \$500 fine; after one (1) year or fraction thereof, \$500 fine per year. Public reprimand.
* * *		

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 39:484 (March 2013), amended LR 50:1264 (September 2024), repromulgated LR 50:1466 (October 2024).

Tyson Ducote
Executive Director

2410#021

RULE

Office of the Governor
Board of Home Inspectors

Continuing Education and Standards of Practice
(LAC 46:XL.121 and 319)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:1475(4), notice is hereby given that the Board of Home Inspectors amends LAC 46:XL.121 and 319. The amendment to §121 allows licensed home inspectors to receive continuing education hours for live or interactive streaming classes. It also allows continuing education providers five days to provide a completion certificate to the board. The amendment to §319 adds carbon monoxide detectors to the items requiring inspection. This Rule is hereby adopted on the day of promulgation.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XL. Home Inspectors

Chapter 1. General Rules
§121. Continuing Education; Instructors

A.1. As a condition of license renewal, a licensee, (not renewing a license for the first time) must certify completion of at least 20 hours of continuing education during the previous licensing period, in courses approved by the board. No more than 10 hours of live and or interactive live streaming continuing education credit may be carried over into the following year. Board-approved continuing education instructors may be given continuing education credit for course preparation and other activities as set forth in Paragraph F.3, below.

2. ...

B. Continuing Education Courses

1. - 7.

8. The licensee may receive up to a maximum of 10 hours of continuing education credit per licensing period for any combination of the following types of classes as set forth in Paragraphs 5-8 of this Subsection:

a. online courses;

b. courses given by an unapproved instructor and courses which are outside the scope of the standards of practice but deal with the construction industry;

c. courses designated for pre-licensing education as set forth in §119.C.1 of this Chapter.

9. ...

10. Any remaining balance of continuing education hours must be obtained by participation in live in-person or interactive live-streaming video CE classes taught by a board-certified education provider.

B.11. - F.4.c. ...

5. All continuing education providers shall provide sign-in sheets, whether electronic or otherwise, for LHIs to complete upon entering a class, joining a streaming lecture, or participating online. Within five days of completion of a class, the instructor shall provide the LHI with a certificate of completion. Sign-in sheets and certificates of completion shall include the date and time of the course, the number of hours of credit assigned to each course by the board, and the name of the instructor teaching the course or courses. The continuing education provider shall forward all sign-in sheets to the board immediately upon request by the board.

6. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1477 and R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 36:2860 (December 2010), LR 37:2405 (August 2011), LR 38:2531 (October 2012), LR 40:1003 (May 2014), LR 43:314 (February 2017), LR 43:1911 (October 2017), RS 28:2288 (September 2022), LR 50:1466 (October 2024).

Chapter 3. Standards of Practice
§319. Electrical System

A. - C. ...

D. The home inspector shall report on the presence or absence of smoke detectors and carbon monoxide alarms.

E. - E.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2748 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1691 (August 2004), LR 36:2863 (December 2010), LR 38:2533 (October 2012), LR 41:923 (May 2015), LR 43:1913 (October 2017), LR 50:1467 (October 2024).

Morgan Spinosa
Chief Operating Officer

2410#043

RULE

Office of the Governor
Division of Administration
Office of Group Benefits

Primary Plan of Benefits and
Additional Plans and Operations
(LAC 32:III.105, and V.203, 303, and 503)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., as authorized pursuant to R.S. 42:801 and 42:802, the Office of the Governor, Division of Administration, Office of Group Benefits, amends Chapter 1 of LAC 32:III., Primary Plan of Benefits, and Chapters 2, 3, and 5 of LAC 32:V., Additional Plans and Operations. The revisions amend the Out-of-Pocket Maximums to comply with the federal Inflation Reduction

Act (IRA) which limits plan participants with Medicare Part D coverage to a maximum out-of-pocket amount of \$2,000 for prescription drugs. The revisions also amend these rules to create a division between medical and prescription maximum out-of-pocket amounts to comply with the IRA. This Rule is hereby adopted on the day of promulgation, and the effective date is January 1, 2025.

Title 32

EMPLOYEE BENEFITS

Part III. Primary Plan of Benefits

Chapter 1. Operation of Primary Plan

§105. Out of Pocket Maximums

A. Plan Participants When OGB Is the Primary Payer for All Plan Participants

Out-of-Pocket Maximum Per Benefit Period (Includes All Eligible Copayments, Coinsurance Amounts and Deductibles)		
	Network	Non-Network
Individual:		
Active Employee/Retirees on or after March 1, 2015	\$3,500	No Coverage
Retirees prior to March 1, 2015	\$2,000	No Coverage
Individual, Plus One Dependent:		
Active Employee/Retirees on or after March 1, 2015	\$6,000	No Coverage
Retirees prior to March 1, 2015	\$3,000	No Coverage
Individual, Plus Two or More Dependents:		
Active Employee/Retirees on or after March 1, 2015	\$8,500	No Coverage
Retirees prior to March 1, 2015	\$4,000	No Coverage

B. Plan Participants When Medicare Is the Primary Payer for at Least One Plan Participant

Out-of-Pocket Maximum¹ Per Benefit Period (Includes All Eligible Copayments, Coinsurance Amounts and Deductibles)		
	Network	Non-Network
Individual:		
Active Employee/Retirees on or after March 1, 2015	Medical: \$1,500 Prescription: \$2,000	No Coverage
Retirees prior to March 1, 2015	Medical: \$500 Prescription: \$1,500	No Coverage
Individual, Plus One Dependent (Medicare Paying Primary for One):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$4,000 Prescription: \$2,000	No Coverage
Retirees prior to March 1, 2015	Medical: \$1,500 Prescription: \$1,500	No Coverage
Individual, Plus One Dependent (Medicare Paying Primary for Two):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$2,000 Prescription: \$2,000 per participant	No Coverage
Retirees prior to March 1, 2015	Medical: \$0 Prescription: \$1,500 per participant	No Coverage
Individual, Plus Two or More Dependents (Medicare Paying Primary for One):		

Out-of-Pocket Maximum ¹ Per Benefit Period (Includes All Eligible Copayments, Coinsurance Amounts and Deductibles)		
Active Employee/Retirees on or after March 1, 2015	Medical: \$6,500 Prescription: \$2,000 per participant	No Coverage
Retirees prior to March 1, 2015	Medical: \$2,500 Prescription: \$1,500 per participant	No Coverage
Individual, Plus Two or More Dependents (Medicare Paying Primary for Two):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$4,000 Prescription: \$2,000 per participant	No Coverage
Retirees prior to March 1, 2015	Medical: \$1,000 Prescription: \$1,500 per participant	No Coverage
Individual, Plus Two or More Dependents (Medicare Paying Primary for Three):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$2,500 Prescription: \$2,000 per participant	No Coverage
Retirees prior to March 1, 2015	Medical: \$0 Prescription: \$1,500	No Coverage

¹ Medical Out-of-Pocket Maximum applies to medical expenditures for all Plan Participants and to Prescription expenditures for Plan Participants when OGB is the primary payer. Prescription Out-of-Pocket Maximum applies to each Plan Participant when Medicare is the primary payer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:350 (February 2015), effective March 1, 2015, amended LR 43:2153 (November 2017), effective January 1, 2018, LR 49:1377 (August 2023), LR 50:1467 (October 2024), effective January 1, 2025.

Part V. Additional Plans and Operations
Chapter 2. PPO Plan Structure—Magnolia Open Access Plan

§203. Out of Pocket Maximums

A. Plan Participants When OGB Is the Primary Payer for All Plan Participants

	Active Employee/Retirees on or after March 1, 2015		Retirees prior to March 1, 2015 Without Medicare	
	Network	Non- Network	Network	Non-Network
Individual Only	\$3,500	\$4,700	\$2,300	\$4,300
Individual Plus One Dependent	\$6,000	\$8,500	\$3,600	\$7,600
Individual Plus Two or More Dependents	\$8,500	\$12,250	\$4,900	\$10,900

B. Plan Participants When Medicare Is the Primary Payer for at Least One Plan Participant

Out-of-Pocket Maximums ¹ (Includes All Eligible Copayments, Coinsurance Amounts and Deductibles)					
	Active Employee/Retirees on or after March 1, 2015		Retirees prior to March 1, 2015 Without Medicare		Retirees prior to March 1, 2015 With Medicare
	Network	Non-Network	Network	Non-Network	Network and Non- Network
Individual Only	Medical: \$1,500 Prescription: \$2,000	\$4,700	See Subsection A	See Subsection A	Medical: \$1,300 Prescription: \$2,000
Individual Plus One Dependent (Medicare Paying Primary for One)	Medical: \$4,000 Prescription: \$2,000	\$8,500	Medical: \$1,600 Prescription: \$2,000	\$7,600	Medical: \$3,600 Prescription: \$2,000
Individual Plus One Dependent (Medicare Paying Primary for Two)	Medical: \$2,000 Prescription: \$2,000 per participant	\$8,500	Not Applicable	Not Applicable	Medical: \$1,600 Prescription: \$2,000 per participant
Individual Plus Two or More Dependents (Medicare Paying Primary for One)	Medical: \$6,500 Prescription: \$2,000	\$12,250	Medical: \$2,900 Prescription: \$2,000	\$10,900	Medical: \$5,900 Prescription: \$2,000
Individual Plus Two or More Dependents (Medicare Paying Primary for Two)	Medical: \$4,500 Prescription: \$2,000 per participant	\$12,250	Medical: \$900 Prescription: \$2,000 per participant	\$10,900	Medical: \$3,900 Prescription: \$2,000 per participant
Individual Plus Two or More Dependents (Medicare Paying Primary for Three)	Medical: \$2,500 Prescription: \$2,000 per participant	\$12,250	Medical: \$0 Prescription: \$2,000 per participant	\$10,900	Medical: \$1,900 Prescription: \$2,000 per participant

¹Medical Out-of-Pocket Maximum applies to medical expenditures for all Plan Participants and to Prescription expenditures for Plan Participants when OGB is the primary payer. Prescription Out-of-Pocket Maximum applies to each Plan Participant when Medicare is the primary payer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:355 (February 2015), effective March 1, 2015, amended LR 43:2155 (November 2017), effective January 1, 2018, amended LR 50:1468 (October 2024), effective January 1, 2025.

Chapter 3. Narrow Network HMO Plan Structure—Magnolia Local Plan (in certain geographical areas)

§303. Out of Pocket Maximums

A. Plan Participants When OGB Is the Primary Payer for All Plan Participants

Out-of-Pocket Maximum Per Benefit Period (Includes All Eligible Copayments, Coinsurance Amounts and Deductibles)		
	Network	Non-Network
Individual:		
Active Employee/Retirees on or after March 1, 2015	\$2,500	No Coverage
Retirees prior to March 1, 2015	\$1,000	No Coverage
Individual, Plus One Dependent:		
Active Employee/Retirees on or after March 1, 2015	\$5,000	No Coverage
Retirees prior to March 1, 2015	\$2,000	No Coverage
Individual, Plus Two or More Dependents:		
Active Employee/Retirees on or after March 1, 2015	\$7,500	No Coverage
Retirees prior to March 1, 2015	\$3,000	No Coverage

B. Plan Participants When Medicare Is the Primary Payer for at Least One Plan Participant

Out-of-Pocket Maximum ¹ Per Benefit Period (Includes All Eligible Copayments, Coinsurance Amounts and Deductibles)		
	Network	Non-Network
Individual:		
Active Employee/Retirees on or after March 1, 2015	Medical: \$500 Prescription: \$2,000	No Coverage
Retirees prior to March 1, 2015	Medical: \$0 Prescription: \$1000	No Coverage
Individual, Plus One Dependent (Medicare Paying Primary for One):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$3,000 Prescription: \$2,000	No Coverage
Retirees prior to March 1, 2015	Medical: \$1,000 Prescription: \$1,000	No Coverage

Out-of-Pocket Maximum ¹ Per Benefit Period (Includes All Eligible Copayments, Coinsurance Amounts and Deductibles)		
	Network	Non-Network
Individual, Plus One Dependent (Medicare Paying Primary for Two):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$1,000 Prescription: \$2,000 per participant	No Coverage
Retirees prior to March 1, 2015	Medical: \$0 Prescription: \$1,000 per participant	No Coverage
Individual, Plus Two or More Dependents (Medicare Paying Primary for One):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$5,500 Prescription: \$2,000	No Coverage
Retirees prior to March 1, 2015	Medical: \$2,000 Prescription: \$1,000	No Coverage
Individual, Plus Two or More Dependents (Medicare Paying Primary for Two):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$3,500 Prescription: \$2,000 per participant	No Coverage
Retirees prior to March 1, 2015	Medical: \$1,000 Prescription: \$1,000 per participant	No Coverage
Individual, Plus Two or More Dependents (Three with Medicare Paying Primary):		
Active Employee/Retirees on or after March 1, 2015	Medical: \$1,500 Prescription: \$2,000 per participant	No Coverage
Retirees prior to March 1, 2015	Medical: \$0 Prescription: \$1,000 per participant	No Coverage

¹ Medical Out-of-Pocket Maximum applies to medical expenditures for all Plan Participants and to Prescription expenditures for Plan Participants when OGB is the primary payer. Prescription Out-of-Pocket Maximum applies to each Plan Participant when Medicare is the primary payer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:359 (February 2015), effective March 1, 2015, amended LR 50:1469 (October 2024), effective January 1, 2025.

Chapter 5. PPO/Consumer-Driven Health Plan Structure—Pelican HRA 1000 Plan

§503. Out of Pocket Maximums

A. Plan Participants When OGB Is the Primary Payer for All Plan Participants

Out-of-Pocket Maximum Per Benefit Period (Includes All Eligible Deductibles, Coinsurance Amounts and Copayments)		
	Network	Non-Network
Individual	\$5,000	\$10,000
Family	\$10,000	\$20,000

B. Plan Participants When Medicare Is the Primary Payer for at Least One Plan Participant

Out-of-Pocket Maximum ¹ Per Benefit Period (Includes All Eligible Deductibles, Coinsurance Amounts and Copayments)		
	Network	Non-Network
Individual	Medical: \$3,000 Prescription: \$2,000	\$10,000
Family (Medicare Paying Primary for One)	Medical: \$8,000 Prescription: \$2,000	\$20,000
Family (Medicare Paying Primary for Two)	Medical: \$6,000 Prescription: \$2,000 per participant	\$20,000
Family (Medicare Paying Primary for Three)	Medical: \$4,000 Prescription: \$2,000 per participant	\$20,000

¹ Medical Out-of-Pocket Maximum applies to medical expenditures for all Plan Participants and to Prescription expenditures for Plan Participants when OGB is the primary payer. Prescription Out-of-Pocket Maximum applies to each Plan Participant when Medicare is the primary payer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 41:364 (February 2015), effective March 1, 2015, amended LR 50:1470 (October 2024), effective January 1, 2025.

Heath Williams
Chief Executive Officer

2410#038

RULE

**Department of Health
Bureau of Health Services Financing**

**Pharmacy Benefits Management Program
Drug Shortages
(LAC 50:XXIX.105)**

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XXIX.105 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. This Rule is hereby adopted on the day of promulgation.

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. - C. ...

D. Drug Shortages. Drugs that are not on the list of covered drugs, including drugs authorized for import by the Food and Drug Administration (FDA), may be covered when deemed medically necessary during drug shortages identified by the FDA.

E. Reimbursement Management. The cost of pharmaceutical care is managed through NADAC of the ingredient or through wholesale acquisition cost (WAC) when no NADAC is assigned, and compliance with FUL regulations, 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.

F. Claims Management. The claims management component is performed through the processing of pharmacy claims against established edits. Claim edit patterns and operational reports are analyzed to review the effectiveness of established edits and to identify those areas where the development of additional edits are needed.

1. - 3. Repealed.

G. Pharmacy Program Integrity. Program integrity is maintained through the following mechanisms:

1. retrospective drug utilization review;
2. Lock-In Program for patient education; and
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.

H. Pharmacy Provider Network. Enrolled Medicaid pharmacy providers are required to comply with all applicable federal and state laws and regulations.

I. 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 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 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.

1. - 5. Repealed.

J. POS/PRO-DUR Requirements Provider Participation.

1. Point-of-sale (POS) enrollment amendment and certification is required prior to billing POS/PRO-DUR system. Annual recertification is required.

2. All Medicaid enrolled pharmacy providers will be required to participate in the Pharmacy Benefits Management System.

3. Eligibility verification is determined at the point of sale.

4. Pharmacy providers and prescribing providers may obtain assistance with clinical questions from the University of Louisiana at Monroe.

5. Prescribers and pharmacy providers are required to participate in the educational and intervention features of the pharmacy benefits management system.

K. 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.

L. Disease and Outcomes Management. Disease management will be focused on improving the drug therapy for certain disease states by developing procedures to assure direct interventions and increasing compliance of patients. Patient populations will be targeted for disease therapy monitoring and educational efforts.

M. Peer Counseling and Conference Management. The department will analyze data for individual prescribers and pharmacists. Quality management strategies will be used for peer counseling and conferences with prescribers and/or pharmacists to assure appropriate prescribing and dispensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, 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 43:1180 (June 2017), LR 43:1553 (August 2017), LR 45:570 (April 2019), amended LR 45:665 (May 2019), LR 50:1470 (October 2024).

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.

Michael Harrington, MBA, MA
Secretary

2410#063

RULE

Department of Health Bureau of Health Services Financing

Medical Transportation Program Elevated Level of Care (LAC 50:XXVII.Chapter 5 and Chapter 7)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XXVII.Chapter 5 and Chapter 7 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. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter A. General Provisions

§501. Introduction

A. Non-emergency medical transportation (NEMT) is provided to Medicaid beneficiaries to and/or from a Medicaid covered service or value-added benefit (VAB) when no other means of transportation is available.

NOTE: Repealed.

B. Medicaid covered transportation is available to Medicaid beneficiaries when:

1. the beneficiary is enrolled in a Medicaid benefit program that explicitly includes transportation services;

2. the beneficiary or their representative has stated that they have no other means of transportation; and

3. the beneficiary may utilize the elevated level of care (ELOC) transportation services, often referred to as door through door transportation, which provides assistance beyond the capacity of the beneficiary. ELOC is a higher level of care for beneficiaries with mobility limitations requiring assistance with ambulating independently when using a wheelchair.

C. This Chapter applies to the fee-for-service and managed care programs for the provision of NEMT to and/or from medically necessary Medicaid covered services.

1. ...

2. An elevated level of care NEMT service utilizes fully credentialed NEMT providers who have complied with any advanced training and insurance required by the department, to transport fee-for-service beneficiaries and managed care enrollees to and/or from covered Medicaid 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 47:1638 (November 2021), amended LR 50:1471 (October 2024).

§503. Prior Approval and Scheduling

A. - A.2. ...

B. Elevated level of care wheelchair services require additional approval.

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 47:1639 (November 2021), amended LR 50:1471 (October 2024).

§505. Requirements for Coverage

A. Payment shall only be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the department or its designee and considered the beneficiary's choice of transportation, the level of service required to safely transport the beneficiary (e.g., ambulatory, wheelchair, transfer), and the following hierarchy:

1. - 3. ...

4. for-profit providers who are enrolled in the Medicaid Program.

B. Beneficiaries shall be allowed a choice of transportation for-profit providers as long as it remains the least costly means of transportation.

C. Beneficiaries may request NEMT elevated level of care services to and/or from a Medicaid covered service if medically eligible.

1. - 2. Repealed.

D. Beneficiaries are encouraged to utilize healthcare providers of their choice in the community in which they reside when the beneficiary requires Medicaid reimbursed transportation services.

1. Beneficiaries may seek medically necessary services in another state when it is the nearest option available.

2. In the managed care program, transportation will only be approved to and/or from a healthcare provider within the department's geographic access standards, unless granted an exception by the department or its designee.

E. Beneficiaries and healthcare providers should give advance notice when requesting transportation.

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 47:1639 (November 2021), amended LR 49:877 (May 2023), LR 50:1471 (October 2024).

Subchapter C. Provider Responsibilities

§517. Provider Enrollment

A. ...

B. Non-emergency medical transportation for-profit providers shall have a minimum liability insurance coverage of \$25,000 per person, \$50,000 per accident and \$25,000 property damage policy.

1. - 3. ...

C. As a condition of reimbursement for transporting Medicaid beneficiaries to and/or from healthcare services, gas reimbursement providers must maintain a current valid vehicle registration, the state minimum automobile liability insurance coverage, and a current valid driver's license. Proof of compliance with these requirements must be submitted to the department or its designee during the enrollment process. Gas reimbursement providers are allowed to transport up to five specified Medicaid beneficiaries or all members of one household across all contracted managed care organizations. The provider may not reside at the same physical address as the beneficiary being transported. Individuals transporting more than five Medicaid beneficiaries or all members of one household shall be considered for-profit providers and shall be enrolled as such and comply with all for-profit provider requirements.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1639 (November 2021), amended LR 49:877 (May 2023), LR 50:1472 (October 2024).

Subchapter D. Reimbursement

§523. General Provisions

A. - B. ...

C. Reimbursement for NEMT elevated level of care claims shall be allowed only when accompanied by the completed prior approval form documenting the need for the enhanced level of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:1639 (November 2021), amended LR 50:1472 (October 2024).

Chapter 7. Non-Emergency Ambulance Transportation

§705. Prior Approval and Scheduling

A. The department or its designee must review and approve or deny the transportation requests, prior to scheduling, for beneficiary eligibility and verification of the following:

1. ...

2. that a completed certification of ambulance transportation form is received for the date of service and medical necessity has been determined by a licensed medical provider.

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, Bureau of Health Services Financing, LR 47:1640 (November 2021), amended LR 50:1472 (October 2024).

§707. Reimbursement

A. ...

B. Reimbursement for NEAT claims shall be allowed only when accompanied by the completed certification of ambulance transportation form justifying the need for ambulance services.

C. Medicaid covers medically necessary nonemergency, scheduled, repetitive ambulance services if the ambulance provider or supplier, before furnishing the service to the beneficiary, obtains a certificate of ambulance transportation dated no earlier than 180 days before the date the service is furnished.

D. Reimbursement will not be made for any additional person(s) who must accompany the beneficiary to the medical provider.

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 47:1640 (November 2021), amended LR 50:1472 (October 2024).

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.

Michael Harrington, MBA, MA
Secretary

2410#065

RULE

Department of Health Health Standards Section

Hospitals Licensing Standards
(LAC 48:I.Chapters 93-95)

The Department of Health, Health Standards Section has amended LAC 48:I.Chapters 93-95, and has adopted §9306, §9308, §9575, and §9583 - §9593 as authorized by R.S. 36:254 and R.S. 40:2100-2115. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter A. General Provisions

§9301. Purpose

A. - E.9. ...

F. Free-standing emergency departments (or an entity that holds itself out to the public mainly as a free-standing emergency department) shall not be licensed as a hospital.

G. All registered nurses, licensed practical nurses, and/or certified nurse aides supplied by staffing agencies, shall be provided through licensed nurse staffing agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2399 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1474 (October 2019), LR 46:1682 (December 2020), LR 49:1220 (July 2023), amended by the Department of Health, Health Standards Section, LR 50:1473 (October 2024).

§9303. Definitions

A. The following definitions of selected terminology are used in connection with Chapter 93 through Chapter 96.

Abuse—the infliction of physical or mental injury or the causing of the deterioration of an individual by means including, but not limited to, sexual abuse, or exploitation of funds or other things of value to such an extent that his health or mental or emotional well-being is endangered. Injury may include, but is not limited to: physical injury, mental disorientation, or emotional harm, whether it is caused by physical action or verbal statement or any other act or omission classified as abuse by Louisiana law, including, but not limited to, the *Louisiana Children's Code*.

Accredited—a national accreditation program meeting the requirements of and approved by the Centers for Medicare and Medicaid Services (CMS) in accordance with 42 CFR §488.

Administrator—the person responsible for the operation of the hospital commensurate with the authority conferred by the governing body.

Anesthesiologist—a physician, licensed by the Louisiana State Board of Medical Examiners to practice medicine in this state who has completed postgraduate

residency training in anesthesiology, and is engaged in the practice of such specialty.

Authority Having Jurisdiction (AHJ)—an organization, office, or individual designated by a state or government agency to enforce building codes and other regulations related to construction projects.

Certified Nurse Midwife (CNM)—an advanced practice registered nurse as defined by R.S. 37:913, or current law.

Certified Registered Nurse Anesthetist—an advanced practice registered nurse as defined by R.S. 37:913, or current law.

Cessation of Business—when a hospital is non-operational and stops providing services to the community, other than during a time of declared or non-declared emergency.

Chief Executive Officer (CEO)/Administrator—Repealed.

Clinical Nurse Specialist—an advanced practice registered nurse as defined by R.S. 37:913, or current law.

Deemed Status—a status applied by CMS to a hospital that is accredited by a national accreditation program meeting the requirements of and approved by CMS in accordance with 42 CFR §488.5 or 42 CFR §488.6.

Direct Service Worker—an unlicensed person who provides personal care or other services and support to persons with disabilities or to the elderly to enhance their well-being and which involves face-to-face direct contact with the person.

Emergency Services—services that are usually and customarily available at the respective hospital and that shall be provided immediately to stabilize a medical condition which, if not stabilized, could reasonably be expected to result in the loss of the person's life, serious permanent disfigurement or loss or impairment of the function of a bodily member or organ, or that is necessary to provide for the care of a woman in active labor if the hospital is so equipped and, if the hospital is not so equipped, to provide necessary treatment to allow the woman to travel to a more appropriate facility without undue risk of serious harm.

Employee—Repealed.

Fetal Final Disposition—the burial, cremation, or other disposition of the remains of a human fetus following fetal death in accordance with R.S. 8:651 et seq., or current law.

Health Standards Section (HSS)—the section of the Department of Health that has responsibility for licensing all healthcare facilities in Louisiana that are subject to licensing statutes. The HSS also conducts certification surveys and complaint surveys in programs that are Medicare and/or Medicaid certified.

Hospital—any institution, place, building, or agency, public or private, whether for profit or not, maintaining and operating facilities, 24 hours a day, seven days a week, having a minimum of 10 licensed beds, having staff and equipment sufficient to meet patient needs, and providing hospital services, care and treatment for injured, disabled or sick persons who are admitted with the expectation that he

or she will require hospital care that is expected to span at least two midnights. Except as otherwise noted in these licensing regulations, a hospital shall be primarily engaged in providing inpatient services to inpatients, by or under the supervision of licensed physicians. Having the capacity or potential to provide inpatient hospital services is not the equivalent of actually providing such care. The term hospital does not include the following:

a. physicians' offices, clinics, or programs that are not offsite campus(es) of licensed hospitals, where patients are not kept as bed patients for 24 hours or more;

b. - c. ...

d. hospitalization or care facilities maintained by the state at any of its penal or correctional institutions provided that nothing herein contained shall prevent a penal or correctional institution from applying for licensure of its hospitalization or care facilities;

e. ...

f. infirmaries or clinics maintained solely by any college or university exclusively for treatment of faculty, students, and employees;

g. an urgent care clinic; or

NOTE: Repealed.

h. any other entity licensed for the diagnosis, treatment, or care of persons admitted for overnight stay.

Immediate and Serious Threat—a crisis situation in which the health and safety of patients are at risk. It is a deficient practice which indicates the operator's inability to furnish safe care and services, although it may not have resulted in actual harm. The threat of probable harm is real and important and could be perceived as something which will result in potentially severe temporary or permanent injury, disability or death of patients.

Immediately Available—a person that is onsite and not assigned to any uninterruptible tasks.

License Under Suspensive Appeal—a license against which the department has taken a licensing action and the hospital has filed an administrative appeal.

Licensed Bed—an adult and/or pediatric bed set up or capable of being set up within 24 hours in a hospital for the use of patients, based upon bedroom criteria expressed in these standards. Emergency, labor, delivery, newborn bassinets, surgical/procedure, and recovery room beds are excluded.

Licensed Healthcare Practitioner—a person who is acting within the scope of practice of his/her respective licensing board and/or certifications.

Licensed Nurse—a registered nurse as defined in R.S. 37:913, or current law, or a licensed practical nurse as defined in R.S. 37:961, or current law.

Licensed Practical Nurse (LPN)—a person who practices practical nursing and who is licensed to practice practical nursing in accordance with R.S. 37:961, or current law.

Minor Alteration—Repealed.

Miscarried Child—fetal remains resulting from a spontaneous fetal death that does not require compulsory

registration pursuant to the provisions of R.S. 40:47, or current law.

Mobile Unit—any trailer or self-propelled unit equipped with a chassis on wheels and intended to provide health services at an LDH approved location. These units shall be maintained in good repair and equipped to be moved.

Monolithic Ceiling Construction—a ceiling constructed with a surface free of fissures, cracks, and crevices. Any penetrations such as lights, diffusers, and access panels shall be sealed or gasketed. Lay-in ceilings are not considered monolithic.

Neglect—failure to provide the proper or necessary medical care, nutrition, or other care necessary for a patient's well-being, or any other act or omission classified as neglect by Louisiana law.

New Construction—Repealed.

Non-Operational—when the hospital ceases accepting patients and/or the doors are locked to the public and there is no available patient care staff onsite.

Nurse Practitioner—an advanced practice registered nurse as defined by R.S. 37:913, or current law.

Nurse Staffing Agency (NSA)—any person, partnership, corporation, unincorporated association, or other legal entity, including a digital website/platform or digital smart phone application that employs, assigns, or refers nurses or certified nurse aides to render healthcare services in a healthcare facility for a fee. For purposes of these regulations, NSA does not include the following:

a. A NSA that solely provides services in Louisiana under a contract or other agreement with the state of Louisiana, or any executive branch department or agency thereof, as a result of a declared disaster, emergency, or public health emergency.

b. The federal or state government department or agency that provides nursing staff or certified nurse aides to any healthcare provider setting, evacuation site, or shelter location as a result of a declared disaster, emergency, or public health emergency.

c. An entity that solely provides administrative or consulting services.

Nurses' Call System—a system that audibly and/or visibly transmits calls electronically from its place of origin (e.g., the patient's bed) to the place of receipt (e.g., the nurses' station).

Observation Bed/Unit—Repealed.

Off-Site Campus—all premises on which hospital services (inpatient and/or outpatient) are provided and that are not adjoining to the main hospital buildings or grounds. Each off-site campus of a hospital shall be licensed as a part of the main hospital. An off-site campus must be held out to the public as part of the hospital, appear on the hospital's cost report, and bill using the hospital's national provider identifier number. An off-site campus shall be located within 50 miles of the main hospital campus. Any building separated by a public road, not adjoined by a sky bridge or covered and enclosed walkway, or building not licensed or owned by the hospital is considered offsite.

a. ...

Organ—a structural part of the body that performs a particular function, such as the liver, spleen, digestive organs, reproductive organs, or organs of special sense. For paired organs, each one can function independently of the other.

Outpatient Observation Status—the level of care assigned to a patient when a physician or licensed healthcare practitioner, authorized to do so, prescribes an order for the patient to remain in the hospital for on-going short term treatment, assessment, and reassessment before a decision can be made regarding whether the patient will require further treatment as a hospital inpatient or if they are able to be discharged from the hospital. This status is not considered inpatient level of care.

Physician Assistant—a licensed physician assistant in accordance with R.S. 37:1360.22, or current law.

Physician Assistant-Certified (PA-C)—a licensed physician assistant certified as defined in R.S. 37:1360.22, or current law. For PA-Cs providing care in the NICU, the PA-C shall have 12 months of post graduate NICU experience under the supervision of a neonatologist, and shall be deemed competent as an NICU PA-C by the supervising neonatologist.

Primarily Engaged—a hospital is directly providing inpatient hospital services to inpatients, by or under the supervision of licensed physicians. Inpatient hospital services are services defined in this licensing rule and are provided to inpatients of the hospital as one of the following:

a. - b. ...

Note: Repealed.

* * *

Registered Nurse (RN)—any individual licensed in accordance with R.S. 37:911 et seq., or current law, to engage in the practice of nursing as defined in R.S. 37:913, or current law.

* * *

Therapeutic Recreational Services—services that identify leisure activities and assistance in modifying and adapting identified leisure activities to allow safe participation by the patient as a means to improve quality of life and aid in integration into the community.

Trauma Center—a hospital that is capable of treating one or more types of potentially seriously injured persons and that has been certified as a trauma center by the Department of Health.

* * *

Unlicensed Assistive Personnel (UAP)—any unlicensed, trained personnel who cannot practice independently or without supervision by a RN, including but not limited to, operating and/or procedure room technicians, instrument cleaning and/or sterilization technicians, nursing assistants or orderlies, and mental health technicians.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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), LR 29:2400 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:513 (March 2010), LR 37:3028 (October 2011), LR 38:1413 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1475 (October 2019), LR 49:1221 (July 2023), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1934 (November 2023), amended by the

Department of Health, Health Standards Section, LR 50:1279 (September 2024), LR 50:1473 (October 2024).

§9305. Licensing Process

A. Procedures for Initial Licensing. The LDH is the only licensing authority for hospitals in the state of Louisiana.

1. Any person, organization or corporation desiring to operate a hospital shall make application to the LDH on forms prescribed by the department. Such forms may be obtained electronically via the LDH, HSS website, or from, the LDH, HSS program desk.

2. An initial applicant shall as a condition of licensing:

a. submit a completed initial hospital application packet and other required documents;

b. submit the required nonrefundable licensing fees via the department approved manner. No application packet will be reviewed until payment of the nonrefundable application packet fee. Except for good cause shown, the applicant shall complete all requirements of the application packet process within 90 days of initial submission of the application packet material. Upon 10 working days prior notice, any incomplete or inactive application packets shall be closed. A new application packet will be accepted only when accompanied by a nonrefundable application packet fee.

3. When the required documentation for licensing is approved and the building is approved for full permanent occupancy by the Office of State Fire Marshal (OSFM), a survey of the facility by representatives of HSS shall be conducted at the department's discretion to determine if the facility meets the standards set forth in Chapters 93-96.

4. The HSS shall notify the hospital of the findings of the survey in a statement of deficiencies. If non-compliance is cited, the notice of the requirements for the facility's plan of correction will be included.

5. The hospital shall notify the HSS in writing when the deficiencies have been corrected. Following review of the hospital's Plan of Correction (POC), HSS may schedule an on-site survey of the facility.

6. ...

7. No patient shall be placed in a room that does not meet all patient room licensing criteria and that has not been previously approved by HSS.

8. ...

B. Issuance of a License

1. The agency shall have authority to issue two licenses as described below:

a. full license-issued only to those hospitals that are in substantial compliance with the rules, the standards governing hospitals and the hospital law. The license shall be issued by the department for a period of not more than 12 months for the premises named in the application packet, as determined by the department;

b. ...

i. At the discretion of the department, the provisional license may be extended for an additional period not to exceed 90 days in order for the hospital to correct the noncompliance or deficiencies.

ii. The hospital shall submit a plan of correction to the department for approval and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license.

iii. A follow-up survey shall be conducted prior to the expiration of the provisional license.

a). If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, a full license may be issued.

b). If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license shall expire and the provider shall be required to begin the licensing process again by submitting a new license application packet and fee if no timely informal reconsideration or administrative appeal of the deficiencies is filed pursuant to this Chapter.

2. - 2.a. ...

b. A renewal license shall not be issued, nor will any changes be processed to a hospital's existing license, during the pendency of an administrative suspensive appeal of the department's decision to deny, suspend, or revoke a hospital's license for non-compliance.

2.c. - 3. ...

4. Licenses issued to hospitals with off-site locations shall be inclusive of the licensed off-site beds. In no case may the total number of inpatient beds at the off-site location exceed the number of inpatient beds at the main campus.

C. Licensing Renewal. Licenses shall be renewed at least annually. The renewal application packet shall be sent by the department to the hospital 75 days prior to the expiration of its license. The application packet shall contain all forms required for renewal of the license. A hospital seeking renewal of its license shall:

1. complete all forms and return them to the department at least 30 days prior to the expiration date of its current license; and

2. submit the required annual/delinquent renewal fees. All fees shall be submitted in the manner required by the department and are nonrefundable. All state-owned facilities are exempt from licensing fees.

a. If a hospital fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered.

b. 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 hospital.

D. ...

E. Bed Changes

1. The hospital shall complete and submit the required bed change application packet.

2. For the application packet to be considered complete, the appropriate nonrefundable fee as required by state law shall be submitted to the department in the manner required by the department.

3. At the discretion of the department, signed and dated attestations to compliance with these standards, together with appropriate nonrefundable fees, may be accepted in lieu of an on-site survey.

4. Written approval of the bed increase shall be obtained before patients can be admitted to these beds.

5. No patient shall be placed in a room that does not meet all patient room licensing criteria and that has not been previously approved by HSS.

EXCEPTION: During a declaration of emergency, a hospital may exceed its licensed bed capacity with written notice to the department within five days of the increase.

6. Repealed.

F. Eviction of Hospital. If a hospital is subject to potential eviction proceedings, it shall notify the department within 23 hours of receiving a notice to vacate.

1. - 4. Repealed.

G. Change in Services

1. Prior to the addition or deletion of a service or services, the hospital shall notify the department in writing 45 days prior to implementation, if plan review is required, and 15 days prior to implementation if no plan review is necessary. The hospital shall complete and submit the appropriate service change packet for the service being added, deleted, or changed.

2. At the discretion of the department, signed and dated attestations of compliance with the standards in these Chapters may be accepted in lieu of an on-site survey.

3. Written approval for the service change shall be obtained prior to the area being used for patient care.

H. Off-Site Campuses

1. An applicant adding an off-site campus, as a condition of licensing, shall submit:

a. a completed off-site campus application packet;

b. the required nonrefundable licensing fees in the manner required by the department.

2. Except for good cause shown, all incomplete and inactive application packets shall be closed 90 days after receipt of the initial off-site campus application packet. A new application packet will be accepted only when accompanied by the required nonrefundable application packet fee.

3. ...

4. The off-site campus will be issued a license that is a subset of the hospital's main campus license.

I. Closing Off-Site Campuses. The hospital shall notify the HSS in writing at least 30 days prior to the closure of an off-site campus to include the effective date of closure. The original license of the off-site campus is to be returned to HSS.

J. Duplicate Licenses. The required fee shall be submitted by the hospital for issuing a duplicate facility license.

K. Changes to the License. When changes to the license, such as a name change, address change, or bed reduction are requested in writing by the hospital, the required non-refundable fee and applicable application packet shall be submitted to the HSS.

L. Facility within a Facility

1. - 1.a. ...

b. Administrative offices shall include, but not be limited to medical record rooms and administrative offices.

c. There shall be clearly identifiable and distinguishable signs for each facility.

2. If more than one licensed healthcare provider occupies the same building, premises or physical location, each healthcare provider shall have its own entrance and single identifiable geographic address (e.g., suite number). The separate entrance shall have appropriate signs and shall be clearly identifiable as belonging to a particular healthcare provider. Nothing in these licensing regulations prohibits a healthcare provider occupying the same building, premises, or physical location as another healthcare provider from

utilizing the entrance, hallway, stairs, elevators, or escalators of another healthcare provider to provide access to its separate entrance.

3. - 4. ...

M. Change of Ownership

1. - 1.d....

2. No later than 15 working days after the effective date of the CHOW, the prospective owner(s) or provider representative shall submit to the department a completed CHOW application packet for hospital licensing, included but not limited to, the letter of intent, diagram showing ownership prior to and after the sale, executed legal transaction document, and a licensing fee consistent with state law. The hospital license is not transferable from one entity or owner(s) to another.

3. A hospital that holds provisional licensure or is under license suspension, revocation, denial, or termination may not undergo a CHOW.

4. A CHOW of the hospital shall not be submitted at time of the annual renewal of the hospital's license.

N. ...

1. Submission of Plans

a. **New Construction.** All new construction shall be done in accordance with the specific requirements of the OSFM and the Office of Public Health (OPH). The requirements cover new construction in hospitals, including submission of preliminary plans and the final work drawings and specifications to each of these agencies. Plan review shall be performed in accordance with the rules and regulations established by the OSFM. Plans and specifications shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer and shall include scaled architectural plans stamped by an architect.

b. **Hospitals.** No hospital shall hereafter be licensed without the prior written approval of, and unless in accordance with plans and specifications approved in advance by the OSFM. This includes new construction, additions, renovations, or any change in service or hospital type (e.g., acute care hospital to psychiatric hospital, outpatient surgical services to inpatient, adult care to pediatric), or the establishment of a hospital in any healthcare facility or former healthcare facility.

c. - d. Repealed.

2. Approval of Plans

a. Notice of satisfactory review from the OSFM constitutes compliance with this requirement if construction begins within 180 days of the date of such notice. This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, ordinances, codes or rules of any responsible agency.

b. In the event that submitted materials do not appear to satisfactorily comply with the 2014 Edition of the Facility Guidelines Institute (FGI), Guidelines for Design and Construction of Hospitals and Outpatient Facilities, as adopted by the OSFM for building design and construction, the OSFM shall notify the party submitting the plans in writing, the particular items in question and request further explanation and/or confirmation of necessary modifications.

N.3. - P. ...

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 16:971 (November 1990), LR 21:177 (February 1995), LR 29:2401 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1413 (June 2012), RS 40:1722 (January 2016), amended by the Department of Health, Health Standards Section, LR 50:1475 (October 2024).

§9306. Statement of Deficiencies

A. Notice to hospital of statement of deficiencies. When the department has reasonable cause to believe through an on-site survey, a complaint investigation, or other means that there exists or has existed a threat to the health, safety, or welfare of a hospital patient, the department shall give written notice of the deficiencies.

B. The department shall send written notice to the hospital administrator.

C. The department's written notice of deficiencies shall be consistent with the findings delineated at the exit conference and shall:

1. specify the deficiencies;

2. cite the legal authority that established such deficiencies; and

3. inform the administrator that the hospital has 10 calendar days from receipt of written notice within which to request a reconsideration of the cited deficiencies.

D. Unless otherwise provided in statute or in this licensing rule, a facility shall have the right to an informal reconsideration of any deficiencies cited as a result of any survey or investigation. The right to an informal reconsideration of any deficiencies cited as a result of any survey or investigation shall not be afforded to Emergency Medical Treatment and Labor Act or deemed hospital providers with condition level deficiencies.

1. Correction of the violation, noncompliance, or deficiency shall not be the basis for the reconsideration.

2. The facility's written request for informal reconsideration shall be considered timely if received within 10 calendar days of facility's receipt of the statement of deficiencies.

3. The request for informal reconsideration of the deficiencies shall be made to the department's Health Standards Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., or current law, and as provided 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 provider shall be notified in writing of the results of the informal reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:1477 (October 2024).

§9307. Cessation of Business

A. Except as provided in §9308.A-C.9 of these licensing regulations, a license shall be immediately null and void if a hospital ceases to operate.

1. - 3. Repealed.

B. A cessation of business is deemed to be effective with the date on which the hospital stopped providing services to the community.

C. Upon the cessation of business, the hospital shall immediately return the original license to the department.

D. Cessation of business is deemed to be a voluntary action on the part of the hospital. The hospital does not have the right to appeal a cessation of business.

E. The hospital shall notify the department in writing 30 days prior to the effective date of the closure or cessation. In addition to the notice, the hospital 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 provider's patient medical records; and

3. 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;

4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing provider, at least 15 days prior to the effective date of closure.

F. If a hospital fails to follow these procedures, the owners, managers, officers, directors, and administrators may be prohibited from opening, managing, directing, operating, or owning a hospital for a period of two years.

G. Once the hospital has ceased doing business, the hospital shall not provide services until the hospital has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2404 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1477 (October 2024).

§9308. Inactivation of Facility License

A. Inactivation of license due to declared disaster or emergency.

1. A hospital licensed in a parish that 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:

a. the hospital shall submit written notification to the HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

i. the hospital 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;

ii. the facility intends to resume operation as a hospital facility in the same service area;

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

iv. includes an attestation that all patients have been properly discharged or transferred to another provider; and

v. provides a list of each patient's name and the location where that patient has been discharged or transferred;

b. the facility resumes operating as a hospital in the same service area within one year of the issuance of such an executive order or proclamation of emergency or disaster;

EXCEPTION: If the hospital requires an extension of this timeframe due to circumstances beyond the hospital's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the hospital's active efforts to complete construction or repairs and the reasons for request for extension of the hospital's inactive license. Any approval for extension is at the sole discretion of the department.

c. the hospital continues to pay all fees and costs due and owed to the department including, but not limited to:

i. annual licensing fees; and

ii. outstanding civil monetary penalties; and

d. the hospital continues to submit required documentation and information to the department, including but not limited to cost reports.

2. Upon receiving a completed written request to inactivate a hospital license, the department shall issue a notice of inactivation of license to the hospital.

3. Upon completion of repairs, renovations, rebuilding, or replacement of the facility, a hospital that 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:

a. the hospital shall submit a written license reinstatement request to the licensing agency of the department as soon as possible prior to the anticipated date of reopening to allow for the scheduling of a licensing survey;

b. the license reinstatement request shall include a completed licensing application packet with appropriate non-refundable licensing fees, approval from the OPH and the OSFM, and plan review, if applicable; and

c. the facility resumes operating as a hospital in the same service area within one year.

4. Upon receiving a completed written request to reinstate a hospital license, the department shall schedule a licensing survey. If the hospital meets the requirements for licensure and the requirements under this Subsection, the department shall issue a notice of reinstatement of the hospital license.

5. No change of ownership (CHOW) of the hospital shall occur until such hospital has completed repairs, renovations, rebuilding, or replacement construction and has resumed operations as a hospital.

6. The provisions of this Subsection shall not apply to a hospital which has voluntarily surrendered its license and ceased operation.

7. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the hospital license.

B. Partial inactivation of license due to declared disaster or emergency.

1. A hospital licensed in a parish that 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 be allowed to continue to provide hospital services in areas of the hospital that did not sustain damage.

2. The hospital shall notify the LDH, HSS of its intent to continue providing services and request an inspection of the areas, by the OSFM, OPH, and HSS.

3. The hospital shall provide in writing its plan to provide services and staff.

C. Inactivation of licensure due to a non-declared disaster or emergency.

1. A hospital in an area or areas that have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

a. the hospital shall have submitted written notification to the HSS within 30 days of the date of the non-declared emergency or disaster stating that:

i. the hospital has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

ii. the facility intends to resume operation as a hospital in the same service area;

iii. the hospital attests that the non-declared emergency or disaster is the sole causal factor in the interruption of the provision of services.

iv. the hospital's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding, or replacement of the facility; and

b. pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

c. the hospital 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

d. the hospital continues to submit required documentation and information to the department, including but not limited to cost reports.

2. Upon receiving a completed written request to temporarily inactivate a hospital license, the department shall issue a notice of inactivation of license to the hospital.

3. Upon receipt of the department's approval of request to inactivate the hospital's license, the hospital shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility, if applicable, to OSFM and OPH as required.

4. The facility shall resume operating as a hospital in the same service area within one year of the approval of renovation/construction plans by the OSFM and the OPH as required.

EXCEPTION: If the hospital requires an extension of this timeframe due to circumstances beyond the hospital's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the hospital's active efforts to complete construction or repairs and the reasons for request for extension of the hospital's inactive license. Any approval for extension is at the sole discretion of the department.

5. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a hospital that 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:

a. the hospital shall submit a written license reinstatement request to the licensing agency of the department;

b. 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, where applicable; and

c. the license reinstatement request shall include a completed licensing application packet with appropriate licensing fees.

6. Upon receiving a completed written request to reinstate a hospital license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the hospital has met the requirements for licensure including the requirements of this Subsection.

7. No change of ownership of the hospital shall occur until such hospital has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as a hospital.

8. The provisions of this Subsection shall not apply to a hospital that has voluntarily surrendered its license and ceased operation.

9. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the hospital license.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:1478 (October 2024).

§9309. Exceptions

A. - A.1. ...

2. If a hospital is accredited by a CMS recognized accrediting organization, the department shall accept such accreditation in lieu of its annual on-site re-survey. This accreditation will be accepted as evidence of satisfactory compliance with all provisions except those expressed in §9305.O and P.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S.36:254 and 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 29:2404 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1479 (October 2024).

Subchapter B. Hospital Organization and Services

§9317. Governing Body

A. The hospital shall have either an effective governing body or individual(s) who are legally responsible for the conduct of the hospital operations, including the conduct of all hospital staff, contracted, direct, or otherwise. In the absence of an organized governing body, there shall be written documentation that identifies the individual(s) who are legally responsible to carry out the functions specified in this part that pertain to the governing body. No contracts/arrangements or other agreements may limit or diminish the responsibility of the governing body.

B. - B.6. ...

C. The governing body and/or their designee(s) shall develop and approve policies and procedures which define and describe the scope of services offered. They shall be revised as necessary and reviewed at least every two years.

D. ...

E. In addition to requirements stated herein, all licensed hospitals shall comply with applicable local, state, and federal laws and regulations, including but not limited to:

1. the Safe Haven Act;
2. criminal background history checks;
3. direct service worker registry checks of non-licensed personnel; and
4. preventing, responding to, reporting, and mitigating instances of healthcare workplace violence.

F. - F.2. ...

3. The off-site campus functions as a department of the hospital.

4. The hospital shall submit documentation from the accrediting body that it recognizes the off-site campus as part of the hospital.

5. - 5.b....

c. the off-site campus director or the individual responsible for the day-to-day operations at the site is accountable to the provider's chief executive officer and reports through that individual to the provider's governing body; and

d. ...

6. All components of a single provider institution shall comply with applicable state licensing laws.

G. If emergency services are not provided at the hospital, the governing body shall assure that the medical staff has written policies and procedures for appraisal of emergencies, initial treatment, and transfer as appropriate. The governing body shall ensure exterior signage is present and viewable by the public stating that the hospital does not provide emergency services.

1. These policies and procedures shall address at a minimum the following:

a. needed emergency equipment and drugs to include but not be limited to, suction, oxygen, and artificial manual breathing unit (AMBU) bag;

b. training and competence of staff appropriate to the approved use of emergency equipment and drugs;

c. ...

d. rendering lifesaving first aid; and

e. making appropriate referrals to hospitals that are capable of providing needed services, inclusive of a parent surrendering an infant in accordance with the provisions of the Safe Haven Act.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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, Health Standards Section, LR 50:1479 (October 2024).

§9319. Patient Rights and Privacy

A. - A.8. ...

9. the patient's rights include being informed of his/her health status, including whether being admitted as an inpatient or being kept on observation status, being involved

in care planning and treatment, and being able to request or refuse treatment. This right shall not be construed as a mechanism to demand the provision of treatment or services deemed medically unnecessary or inappropriate;

10. - 14. ...

15. the right to access information contained in his/her medical records within a reasonable time frame in accordance with the requirements in §9387;

16. - 18. ...

19. the right to examine and receive an explanation of the patient's hospital bill regardless of source of payment, and may receive upon request, information relating to financial assistance available through the hospital. Such explanation shall include information in relation to balance billing disclosure in accordance with R.S. 22:1880 et seq., or current law;

20. the right to be informed in writing about the hospital's policies and procedures for initiation, review and resolution of patient complaints/grievances, including the address and telephone number of where complaints/grievances may be filed with the department;

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;

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; and

24. the right to be informed of the visitation policies of the hospital including any clinical restriction or limitation on such rights; and to receive visitors whom the patient designates, including, but not limited to, a spouse, a domestic partner, another family member, or a friend; and the patient's right to withdraw or deny such consent at any time.

B. ...

C. The policies on patient rights and responsibilities shall also provide that patients who receive treatment for a miscarried child have the option of fetal final disposition in accordance with R.S. 8:651 et seq or current law.

D. Hospital staff assigned to provide direct patient care shall be informed of and demonstrate their understanding of the policies on patient rights and responsibilities through orientation and appropriate in service training activities.

E. The hospital shall report allegations of patient abuse, neglect, and/or exploitation in writing to HSS on the HSS approved form within 24 hours of discovery. The hospital's final internal investigation shall be completed and submitted to HSS within five business days of the initial report.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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), amended by the Department of Health, Health Standards Section, LR 50:1480 (October 2024).

§9321. Medical Staff

A. The medical staff develops and adopts bylaws and rules for self-governance of professional activity and accountability to the governing body. In addition to physicians and dentists, the medical staff membership shall include licensed healthcare practitioners as appropriate to adequately meet the needs of the patients served by the hospital. The bylaws and rules shall contain provisions for at least the following.

1. The medical executive committee shall:

a. develop the structure of the medical staff and categories of membership;

b. develop and implement a mechanism to review credentials, at least every three years, and delineate individual privileges;

1.c. - 4. ...

5. The medical staff bylaws shall include specifications for orders for the care or treatment of patients that are given to the hospital verbally or transmitted to the hospital electronically, whether by telephone, facsimile transmission, or otherwise. Such bylaws may grant the medical staff up to 10 calendar days following the date an order is transmitted verbally or electronically to provide the signature or countersignature for such orders. Orders entered via use of computerized provider order entry (CPOE) do not require a signature if the CPOE used has an immediate download into the provider's electronic health record (EHR) as the order would be dated, timed, authenticated, and promptly placed in the medical record.

6. There shall be a single chief of medical staff who reports directly to the governing body and who is responsible for all medical staff activities for the entire hospital, including any offsite facilities operating under the license of the hospital.

7. - 7.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2406 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1481 (October 2024).

§9323. Administration

A. In accordance with the hospital policy, there shall be a full-time, administrator who is responsible for the operation of the hospital commensurate with the authority conferred by the governing body. Beginning June 1, 2025, no administrator shall be administrator of more than one licensed hospital.

B. - B.3. ...

a. hospital administrators employed in Louisiana licensed hospitals at the time the final regulations are adopted and become effective shall be deemed to meet the qualifications as long as the individual holds their current position. If the individual leaves their current position as hospital administrator, they shall meet one of the qualifications above to be re-employed into such a position.

C. - F. ...

G. The hospital shall have policies and procedures that define how the facility shall:

1. comply with the provisions of the Safe Haven Act inclusive of training and designating responsible employees;

2. comply with the regulations for checking the DSW registry for new employees, rehired employees, or when an employee has a break in service;

3. comply with obtaining criminal history checks on unlicensed assistive personnel or other direct care staff upon hiring or reemploying or when employee has a break in service. Such policy shall address the disposition of any charges;

4. prevent, respond to, report, and mitigate instances of healthcare workplace violence; and

5. comply with all reporting requirements including, but not limited to, the induced termination of pregnancy (ITOP) form and other documentation as required by federal, state, and local statutes, laws, ordinances, and department rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2407 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1481 (October 2024).

§9327. Emergency Services

A. - C. ...

D. In accordance with R.S. 40:2113.6, no officer or member of the medical staff of a hospital licensed by the department shall deny emergency services available at the hospital to a person diagnosed by a licensed physician as requiring emergency services because the person is unable to establish his ability to pay for the services or his race, religion or national ancestry. In addition, the person needing the services shall not be subjected to arbitrary, capricious or unreasonable discrimination based on age, sex, physical condition or economic status. Emergency services are services that are usually and customarily available at the hospital and that shall be provided immediately to stabilize a medical condition which if not stabilized could reasonably be expected to result in the loss of life, serious permanent disfigurement or loss or impairment of the function of a bodily member or organ, or for the care of a woman in active labor if the hospital is so equipped. If not so equipped, the hospital shall provide treatment to allow the patient to travel to a more appropriate facility without undue risk of serious harm.

E. - F.6. ...

G. Trauma Center. In addition to the requirements above, all hospitals that request official certification by the department as a trauma center shall meet the requirements provided under state law (R.S. 40:2171).

1. All healthcare facilities offering trauma care services may request to be certified on a voluntary basis.

2. Application packet for certification shall be made by a hospital to the HSS upon forms furnished by the department. Upon determination that the hospital is in compliance with acceptable, nationally recognized standards of practice and/or guidelines for designation of trauma centers specified by the American College of Surgeons in

Hospital and Pre-Hospital Resources for Optimal Care of the Injured Patient and any published appendices thereto, the department shall issue a certificate for such period as may be determined by the department.

3. There shall be a certification fee for any certificate issued in accordance with the provisions of this section, renewable every three years.

4. Trauma care services is distinct and different from the trauma center certification by the department. To be certified as a trauma center, a hospital shall satisfy the requirements of R.S. 40:2172 and 2173.

5. The department shall certify a hospital as a trauma center when the requirements of this section have been fulfilled and upon verification from the American College of Surgeons that the facility has met its criteria for Level I, II, or III. The trauma center label shall be reserved exclusively for hospitals with state-issued trauma center certification.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2407 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1481 (October 2024).

§9329. After Life Care

A. The hospital shall establish and implement written policies and procedures governing after life care that are reviewed at least every two years and revised as needed. These policies shall delineate the responsibilities of the medical staff, nursing and morgue staff, and shall include procedures for at least the following:

1. - 9. ...

10. availability of autopsy reports, including reports of microscopic autopsy findings, to physicians and in the medical records within specified time frames in accordance with R.S. 13:5713, or current law; and

11. completion of the autopsy, including microscopic and other procedures, within specified time frames in accordance with R.S. 13:5713, or current law, and when conducted by staff of the hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2408 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1482 (October 2024).

§9331. Organ, Tissue, and Eye Procurement

A. The hospital shall have policies and procedures approved by the governing body, or its designee, for:

1. organ, tissue, and eye procurement; and
2. ensuring that appropriate hospital staff are trained on donation issues. The training shall be developed in cooperation with the OPO.

B. Beginning June 1, 2025, the hospital shall have an agreement with the designated organ procurement organization (OPO) for the state and at least one tissue bank and one eye bank, if the OPO does not include these services. At a minimum the agreement shall address the following:

1. the criteria for referral, including the referral of all individuals whose death is imminent or who have died in the hospital;

2. a definition of imminent death;

3. a definition of timely notification;

4. the OPO's responsibility to determine medical suitability for organ donation;

5. how the tissue and/or eye bank will be notified about potential donors using notification protocols developed by the OPO in consultation with the hospital-designated tissue and eye bank(s);

6. notification of each individual death in a timely manner to the OPO in accordance with the terms of the agreement;

7. the designated requestor training program offered by the OPO has been developed in cooperation with the tissue bank and eye bank designated by the hospital;

8. the organ procurement organization, tissue bank, and eye bank access to the hospital's death record information according to a designated schedule, (e.g., monthly or quarterly);

9. that the hospital is not required to perform credentialing reviews for, or grant privileges to, members of organ recovery teams as long as the OPO sends only qualified, trained individuals to perform organ recovery; and

10. the interventions the hospital will utilize to maintain potential organ donor patients so that the patient organs remain viable.

C. The hospital, shall ensure in collaboration with the OPO that the family of each potential donor is informed of its options to donate organs, tissues or eyes, or to decline to donate.

D. The individual designated by the hospital to initiate the request to the family shall be an OPO representative or a designated requestor. A designated requestor is an individual who has completed a course offered or approved by the OPO and designed in conjunction with the tissue and eye bank community in the methodology for approaching potential donor families and requesting organ or tissue donation.

E. Upon approval of the donation, the OPO or retrieval organization shall be notified and shall cooperate in the procurement of the anatomical gift. When a request is made, the person making the request shall complete a certificate of request for an anatomical gift on a form approved by the LDH.

F. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2408 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1482 (October 2024).

§9333. Specialty Units

A. - C. ...

D. There shall be written policies and procedures that define and describe the scope of services offered, including admission criteria. The policies and procedures shall be developed and approved by the governing body. They shall be reviewed at least every two years, and revised as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2409 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1482 (October 2024).

§9335. Emergency Preparedness

A. The hospital shall have an emergency preparedness plan designed to manage the consequences of natural disasters or other emergencies that disrupt the hospital's ability to provide care and treatment or threatens the lives or safety of the hospital patients 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, LDH and the OSFM and shall include the four core elements of emergency preparedness:

1. comprehensive risk assessment and emergency planning of:
 - a. all hazards likely in geographic area;
 - b. care-related emergencies;
 - c. equipment and power failures;
 - d. interruption in communications, including cyber-attacks;
 - e. loss of all/portion of facility;
 - f. loss of all/portion of supplies; and
 - g. reviewed and updated at least every 2 years;
2. communication plan that:
 - a. complies with federal and state laws;
 - b. has a system to contact staff, including patients' physicians, other necessary persons; and
 - c. is well-coordinated within the facility, across healthcare providers, and with state and local public health departments and emergency management agencies;
3. policies and procedures that comply with federal and state laws; and
4. training and testing that:
 - a. complies with federal and state laws; and
 - b. are maintained, reviewed, and updated at least every two years.

B. As a minimum, the plan shall include the following:

1. an all hazards risk assessment and identification of potential hazards that could necessitate an evacuation, including internal and external disasters such as a natural disaster, acts of bio-terrorism, weapons of mass destruction, labor work stoppage, or industrial or nuclear accidents;
2. - 3.c. ...
4. comprehensive plans for receiving patients who are being relocated from another facility due to a disaster. This plan shall include at least an estimate of the number and type of patients the facility would accommodate and current contact information for receiving hospitals and other facilities;
5. procedures in the case of interruption of utility services that address the provision of alternate sources of energy to maintain:
 - a. temperatures to protect patient health and safety and for the safe and sanitary storage of provisions;

- b. emergency lighting; and
- c. fire detection, extinguishing;

6. - 7. ...

8. the system or procedure to ensure that medical charts accompany patients in the event of a patient evacuation and that supplies, equipment, records, and medications would be transported as part of an evacuation;

9. the roles and responsibilities of staff members in implementing the disaster plan; and

10. a system to track on-duty staff and sheltered patients during the emergency.

C. - F. ...

G. While developing the hospital's plan for evacuating patients, the disaster planner shall communicate with the facility or facilities designated to receive relocated patients for development of a method for sharing information and medical documentation of evacuated patients.

H. The hospital shall conduct exercises to test the emergency plan twice per year. The hospital shall do all of the following:

1. Participate in a full-scale exercise that is community-based every two years or when a community-based exercise is not available, conduct an individual, facility based functional exercise every two years; or if the hospital experiences an actual natural or man-made emergency that requires activation of the emergency plan, the hospital is exempt from engaging in its next required community-based or individual, facility-based full-scale exercise for one year following the onset of the actual event.

2. Conduct an additional exercise at least every two years opposite the year the full-scale or functional exercise under number one above is conducted, that may include, but is not limited to the following:

- a. a second full-scale exercise that is community-based or individual, facility-based functional exercise;
- b. a mock disaster drill; or
- c. a tabletop exercise or workshop that is led by a facilitator and includes a group discussion;

3. Analyze the hospital's response to and maintain documentation of all drills, tabletop exercises, and emergency events, and revise the hospital's emergency plan as needed.

I. The hospital shall also conduct at least one drill each year, in which a large influx of emergency patients is simulated. An actual emergency of this type shall be considered a drill, if it is documented.

J. ...

K. The hospital shall have a policy for the provision of emergency sources (e.g., generators) of critical utilities such as electricity, natural gas, water and fuel during any period in which the normal supply is temporarily disrupted.

L. ...

M. A hospital may temporarily exceed its licensed capacity in emergency situations, such as during a declared emergency. Such hospitals shall notify LDH in writing of the situation within 24 hours or as soon as practical thereafter.

N. Effective immediately, upon declaration of the secretary and notification to the Louisiana Hospital Association, all hospitals licensed in Louisiana shall file an electronic report with the Mstat, or a successor emergency

support function (ESF)-8 portal operating system during a declared emergency, disaster, or public health emergency.

1. The electronic report shall be filed once a day or in accordance with federal, state, and local statutes, regulations, and guidance throughout the duration of the disaster or emergency event or as directed by the department.

2. - 2.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2409 (November 2003), LR 35:245 (February 2009), amended by the Department of Health, Health Standards Section, LR 50:1483 (October 2024).

§9337. Smoking Prohibition

A. Smoking shall be prohibited in all enclosed areas of the hospital. For purposes of this section, enclosed areas shall be determined by the governing board of the hospital but shall include, at a minimum, all areas of the building that are air conditioned or heated. At the discretion of the hospital's governing body, smoking may be permitted in patient rooms, but only:

1. upon the order of the patient's primary treating physician;

2. with the consent of all patients in the room; and

3. in accordance with all other applicable state and federal laws.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40: 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 29:2410 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1484 (October 2024).

Subchapter C. Nursing Services

§9343. Organization and Staffing

A. There shall be an organized nursing service that provides 24-hour nursing services. The nursing services shall be under the direction and supervision of an RN director of nursing licensed to practice in Louisiana with a minimum of two years of full-time experience as an RN in a hospital setting, employed full time, as defined by hospital policy, or at a minimum of 36 hours per week. There shall be a similarly qualified RN to act in the absence of the director of nursing services.

B. - C. ...

D. Each inpatient nursing unit shall have at least one RN on duty at all times when there are patients admitted to the unit.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2410 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1484 (October 2024).

Subchapter D. Pharmaceutical Services

§9351. Organization and Staffing

A. - B. ...

C. Hospital pharmacies that are not open after regular working hours shall make drugs available for the staff by use of a night drug cabinet, after-hours medication carts, or an automated storage and distribution device. The hospital pharmacy shall maintain an inventory and a list of these drugs, which are approved by the pharmacy director and the appropriate hospital committee.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2411 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1484 (October 2024).

§9353. Delivery of Services

A. - D. ...

E. Medications are to be dispensed only upon written or electronic orders, facsimile, or oral orders from a physician or other legally authorized prescriber, and be taken by a qualified professional.

F. ...

G. In accordance with the acceptable, nationally recognized standards of practice and/or guidelines, the medical staff, in coordination and consultation with the pharmacy service, shall determine and establish the reasonable time to automatically stop orders for drugs and biologicals not specifically prescribed as to time or number of doses. The hospital shall implement, monitor, and enforce the automatic stop system.

H. - K. ...

L. A formulary system shall be established by the appropriate hospital committee to assure quality pharmaceuticals at reasonable costs, in accordance with applicable federal and state laws.

M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2411 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1279 (September 2024), LR 50:1484 (October 2024).

Subchapter E. Radiologic Services

§9361. General Provisions

A. ...

B. A full-time, part-time, or consulting qualified radiologist shall direct and supervise radiologic services.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2412 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1484 (October 2024).

§9365. Personnel

A. A qualified full-time, part-time, or consulting radiologist shall supervise the ionizing radiology services and shall interpret only those radiologic tests that are determined by the medical staff to require a radiologist's specialized knowledge. The radiologist shall have clinical privileges delineated by the medical staff.

B. ...

C. All practitioners who read and interpret radiologic reports shall be credentialed by the hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2413 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1485 (October 2024).

Subchapter F. Laboratory Services

§9371. Organization and Staffing

A. The hospital shall maintain, or have available, adequate laboratory services to meet the needs of its patients as determined by the medical staff on a 24-hour basis. Emergency laboratory services shall be available 24 hours a day.

1. Laboratory services shall be directed by an individual who meets appropriate qualifications of a director and is credentialed by the medical staff.

2. There shall be sufficient licensed qualified clinical laboratory scientists and supportive technical staff to perform the tests required of the clinical laboratory services.

3. A written description of services provided shall be available to the medical staff.

B. The hospital shall ensure that all laboratory services provided to its patients are performed in a laboratory certified in accordance with the clinical laboratory improvement amendments (CLIA) of 1988.

1. If a hospital regularly uses the services of an outside blood collecting establishment, it shall have a written agreement with the blood collecting establishment that governs the procurement, transfer, and availability of blood and blood components.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2413 (November 2003), amended by the Department of Health, Health Standards Section LR 50:1485 (October 2024).

§9373. Equipment and Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2413 (November 2003), repealed by the Department of Health, Health Standards Section, LR 50:1485 (October 2024).

Subchapter G. Nutritional and Therapeutic Dietetic Services

§9377. General Provisions

A. ...

B. - B.1. ...

2. The outside food management company shall possess a valid LDH, Office of Public Health retail food permit and meet all of the requirements for operating a retail food establishment that serves a highly susceptible population, in accordance with the most current version of the provisions found in Title 51, *Public Health—Sanitary Code*.

3. Either the hospital or the food management company shall employ or contract with a registered dietician who serves the hospital on a full-time, part-time, or consultant basis to ensure that the nutritional needs of the patients are met in accordance with the licensed healthcare practitioners' orders and acceptable, nationally recognized standards of practice and/or guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2413 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:1413 (June 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1476 (October 2019), amended by the Department of Health, Health Standards Section, LR 50:1485 (October 2024).

§9379. Organization and Staffing

A. ...

B. The dietary manager shall:

1. - 3. ...

4. have successfully completed a training course at a state approved school, vocational or university, which includes course work in foods and food service, supervision, and diet therapy. Documentation of an eight-hour course of formalized instruction in diet therapy conducted by the employing facility's qualified dietitian is permissible if the course meets only the foods, food service, and supervision requirements; and

a. Exception. Hospitals with 25 or fewer beds that do not have on site food preparation for patient meals and contract for food services, another full-time employee, i.e., RN or LPN, will be allowed to carry out the responsibilities of the dietary manager. The RN or LPN shall be qualified by training and experience and employed full time.

5. not be the director of nursing.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2413 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 45:1476 (October 2019), amended by the Department of Health, Health Standards Section, LR 50:1485 (October 2024).

§9383. Dietary Services

A. Dietary services, whether provided by the hospital directly, through a contractual agreement or by an off-site vendor, shall comply with Title 51, *Public Health Sanitary Code*.

B. Food shall be in good condition, free from spoilage, filth, or other contamination and shall be safe for human consumption. All food shall be procured from sources that comply with laws and regulations related to food and food labeling.

1. Repealed.

C. All food shall be transported, stored, prepared, distributed, and served under sanitary conditions to prevent food borne illness. This includes keeping all readily perishable food and drink at or below 41 degrees Fahrenheit, except when being prepared and served.

1. For those hospitals that contract with a food delivery service for nutritional and therapeutic dietary services, food shall be transported only via vehicles designed, equipped, and maintained solely for the purpose of the transportation and delivery of food by the food management company.

D. The physical environment in which all food preparation takes place shall be kept clean and in safe operating condition.

D.1. - I. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 45:1476 (October 2019), amended by the Department of Health, Health Standards Section, LR 50:1486 (October 2024).

Subchapter H. Medical Record Services

§9387. Organization and Staffing

A. - B. ...

C. Medical records shall be legibly and accurately written in ink, dated, timed, and signed by the recording person or, if an electronic medical records system is used, authenticated, complete, properly filed and retained, and accessible.

D. ...

E. Written orders signed by a member of the medical staff shall be required for all medications and treatments administered to patients. There shall be a reliable method for personal identification of each patient. The medical staff bylaws shall include specifications for orders for the care or treatment of patients which are given to the hospital verbally or transmitted to the hospital electronically, whether by telephone, facsimile transmission or otherwise. The bylaws may grant the medical staff up to 10 calendar days following the date an order is transmitted verbally or electronically to provide the signature or countersignature for such order. Orders entered via use of computerized provider order entry (CPOE) do not require a signature if the CPOE used has an immediate download into the provider's electronic health record (EHR) as the order would be dated, timed, authenticated, and promptly placed in the medical record.

F. - J. ...

K. A patient or his/her personal representative shall be given reasonable access to the information contained in his/her hospital record. The hospital shall, upon request in writing signed and dated by either the patient or personal representative initiating the request, furnish a copy of the hospital record as soon as practicable, not to exceed 15 calendar days following the receipt of the request and written authorization and upon payment of the reasonable cost of reproduction in accordance with Louisiana R.S. 40:1165.1. However, the hospital may deny the patient access if a licensed healthcare professional has determined, in the exercise of professional judgment, that the access

requested is reasonably likely to endanger the life or physical safety of the patient or another person.

L. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2415 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 40: 1934 (November 2023), amended by the Department of Health, Health Standards Section, LR 50:1486 (October 2024).

§9393. Confidentiality

A. The hospital shall ensure the confidentiality of patient records, including information in an electronic medical record system, in accordance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Regulations (Title 45, Part 164, Subpart E of the Code of Federal Regulations) and any Louisiana state laws and regulations which provide a more stringent standard of confidentiality than the HIPAA Privacy Regulations. Information from or copies of records may be released only to authorized individuals, and the hospital shall ensure that unauthorized individuals cannot gain access to or alter patient records. Original medical records shall not be released outside the hospital unless under court order or subpoena or in order to safeguard the record in the event of a physical plant emergency or natural disaster. Psychiatric medical records shall be segregated to ensure confidentiality.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2416 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1486 (October 2024).

§9395. Retention

A. Hospital records shall be retained by the hospital in their original, microfilmed, or similarly reproduced form for a minimum period of 10 years from the date a patient is discharged, or as required by current law.

B. Graphic matter, images, x-ray films, nuclear medicine reports and like matter that were necessary to produce a diagnostic or therapeutic report shall be retained, preserved and properly stored by the hospital in their original, microfilmed or similarly reproduced form for a minimum period of three years from the date a patient is discharged. (Note: Medicare and/or Medicaid participating hospitals shall maintain copies of reports and printouts, films, scans, and other image records for at least six years). Such graphic matter, images, x-ray film, and like matter shall be retained for longer periods when requested in writing by any one of the following:

1. ...

2. the patient or someone acting legally in his/her behalf; or

3. ...

C. A hospital that is closing shall act in accordance with the requirements of §9307.

D. Medical records shall be properly stored in secure locations where they are protected from fire, water damage, and other threats.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2416 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1486 (October 2024).

Subchapter I. Quality Assessment and Improvement **§9399. General Provisions**

A. The governing body shall ensure that the hospital has an effective, written, ongoing, hospital-wide, data driven quality assessment and performance improvement program designed to assess and improve the quality of patient care.

B. The governing body shall ensure that the hospital's quality assessment and performance improvement program reflects the complexity of the hospital's organization and services, includes all hospital departments and services including those under contract or arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2416 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1487 (October 2024).

§9401. Quality Assessment and Performance Improvement

A. - B.4. ...

C. Each department or service of the hospital, through its governing body, shall take and document appropriate remedial action to address deficiencies found through the quality assessment and improvement program. The hospital shall document the outcome of all remedial actions.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2416 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1487 (October 2024).

§9403. Implementation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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), repealed by the Department of Health, Health Standards Section, LR 50:1487 (October 2024).

§9405. Discharge Planning

A. - B.3. ...

C. Services to persons who are elderly and persons with disabilities. Any licensed hospital, which is owned or operated, or both, by a hospital service district, or which benefits from being financed by the sale of bonds from the state or guaranteed by the state that are exempt from taxation as provided by Louisiana law, or which receives any other type of financial assistance from the state, is directed to give, when possible, priority to the treatment of persons who are elderly and persons with physical or mental disabilities in the delivery of nonemergency healthcare services.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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), amended by the Department of Health, Health Standards Section, LR 50:1487 (October 2024).

Subchapter J. Physical Environment

§9409. General Provisions

A. The hospital shall be constructed, arranged and maintained to ensure the health, safety, and welfare of the patient, and to provide facilities for diagnosis and treatment and for special hospital services appropriate to the needs of the community.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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, Health Standards Section, LR 50:1487 (October 2024).

§9411. Buildings

A. ...

B. The condition of the physical plant and the overall hospital environment shall be developed and maintained in such a manner that the health, safety, or welfare of patients are assured.

1. There shall be emergency power and lighting in at least the operating, recovery, intensive care, emergency rooms, and stairwells. In all other areas not serviced by the emergency supply source, battery lamps and flashlights shall be available.

2. There shall be facilities for emergency medical gas and water supply.

C. The hospital shall have procedures for the proper routine storage and prompt disposal of garbage and waste in in accordance with Title 51, *Public Health Sanitary Code*.

D. The hospital shall have written fire control plans that contain provisions for prompt reporting of fires; extinguishing fires; protection of patients, personnel, and guests; evacuation; and cooperation with fire-fighting authorities.

E. The hospital shall maintain written evidence of regular inspection and approval by State or local fire control agencies.

F. A hospital may install alcohol-based hand rub dispensers in its facility if the dispensers are installed in a manner that adequately protects against inappropriate access;

G. When a sprinkler system is shut down for more than 10 hours, the hospital shall:

1. Evacuate the building or portion of the building affected by the system outage until the system is back in service, or

2. Establish a fire watch until the system is back in service.

H. Facilities, supplies, and equipment shall be maintained to ensure an acceptable level of safety and quality.

I. There shall be proper ventilation, light, and temperature controls in pharmaceutical, food preparation, and other appropriate areas.

J. For all new construction or renovations, hospitals shall follow the 2014 Edition of the Facility Guidelines Institute (FGI), Guidelines for Design and Construction of

Hospitals and Outpatient Facilities, as adopted by the OSFM, for building design and construction.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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, Health Standards Section, LR 50:1487 (October 2024).

§9413. Nursing Units

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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), repealed by the Department of Health, Health Standards Section, LR 50:1488 (October 2024).

§9415. Patient Rooms

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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), repealed by the Department of Health, Health Standards Section, LR 50:1488 (October 2024).

§9417. Patient Room Furnishings

A. ...

B. A nurses' call system, within easy reach of each bed, shall be provided. The call system shall also be provided in each patient toilet and bathing area. Call systems shall be readily accessible to a patient and shall be in proper working order.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2418 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1488 (October 2024).

§9419. Equipment

A. Facilities, supplies, and equipment shall be maintained to ensure an acceptable level of health, safety, and welfare of patients, staff, and visitors.

B. ...

C. All patients, when appropriate due to diagnosis, shall be provided with patient care items such as a bedpan, washbasin, emesis basin, drinking glass, and soap dish. These supplies and equipment shall be properly cleaned and in appropriate cases shall be sterilized in between use for different patients. Disposable one time use items shall not be re-used.

D. ...

E. After discharge of a patient, the room, bed, mattress, cover, bedside furniture, and equipment shall be properly cleaned and disinfected.

F. Items, including equipment, furniture, supplies, etc. that are no longer able to be cleaned and/or disinfected due to wear and tear shall not be used.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2418 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1488 (October 2024).

Subchapter K. Infection Prevention and Control

§9423. Organization and Policies

A. ...

B. There shall be an effective infection control program for the prevention, control, investigation and reporting of communicable disease and infections. The infection control program shall meet or exceed the latest criteria established by the following:

1. - 2. ...

3. Title 51, Public Health Sanitary Code.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2418 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1488 (October 2024).

§9429. Central Supply

A. Space shall be provided for the decontamination, packaging, sterilization, and storage. All central supply departments shall adhere to strict traffic control in their departments.

B. There shall be written policies and procedures for the decontamination and sterilization of supplies and equipment, and the shelf life of all stored sterile items in accordance with the latest criteria established by the Centers for Disease Control and Prevention.

C. All steam, ethylene oxide (ETO), and other low-temperature sterilizers shall be tested with biological and chemical indicators upon installation, when the sterilizer is relocated, redesigned, after major repair, and after a sterilization failure has occurred, to ensure they are functioning prior to placing them into routine use. This shall be done in accordance with latest criteria established by the Centers for Disease Control and Prevention. If tests are positive, a system shall be in place to recall supplies.

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2419 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1488 (October 2024).

Subchapter L. Surgical Services (Optional)

§9437. General Provisions

A. Surgical services, if provided, shall be well organized and provided in accordance with acceptable standards of practice. If outpatient surgical services are offered, the services shall be consistent in quality with inpatient care in accordance with the complexity of services offered.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2419 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1488 (October 2024).

§9439. Organization and Staffing

A. - D. ...

E. The operating room register or log, including those created by electronic means, shall be complete and up-to-date. It shall include at least the following:

1. - 7. ...
8. name of the person administering the anesthesia;
9. surgical procedure performed;
10. pre and post-operative diagnosis;
11. age of patient;
12. operating room number; and
13. complications, if any.

F. - F.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2419 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1489 (October 2024).

§9441. Delivery of Service

A. ...

B. A properly executed informed consent form for the procedure shall be in the patient's chart before surgery, except in emergencies. The consent form shall contain at least the following:

1. - 7. ...
8. date, time, and signature of the person witnessing the patient or the patient's legal representative sign the consent form.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2420 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1489 (October 2024).

§9443. Surgery Suite and Equipment

A. - D. ...

E. There shall be policies and procedures, approved by the Infection Control Officer(s) that addresses terminal cleaning of the operating room as well as cleaning of the room between surgical cases.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2420 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1934 (November 2023), amended by the Department of Health, Health Standards Section, LR 50:1489 (October 2024).

§9445. Post-Anesthesia Care Unit (PACU)

A. There shall be a PACU (recovery room) that is a separate area of the hospital, unless provisions are made for close observation of the patient until they have regained consciousness (e.g., direct observation by an RN in the patient's room). Access shall be limited to authorized personnel. There shall be policies and procedures which specify transfer requirements to and from the PACU.

B. Effective as of the promulgation of these requirements, any new or existing hospitals undergoing renovations shall have a centralized nursing station with a direct line of sight to the recovering patient(s) that have received sedation or anesthesia.

1. - 5. Repealed.

C. There shall be at least two healthcare personnel, one of which is a RN, present whenever there is a patient in the post-anesthesia care area. There shall be emergency equipment and monitoring equipment in the immediate area of the post-anesthesia care area. The equipment shall be commensurate with the surgical procedure and the medical requirements of the patient. That equipment shall include, but not be limited to, the following:

1. electrocardiogram (EKG/ECG) monitor;
2. pulse oximetry monitor;
3. temperature monitoring equipment;
4. equipment to administer oxygen;
5. equipment necessary to monitor vital signs; and
6. suction equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2420 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1489 (October 2024).

Subchapter M. Anesthesia Services (Optional)

§9449. General Provisions

A. If anesthesia services are provided, which is mandatory when surgical or obstetric services are provided, they shall be provided in a well-organized manner in accordance with acceptable, nationally recognized standards of practice and/or guidelines, under the direction of a qualified doctor of medicine or osteopathy.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2421 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1489 (October 2024).

§9453. Delivery of Service

A. Policies on anesthesia procedures shall include the delineation of pre-anesthesia and post-anesthesia responsibilities. As a minimum, they shall address:

1. - 9. ...

B. The policies shall also ensure that the following are provided for each patient:

1. - 3.h....

C. The anesthesia policy and procedure manual shall ensure that the following are provided for each patient undergoing:

1. - 1.a. ...

b. continuous monitoring of the patient's temperature and vital signs, as well as the continuous use of an EKG/ECG, pulse oximetry monitor, end tidal carbon dioxide volume monitor, and peripheral nerve stimulator monitor;

2. - 2.a. ...

b. continuous monitoring of the patient's vital signs, and temperature, as well as the continuous use of an EKG/ECG, and pulse oximetry monitor; and

c. monitored by the practitioner who administered the regional anesthetic or individuals identified as a practitioner listed in §9451.A.1-5;

3. - 3.b....

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2421 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1489 (October 2024).

Subchapter N. Nuclear Medicine Services (Optional)

§9457. General Provisions

A. If the hospital provides nuclear medicine services or contracts for the services, those services shall meet the needs of the patients in accordance with acceptable, nationally recognized standards of practice and/or guidelines, and be provided in a safe and effective manner.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2422 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1490 (October 2024).

Subchapter O. Outpatient Services (Optional)

§9469. General Provisions and Organization

A. If the hospital provides outpatient services, the services shall meet the needs of the patients in accordance with acceptable standards of practice.

B. - B.1.a. ...

b. Outpatient services may be provided by a hospital that does not provide inpatient services for the same area of service only if that hospital has a written policy and procedure to ensure a patient's placement and admission into an inpatient program to receive inpatient services for that area of service. The policy and procedure shall ensure that the hospital is responsible for coordination of admission into an inpatient facility and shall include, but not be limited to, the following:

i. the hospital personnel and/or staff responsible for coordination of placement and admission into an inpatient facility; and

ii. the procedure for securing inpatient services for that patient.

2. - 3. ...

C. There shall be policies and procedures established by the medical staff to ensure quality of care and safety of patients for any room designated for procedures or treatment involving conscious sedation. Such guidelines shall include at a minimum:

1. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2423 (November 2003), LR 33:284 (February 2007), amended by the Department of Health, Health Standards Section, LR 50:1490 (October 2024).

§9471. Personnel

A. The hospital shall assign one or more individuals to be responsible for the outpatient services. There shall be appropriate professional and non-professional personnel available based on the outpatient services provided.

B. There shall be an RN on the outpatient unit as long as there are patients admitted to the unit.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2423 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1490 (October 2024).

§9473. Facilities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2423 (November 2003), repealed by the Department of Health, Health Standards Section, LR 50:1490 (October 2024).

Subchapter P. Rehabilitation Services (Optional)

§9479. Organization and Staffing

A. The organization of services shall be appropriate to the scope of the services offered. The rehabilitation service shall employ and define the leadership structure in accordance with the facility administration.

1. - 4. Repealed.

B. Medical Director. The medical director of rehabilitation services shall:

1. be a doctor of medicine or osteopathy;

2. be licensed to practice medicine or surgery in accordance with state law;

3. have completed a one-year hospital internship;

4. have had at least two years of training or experience, within the last five years, in the medical management of patients requiring rehabilitation services;

5. provide services to the rehabilitation hospital or rehabilitation unit on a full-time basis;

a. This provision does not apply to rehabilitation units.

b. The hospital shall define the term full-time as it applies to all of its employees.

6. have experience and training of rehabilitation services to perform all of the functions within the service; and

7. be responsible to ensure that the objectives of each of the therapeutic disciplines of the rehabilitation program are efficiently conducted within the stated mission of the program and in accordance with acceptable, nationally recognized standards of practice and/or guidelines for rehabilitation medicine.

C. ...

D. A rehabilitation unit in a general hospital shall have an RN as manager of the rehabilitation unit. The RN shall have at least one year of clinical nursing experience providing rehabilitative nursing care. The unit shall provide 24-hour RN coverage with an adequate number of licensed nurses and rehabilitative workers to provide the nursing care necessary under each patient's active treatment program.

E. - G. ...

H. If the hospital provides a range of rehabilitation services, the services shall define criteria for admission to the inpatient rehabilitation program and discharge from the inpatient program.

I. There shall be an interdisciplinary team that shall include, but not be limited to:

1. - 4. ...
5. a physician experienced in rehabilitation medicine;
6. a social worker; and
7. a speech-language pathologist.
8. Repealed.

J. The program should provide or make arrangements for:

1. - 10. ...
11. a psychologist/neuropsychologist; and
12. other services consistent with the criteria for admission.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2423 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1490 (October 2024).

§9483. Rehabilitation Hospital or Unit Physical Space

A. Space and equipment shall be appropriate for the types of rehabilitation services offered and shall be maintained for safe and efficient performance and in accordance with the 2014 Edition of the Hospital Units and Rehabilitation Units of the Facility Guidelines Institute (FGI) Guidelines for Design and Construction of Hospitals and Outpatient Facilities, as adopted by the OSFM, for building design and construction.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2424 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1491 (October 2024).

Subchapter R. Psychiatric Services (Optional)

§9495. General Provisions

A. ...

B. For psychiatric services/facilities that have multiple geographic locations, each geographic site shall meet the requirements in §9497, §9499, and §9501.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2425 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1491 (October 2024).

§9497. Psychiatric Hospital or Psychiatric Unit Physical Space

A. The layout and design of a psychiatric hospital or psychiatric unit shall be in accordance with the 2014 Edition of the Facility Guidelines Institute (FGI), Guidelines for Design and Construction of Hospitals and Outpatient Facilities, as adopted by the OSFM, for building design and construction. In addition to the FGI Guidelines, details, equipment, and furnishings shall be such that patients shall be under close observation and shall not be afforded

opportunities for hiding, escape, or injury to themselves or others. The environment of the unit shall be characterized by a feeling of openness with emphasis on natural light and exterior views. Interior finishes, lighting, and furnishings shall suggest a residential rather than an institutional setting while conforming to applicable fire safety codes. Security and safety devices shall not be presented in a manner to attract or challenge tampering by patients.

B. The psychiatric hospital or unit shall develop and implement strategy to identify environmental safety risks within its specific environment and specific to its patient population. The operation of windows shall be restricted to inhibit possible escape or suicide. Where windows or vents require the use of tools or keys for operation, the tools or keys shall be either located on the same floor in a prominent location accessible to staff or carried by every staff member. There shall be no curtain or venetian blind cords.

C. Plastic bags and/or trash can lines shall not be used in patient care areas.

D. Patient Rooms

1. An electric nurses' call system is not required however, the hospital shall have policies and procedures for how patients call for assistance.

2. Bedpan-flushing devices may be omitted from patient room toilets in psychiatric nursing units.

3. Visual privacy (e.g., cubicle curtains) in multi-bed rooms is not required.

4. Free standing closets shall be secured to the wall.

5. Electric patient beds are not to be used. The secretary of the department may, within his/her sole discretion, grant a waiver of this provision in accordance with section 9305.

E. Service Areas

1. A secured storage area controlled by staff shall be provided for patients' belongings that are determined to be potentially harmful (e.g., razors, nail files, cigarette lighters).

2. Drugs and biologicals shall be stored in locked compartments under proper temperature controls, and only authorized personnel shall have access to the keys.

3. Food service may be one or a combination of the following:

a. a nourishment station;

b. a kitchenette designed for patient use with staff control of heating and cooking devices; and

c. a kitchen service including a hand washing fixture, storage space, refrigerator, and facilities for meal preparation.

4. Storage space for stretchers and wheelchairs may be outside the psychiatric unit, provided that provisions are made for convenient access as needed for handicapped patients.

F. Seclusion Treatment Room

1. There shall be at least one seclusion room for up to 24 beds or a major fraction thereof. It is intended for short-term occupancy by violent or suicidal patients and provides for patients requiring security and protection. The room(s) shall be either located for direct nursing staff supervision or observed through the use of electronic monitoring equipment.

2. If electronic monitoring equipment is used, it shall be connected to the hospital's emergency electrical source. It

shall be constructed to prevent patient hiding, escape, injury, or suicide.

3. If a facility has more than one psychiatric unit, located at the same geographic address, the number of seclusion rooms shall be determined by the total number of psychiatric beds at that location. However, if there are psychiatric units located at multiple and different geographic addresses, there shall be a seclusion room that meets these requirements at each off-site campus that offers inpatient psychiatric services.

4. Special fixtures and hardware for electrical circuits shall be used.

5. Seclusion rooms shall be accessed by an anteroom or vestibule that also provides direct access to a toilet room.

G. Ceiling construction in psychiatric patient rooms and seclusion room(s) shall be monolithic or tamper proof.

H. - K. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2425 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1491 (October 2024).

§9499. Supplies and Equipment

A. Restraint equipment shall be immediately available and accessible to staff, if restraint use is part of the functional plan of the hospital or unit.

B. Recreational supplies and therapy equipment shall be available.

C. Locked storage areas shall be available for safekeeping of patient belongings and any items that may be considered contraband.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2426 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1492 (October 2024).

§9501. Staffing

A. - B. ...

C. In a psychiatric hospital, the director of nursing (DON) services, shall be provided by a full-time RN.

1. A DON hired or promoted prior to May 31, 2026, shall meet the following criteria for education and experience:

a. a master's degree in psychiatric or mental health nursing or its equivalent, from a school of nursing accredited by the National League for Nursing;

b. a master's degree in a related field such as psychology or nursing education, and five years nursing experience. Three years of this experience shall be in providing nursing care to the mentally ill; or

c. a bachelor's, associate degree or diploma in nursing with documented evidence of educational programs focused on treating psychiatric patients, which has occurred at intervals sufficient enough to keep the nurse current on psychiatric nursing techniques. In addition, the nurse shall have at least five years of nursing experience, three years of which were providing nursing care to the mentally ill, or receive regular, documented supervision/consultation from a master's prepared psychiatric nurse.

2. A DON hired or promoted on or after June 1, 2026, shall meet the following criteria for education and experience:

a. a master's degree in psychiatric or mental health nursing or its equivalent, from a school of nursing accredited by the National League for Nursing; or

b. at least three years clinical RN experience in providing psychiatric nursing care, and on-going training in psychiatric nursing. Documentation from a RN with a master's degree in psychiatric nursing constitutes on-going training. Such documentation shall be maintained in the personnel file for the DON.

D. A psychiatric unit within a general hospital shall have an RN as a manager of the psychiatric unit. The RN shall meet the same requirements as that of the DON in a psychiatric hospital.

E. The DON of a psychiatric hospital or the psychiatric unit RN manager shall demonstrate competence to participate in interdisciplinary formulation of individual treatment plans, to give skilled nursing care and therapy if needed, and to direct, monitor, and evaluate the nursing care furnished.

F. In addition to the director of psychiatric nursing service, the hospital or unit shall provide 24-hour RN coverage with an adequate number of licensed nurses and mental health workers to provide the nursing care necessary under each patient's active treatment program.

G. Psychological services shall be provided by or supervised by a psychologist licensed by the Louisiana State Board of Examiners of Psychologists.

1. - 6.c. Repealed.

NOTE: Repealed.

H. Social services shall be provided by a director who is a licensed clinical social worker and who is experienced in the social service needs of the mentally ill.

I. Therapeutic recreational services shall be provided by qualified recreational therapists, support personnel, and consultants adequate in number to provide comprehensive therapeutic recreational services consistent with each patient's care plan.

1. An individual who clinically supervises therapeutic recreational services shall meet the following qualifications:

a. have a degree in therapeutic recreational services from an accredited post-secondary institution; or

b. have a degree in another field of study and has also attained certification in accordance with the National Council for Therapeutic Recreation Certification requirements.

2. An individual who provides therapeutic recreational services shall have the following qualification:

a. a degree in therapeutic recreational services from an accredited post-secondary institution; or

b. a degree in another field of study and has also attained certification in accordance with the National Council for Therapeutic Recreation Certification requirements; or

c. a minimum of 10 years' experience providing therapeutic recreational services; or

d. be currently employed as a therapeutic recreational services specialist 2 per Louisiana Civil Service requirements.

3. Therapeutic recreational services shall be designed to:

- a. restore, remediate, and rehabilitate a person's level of functioning and independence in life activities;
- b. promote health and wellness; and
- c. reduce or eliminate the activity limitations and restrictions to participation in life situations caused by an illness or disabling condition.

NOTE: Examples of intervention modalities include, but are not limited to, creative arts (e.g., crafts, music, dance, drama, among others), sports, adventure programming, dance/movement, and leisure education.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2426 (November 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1489 (August 2015), amended by the Department of Health, Health Standards Section, LR 50:1492 (October 2024).

Subchapter S. Obstetrical and Newborn Services (Optional)

§9511. General Provisions for Hospitals Licensed After January 1, 2022, and for Existing Hospitals Beginning July 1, 2023

A. - C. ...

D. For purposes of this Subchapter, the requirements for hospital staff and/or equipment as being physically present at all times specifies the hospital staff and/or equipment shall be on-site in the location 24 hours a day, 7 days a week.

E. For purposes of this Subchapter, the requirements for hospital staff and/or equipment as being readily available at all times specifies the hospital staff and/or equipment shall be available, as approved by hospital policy, 24 hours a day, 7 days a week.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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), LR 48:2569 (October 2022), amended by the Department of Health, Health Standards Section, LR 50:1493 (October 2024).

§9513. Organization and Staffing

A. - B. ...

C. For purposes of this Subchapter, the requirements for hospital staff and/or equipment as being physically present at all times specifies the hospital staff and/or equipment shall be on-site in the location 24 hours a day, 7 days a week.

D. For purposes of this Subchapter, the requirements for hospital staff and/or equipment as being readily available at all times means that the hospital staff and/or equipment shall be available, as approved by hospital policy, 24 hours a day, 7 days a week.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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), LR

43:1979 (October 2017), LR 48:2569 (October 2022), amended by the Department of Health, Health Standards Section, LR 50:1493 (October 2024).

§9517. Obstetrical Unit Functions

A. - B.2.b.v. ...

vi. A lactation consultant or counselor, on staff or contracted, holding certification by a nationally recognized board on breastfeeding shall be available to assist breastfeeding mothers as needed. Such services may be provided through the use of telehealth.

vii. Repealed.

B.3. - E.3.b.ii.(b). ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2570 (October 2022), amended by the Department of Health, Health Standards Section, LR 50:1493 (October 2024).

§9521. Neonatal Unit Functions [Formerly LAC 48:I.9513]

A. - B.3.a.ii. ...

C. Level III NICU

1. - 1.a. ...

b. This unit shall have either a neonatologist, a neonatal nurse practitioner, a physician assistant-certified, 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 acceptable, nationally recognized standards of practice and/or guidelines of the American Academy of Pediatrics (AAP). For medical sub-specialty requirements, refer to Table 1, Neonatal Medical Subspecialties and Transport Requirements.

C.2. - E.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2576 (October 2022), amended by the Department of Health, Health Standards Section, LR 50:1493 (October 2024).

Subchapter T. Pediatric Services (Optional)

§9525. General Provisions

A. Pediatric services shall be under the medical direction of a qualified physician who is a member of the medical staff with pediatric privileges and appointed by the governing body. Hospitals admitting children shall have proper facilities for their care apart from adult patients and the newborn, in accordance with hospital policies and procedures. Pediatric and adolescent patients, to the extent their condition permits, shall be grouped together in distinct units or district areas of general units separate from adults. Pediatric patients shall not be placed in rooms with adult patients.

B. The hospital shall ensure that there are policies and procedures in place and implemented in accordance with acceptable, nationally recognized standards of practice and/or guidelines, to promote the safety and security of pediatric patients.

C. In hospitals with a separate designated pediatric unit in existence prior to March 1, 1995, the maximum number of beds permitted in each pediatric room shall be eight and shall meet the same spatial standards as specified in

Subchapter J of these requirements. In hospitals with a separate designated pediatric unit subsequent to March 1, 1995, the maximum number of beds permitted in each pediatric room shall be four and shall meet the same spatial standards as specified in Subchapter J of these requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2431 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1493 (October 2024).

§9531. Facilities

A. - B. ...

C. The Emergency Department (ED) shall have a separate covered entrance. Two or more areas within the ED shall have the capacity and equipment to resuscitate any pediatric patient with any medical, surgical or traumatic illness within facilities with Level I units. Hospitals with Level II units only need one such area. The emergency room shall be staffed 24 hours a day in facilities with either Level I or Level II units.

D. There shall be an operating suite with one room available within 30 minutes and a second room within 45 minutes, 24 hours a day. Hospitals with Level I units shall have the capability of providing cardiopulmonary bypass, pediatric bronchoscopy, and radiography.

E. Clinical Laboratories

1. Clinical laboratories shall have microspecimen capability and the capability to perform clotting studies with one-hour turn around. There shall also be the capability to perform:

a. - k. ...

2. Preparation of gram stains and bacteriologic cultures shall be available 24 hours per day. Blood gas values shall be available within 15 minutes. Results of drug screening and levels of serum ammonia, serum, and urine osmolarity, phosphorus and magnesium shall be available within three hours for Level I units.

F. There shall be a blood bank able to provide all blood components 24 hours a day in both Levels I and II. Cross matching shall allow for transfusions within one hour unless some unusual antibody is encountered.

G. Hospitals with Level I units shall have radiology services capable of radiography, fluoroscopy, computerized tomography scanning, ultrasonography, and nuclear scanning angiography.

H. ...

I. A catheterization laboratory or angiography suite shall either be in the same building with a Level I units or available at another campus location of the hospital where these services are provided.

1. Policies and procedures shall be developed and implemented related to the staffing, transportation of PICU Level I patients requiring cardiac catheterizations at another of the hospital's campuses.

J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2431 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1494 (October 2024).

§9535. Medical Staff

A. The medical director in Level I units shall be:

1. board certified in pediatrics and board certified or in the process of board certification in pediatric critical care medicine (certification shall be completed within five years);

A.2. - B. ...

C. Levels I and II units shall have at least one physician of at least the postgraduate year two assigned to the PICU in-house 24 hours per day.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2432 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1494 (October 2024).

§9539. Supplies and Equipment

A. - C. ...

D. There shall be bedside monitoring in Level I and II PICUs with the capability for continuously monitoring heart rate and rhythm, respiratory rate, temperature, and one hemodynamic pressure. Level I units shall also have the ability to monitor systemic arterial, central venous, pulmonary arterial, and intracranial pressures. The monitors shall have alarms with both high and low settings, and they shall also have both audible and visible capability. There shall be a maintenance and calibration schedule maintained for all monitoring devices.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2432 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1494 (October 2024).

§9541. Miscellaneous

A. ...

B. Each Level I PICU shall offer pediatric critical care education for EMS providers, emergency department, and transport personnel as well as for the general public. The staff nurses and respiratory therapists shall also have basic life support certification.

C. Level I PICUs offering a fellowship program in pediatric critical care shall possess sufficient patient volume, teaching expertise, and research capability to support such a fellowship. Programs providing sub-specialty training in critical care shall possess approval by the residency review committee of the Accreditation Council on Graduate Medical Education.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and 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 29:2433 (November 2003), amended by the Department of Health, Health Standards Section, LR 50:1494 (October 2024).

Subchapter U. Alternative Birthing Units

§9553. Definitions

Certified Nurse Midwife (CNM)—an advanced practice registered nurse as defined in R.S. 37:913, or current law.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1099 (June 2014), amended by the Department of Health, Health Standards Section, LR 50:1494 (October 2024).

§9555. Program Requirements

A. ...

1. In order for a pregnant woman to be admitted to an ABU, the following admission requirements shall be met.

1.a. - G.4....

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1099 (June 2014), amended by the Department of Health, Health Standards Section, LR 50:1495 (October 2024).

§9559. Physical Environment

A. An ABU shall submit, meet, and obtain approval for facility plan review from the OSFM prior to construction in accordance with Section 9305.N of this Rule.

A.1. - U. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1101 (June 2014), amended by the Department of Health, Health Standards Section, LR 50:1495 (October 2024).

§9563. Services

A. - C.4. ...

D. Requirements for Staff to Patient Ratio

1. A CNM shall be present at all times while a laboring patient is in the ABU.

2. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1103 (June 2014), amended by the Department of Health, Health Standards Section, LR 50:1495 (October 2024).

Subchapter W. Mobile Unit—Offsite Rural Health Clinic Services

§9575. General Provisions

A. All hospital providers with an offsite rural health clinic offering services via a mobile unit, shall notify the HSS prior to providing services via a mobile unit.

B. The mobile unit operated by the offsite rural health clinic shall be maintained in safe working order and in compliance with applicable state and federal regulations and laws, including but not limited to, those regulations and law relative to the safe and effective operation of motor vehicles.

C. Hospitals with an offsite rural health clinic that provides mobile services shall:

1. develop policies and procedures that address the health, safety, or welfare of the patients utilizing mobile units;

2. provide the vehicle identification number, license plate number, proof of insurance, vehicle registration, and copy of the inspection sticker for the mobile unit upon request;

3. develop a written schedule of locations the mobile units will be stationed and maintain site verifications for each of these locations;

4. provide secure storage for medications on the mobile unit;

5. store emergency equipment and emergency medications on the mobile unit;

6. provide a hand washing sink in the mobile unit; and

7. be handicap accessible.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:1495 (October 2024).

Subchapter X. Burn Centers (Optional)

§9583. General Provisions

A. If the hospital provides burn center services, the services shall be well organized and provided in accordance with acceptable, nationally recognized standards of practice and/or guidelines from the American Burn Association.

B. The burn center shall ensure that there are policies and procedures in place, and that the policies and procedures are implemented in accordance with acceptable, nationally recognized standards of practice and/or guidelines, to promote the safety and security of the burn center patients.

C. The burn center shall have an internal registry for all inpatients and shall participate in an externally based registry. A member of the burn center or hospital staff shall be assigned to maintain data and develop statistics regarding the causes of injuries sustained by burn center inpatients.

D. Each burn center system shall participate in a public burn awareness program covering the prevention and immediate treatment of burn injuries.

E. There shall be a direct communication link between the prehospital system and the burn center. The contact point shall be either in the burn center or in the emergency department.

F. The burn center shall cooperate with the Louisiana Emergency Response Network (LERN), and the appropriate audit committees of the regional or state Emergency Medical Services (EMS) system, where they exist, by providing patient care data for system management, quality assessment, and operations research. Patient care data shall be provided, both routinely and in response to special requests, and by participating in local audits of the EMS system.

G. Hospitals without qualified personnel or equipment for the care of pediatric burn patients, shall transfer pediatric burn patients to a facility that has a pediatric intensive care unit or a pediatric unit with access to burn services.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:1495 (October 2024).

§9585. Organization and Staffing

A. The organization of services shall be appropriate to the scope of burn center services offered. The burn center shall employ and define the leadership structure in accordance with the facility's administration. All staff shall be licensed and credentialed as required by their respective discipline.

B. Medical Director

1. The medical director of the burn center shall:

a. be designated by the institution, with the appropriate authority and responsibility, to direct and coordinate all medical services to patients admitted to the burn center;

b. be a currently licensed, board-certified general surgeon or plastic surgeon on the active medical staff of the

institution responsible for the management of burn patients in a burn center, with at least two years' experience during the previous five years, or have completed a burn fellowship;

c. be responsible for regular communications with physicians and other authorities regarding referred patients, and for appropriate burn center management functions, including:

i. quality assurance;
ii. liaison with adjacent burn centers;
iii. internal and external education programs; and
iv. coordination with regional or state EMS programs, where they exist, and the Louisiana Emergency Response Network; and

d. direct the burn care of at least 50 inpatient or outpatient acutely burned patients annually over a three-year period. For facilities that treat acutely burned pediatric patients, the burn center director shall have directed the burn care of at least 25 inpatient or outpatient pediatric cases annually over a three-year period.

2. Medical care to burn center patients shall be provided by the burn center medical director, or other appropriately licensed, board-certified or board eligible physicians operating with the medical director's approval, and utilizing standard burn center patient care protocols.

3. The medical director shall designate one or more appropriately licensed, board-certified or board eligible physician(s) with at least six months experience in the management of the patient with burns, to be accessible for administrative and clinical decisions when the medical director is not available.

C. Nurse Manager

1. The nurse manager shall be a Registered Nurse (RN) who is currently licensed to practice in the state of Louisiana and has at least three years of experience as a RN. Two of these years shall consist of full-time experience in providing direct patient care in an intensive care setting, and one of these years shall consist of full-time experience in providing direct patient care in a burn center.

D. Registered Dietician

1. A registered dietician, currently licensed to practice in Louisiana, with critical care and burn care experience, shall be available for consultation to burn center medical staff, nursing staff, and patients, as needed.

E. Registered Pharmacist

1. A clinical registered pharmacist, currently licensed to practice in Louisiana, shall be available for consultation to burn center medical staff, nursing staff, and patients, as needed.

2. The registered pharmacist licensed to practice in Louisiana, shall have critical care and burn care experience.

F. Respiratory Therapy

1. Respiratory therapists, currently licensed to practice in Louisiana, shall be available to participate in the assessment and treatment of all burn center patients, as needed.

G. Staff Specialists

1. Board certified and credentialed staff, currently licensed to practice in Louisiana in the following surgical specialties, shall be available as needed:

- a. general;
- b. cardiothoracic;

- c. neurologic;
- d. obstetric/gynecologic;
- e. ophthalmologic;
- f. oral;
- g. orthopedic;
- h. otorhinolaryngologic;
- i. pediatric, where applicable;
- j. plastics; and
- k. urologic.

2. Board certified and credentialed staff, currently licensed to practice in Louisiana in the following nonsurgical specialties, shall be available as needed:

- a. anesthesiology;
- b. cardiology;
- c. gastroenterology;
- d. hematology;
- e. infectious disease;
- f. internal medicine;
- g. nephrology;
- h. neurology;
- i. pathology;
- j. pediatrics, where applicable;
- k. physiatry;
- l. psychiatry;
- m. pulmonary; and
- o. radiology.

3. A board certified surgeon, currently licensed to practice in Louisiana, shall be involved, as needed, in the management of patients with burns for a minimum of 150 annual inpatient admissions to the burn center.

4. Staff specialists shall be available, as needed, for consultation in the specialties listed above. The initial response may be provided by resident physician(s), designated nurse practitioner(s), or physician assistant(s) who are capable of assessing emergency situations in their respective specialties, with appropriate supervision, and who can provide any immediately indicated treatment.

5. The availability and accessibility of consultation by current licensed to practice in Louisiana, board certified physicians and surgeons in all specialties relevant to the care of the patient with burns shall be documented.

H. Other Staff

1. The following staff shall be available to the burn service, as needed:

- a. clinical psychologist(s) and/or psychiatrist(s);
- b. member(s) of clergy;
- c. social worker;
- d. case manager(s); and/or
- e. child life specialist, where applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:1495 (October 2024).

§9587. Ancillary Services

A. In addition to all other required hospital ancillary services provided in Sections 9361, 9371, and 9327 of these rules, the following additional ancillary services shall be required for burn centers:

1. Dialysis

a. There shall be provisions for renal dialysis 24-hours per day when required, or a written transfer agreement with an available and accessible dialysis facility in another hospital.

2. Operating Services

- a. An operating room shall be readily accessible to the burn center 24-hours per day.
- b. Equipment and supplies required in burn operating room(s) shall be determined by the burn center medical director.

c. Burn operating rooms shall be able to reach sufficient temperatures or have procedures to maintain patient normothermia.

B. Rehabilitation Program

1. The burn center shall provide the following:

- a. recreational and educational services, as defined by institutional policy, during hospitalization for those patients able to utilize them;
- b. evaluation of needs and support capabilities of patient’s family or other significant persons, and cooperative planning with family or other significant persons for patient discharge;
- c. documentation of need for and availability and accessibility of community resources to assist in meeting the patient’s physical, psychosocial, educational, and vocational needs following discharge. The social worker assigned to the burn center shall coordinate these activities. A clinical psychologist or psychiatrist shall be available for consultation, as needed; and
- d. plans for readmission for treatment of post medical/surgical complications, or rehabilitation and reconstruction.

C. Tissue Bank

1. The hospital’s burn center policies and procedures regarding the use of allograft tissues shall be in compliance with all federal and state requirements, and when feasible and appropriate, with acceptable, nationally recognized standards of practice and/or guidelines of the American Association of Tissue Banks (or equivalent).

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:1496 (October 2024).

§9589. Patient Rooms and Support Space

A. The burn center shall contain beds that shall be used predominantly for the care of patients with burn injuries, or those suffering from other injuries or skin disorders whose treatment requirements are similar to those of patients with burns. The maximum number of patient beds per room shall be one.

B. ICU patient rooms shall be designed as intensive care acuity adaptable with direct access to toilet/bathing room. Each room shall be equipped with heating equipment or have processes in place to maintain patient normothermia as required by building and construction guidelines.

C. All patient rooms shall be designed as protective environment rooms with consideration to provide airborne isolation infection/protective rooms in centers with suspected or confirmed airborne infections.

D. Where a hydrotherapy room is provided, it shall be readily accessible to the burn center patient.

E. A conference room/meeting room, a family room, and an adequate exercise area shall be available.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section LR 50:1497 (October 2024).

§9591. Education Program

A. Medical, nursing, and ancillary staff of the burn center shall participate in burn-specific educational programs or activities developed especially related to burn care, both at initial orientation and during planned, organized, and coordinated in-services.

B. Annual continuing education shall be required for all medical, nursing, and ancillary staff employed in the burn center with burn care content equivalent to approximately four continuing education units.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:1497 (October 2024).

§9593. Conferences

A. Multi-disciplinary conferences shall be held at least weekly to review and evaluate the status of each burn center inpatient with representation by each clinical discipline regularly involved in burn center care. The conference shall include a review of each patient’s:

- 1. progress in recovery;
- 2. necessity for surgery; and
- 3. rehabilitation needs, both physical and psychosocial.

B. A documented quality/performance improvement conference shall be held at least monthly, with input from peers to improve patient care.

AUTHORITY NOTE: Promulgated in accordance with R.S.36:254 and R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:1497 (October 2024).

Michael Harrington, MBA, MA
Secretary

2410#074

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 19—Inclusion of Burial Plots, Vaults, etc., as
Part of Funeral Service—Change in Reserve Basis
(LAC 37:XIII.Chapter 63)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby repeals *Regulation 19—Inclusion of Burial Plots, Vaults, etc., as Part of Funeral Service—Change in Reserve Basis*. The Department of Insurance is repealing *Regulation 19* as existing statutory language provides sufficient guidance, and regulatory clarification is no longer necessary. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 67. Regulation 19—Inclusion of Burial Plots,
Vaults, etc., as Part of Funeral Service—
Change in Reserve Basis**

**§6701. Policy Directive Number Six to All Insurance
Issuing Funeral Policies**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, July 9, 1962, repealed LR 50:1497 (October 2024).

Timothy J. Temple
Commissioner

2410#036

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 39—Statement of Actuarial Opinion
(LAC 37:XIII.Chapter 7)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby repeals *Regulation 39—Statement of Actuarial Opinion*. The Department of Insurance is repealing *Regulation 39* as the guidance it provides is included in the NAIC Annual Statement Instructions, which R.S. 22:771 directs insurers to follow. This Rule is hereby adopted on the day of promulgation.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 7 Regulation 39—Statement of Actuarial
Opinion**

§701. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:904

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:619 (June 1992), repealed LR 50:1498 (October 2024).

§703. Applicability and Scope

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:904.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:619 (June 1992), repealed LR 50:1498 (October 2024).

§705. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:904.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:52 (January 2021), repealed LR 50:1498 (October 2024).

§707. Content

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:904.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:619 (June 1992), repealed LR 50:1498 (October 2024).

§709. Exemptions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:904.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 18:619 (June 1992), repealed LR 50:1498 (October 2024).

Timothy J. Temple
Commissioner

2410#034

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 43—Companies in Hazardous
Financial Condition
(LAC 37:XIII.Chapter 13)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends *Regulation 43*.

The purpose of the amendment to *Regulation 43* is to update the standards which the commissioner may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to their policyholders, creditors or the general public in accordance with the model regulation adopted by the National Association of Insurance Commissioners (NAIC). This Rule is hereby adopted on the day of promulgation.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 13. Regulation Number 43—Companies in
Hazardous Financial Condition**

§1305. Standards

A. ...

1. - 4. ...

5. whether the insurer's operating loss in the last 12-month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than 50 percent of the insurer's remaining surplus as regards policyholders in excess of the minimum required;

6. - 20. ...

21. whether the insurer has experienced or will experience in the foreseeable future cash flow or liquidity problems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and 22:220 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 18:1408 (December 1992), amended LR 39:3303 (December 2013), amended by the Department of Insurance, Office of the Commissioner, LR 50:1498 (October 2024).

Timothy J. Temple
Commissioner

2410#035

RULE

Department of Insurance Office of the Commissioner

Regulation 126—Louisiana Fortify Homes Program (LAC 37:XIII.Chapter 182)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby amends Regulation 126 to provide clarification with respect to the administration of the Louisiana Fortify Homes Program (LFHP) in accordance with Act No. 554 of the 2022 Regular Session. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 182. Regulation Number 126—Louisiana Fortify Homes Program

§18201. Purpose

A. ...

B. The purpose of the amendment to Regulation 126 is to provide additional clarification with respect to the administration of the LFHP in accordance with Act No. 554 of the 2022 Regular Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023), amended LR 50:1499 (October 2024).

§18202. Definitions

A. As used in Regulation 126, the following terms shall have the meanings herein specified.

1. *Commissioner*—the Louisiana Commissioner of Insurance.

2. *FORTIFIED*—a program of IBHS.

3. *FORTIFIED Home Evaluator*—an independent, third party who has completed the FORTIFIED training requirements and is certified by the Insurance Institute for Business and Home Safety (IBHS) as a home evaluator who can verify that a home meets the FORTIFIED roof standard. Homeowners can find a list of certified home evaluators at www.lidi.la.gov/fortifyhomes.

4. *Good Cause*—sufficient and verifiable grounds for waiving a requirement in the grant application process.

5. *Insurance Institute for Business and Home Safety (IBHS)*—a non-profit research and communications organization of the property and casualty insurance industry that defines the FORTIFIED roof standard for homes, information for which can be found at www.fortifiedhome.org.

6. *Lottery Process*—the random process by which an applicant is selected for the LFHP.

7. *Louisiana Fortify Homes Program (LFHP)*—a program, enacted by Act No. 554 of the 2022 Regular Session, administered by the commissioner, to make financial grants to retrofit roofs of insured property, as defined in R.S. 22:1483(C)(9), with a homestead exemption utilizing construction techniques demonstrated to reduce losses caused by a hurricane, tornado, or other catastrophic windstorm event and that meet or exceed the IBHS

FORTIFIED roof standard, information for which can be found at www.lidi.la.gov/fortifyhomes.

8. *National Flood Insurance Program (NFIP)*—a federal program enacted by the National Flood Insurance Act of 1968 (Title XIII of P.L. 90-448, as amended, 42 U.S.C. §§4001, et seq.) to provide greater access to primary flood insurance, mitigate flood risks, and reduce federal expenditures pertaining to flood-related disaster assistance. As part of its efforts to minimize flood damage and reduce repair costs, the NFIP designates flood zones and flood maps, which illustrate a community's flood risks. Additional information regarding the NFIP or flood zones and maps can be found at www.floodsmart.gov.

9. *Special Flood Hazard Area (SFHA)*—an area having special flood, mudflow, or flood-related erosion hazards on a Flood Hazard Boundary Map or a Flood Insurance Rate Map as shown on the Federal Emergency Management Agency's website. The SFHA is the area where the NFIP's floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023), amended LR 50:1499 (October 2024).

§18203. Contractor Eligibility Requirements and Conflicts of Interest

A. Contractor Eligibility Requirements. To be eligible to work as a LFHP contractor (LFHP-approved contractor), the contractor must meet all of the following program requirements:

1. submit and maintain a current copy of all certificates, licenses, and proof of insurance coverages with the LFHP;

2. - 5. ...

6. provide a FORTIFIED certification issued by the IBHS or its successor;

7. be listed on the IBHS Directory as an approved contractor at www.fortifiedproviders.com;

8. comply with all regulatory and tax laws regulating businesses in the state of Louisiana;

9. maintain internet access and have a valid, active email address on file with the LFHP for communication with the LFHP;

10. avoid conflicts of interest in any work performed on projects funded by LFHP grants; and

11. agree to follow the LFHP procedures and rules as established by the commissioner.

B. Contractor Conflicts of Interest

1. LFHP-approved contractors may not possess a financial interest in any project for which they perform work toward a FORTIFIED designation other than for payment on behalf of the homeowner by the LFHP.

2. LFHP-approved contractors cannot be the home evaluator for a FORTIFIED designation on any project funded by LFHP grants.

3. ...

C. The LFHP may remove a contractor from the list of LFHP-approved contractors at any time upon a finding that the contractor failed to meet any of the program requirements listed in Regulation 126.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023), amended LR 50:1499 (October 2024).

§18204. Home Evaluator Eligibility Requirements and Conflicts of Interest

A. Home Evaluator Eligibility Requirements. To be eligible to work on the LFHP, a home evaluator must meet all of the following program requirements:

1. submit and maintain a copy of all current program certificates with the LFHP;
2. be in good standing with the IBHS and maintain an active certification as a FORTIFIED home evaluator, issued by the IBHS or its successor;
3. ...
4. comply with all regulatory and tax laws regulating businesses in the state of Louisiana; and
5. ...

B. Home Evaluator Conflicts of Interest

1. Home evaluators may not possess a financial interest in any project for which they inspect for FORTIFIED designation purposes in connection with the LFHP.

2. Home evaluators cannot be contractors or suppliers of any materials, products, or systems installed in any home they inspect for FORTIFIED designation purposes for the LFHP.

3. Home evaluators cannot be a sales agent for any home being designated for the LFHP program.

4. Home evaluators have a duty to inform the LFHP of any potential conflicts of interest before commencing inspections on any job funded by LFHP grants.

C. The LFHP may remove a home evaluator from the list of eligible certified evaluators at any time upon a finding that the home evaluator failed to meet any of the program requirements listed in Regulation 126.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023), amended LR 50:1500 (October 2024).

§18205. LFHP Grants

A. Grant Eligibility. To be eligible for a LFHP grant, an applicant must meet the following requirements:

1. The home must be a residence with a homestead exemption that is not a condominium or mobile home.

2. ...

3. The homeowner, with the assistance of an LFHP-approved contractor and home evaluator, must fortify the home's roof to meet or exceed the IBHS FORTIFIED roof standard.

4. The homeowner must provide the LFHP proof of a wind insurance policy on the home. Additionally, if the home is in a designated SFHA, the homeowner must provide the LFHP proof of a flood insurance policy on the home.

5. - 7. ...

8. Unless granted an extension by the commissioner, the LFHP project must be completed within 90 days from the date of the notification issued by the commissioner that the applicant is eligible to proceed with the grant process.

Notice will be delivered to the applicant through electronic means. Failure to timely complete the LFHP project may result in a forfeiture of the grant.

9. The commissioner may grant a homeowner an extension of time to complete the LFHP project if an extension is timely requested in writing and the homeowner provides sufficient proof that extenuating circumstances caused or will likely cause delays in the completion of the LFHP. Whether to grant or deny a request for an extension of time shall be subject to the commissioner's sole discretion.

B. Grant Application Process

1. To apply for an LFHP grant, a homeowner must complete and submit an online grant application to the LFHP. The online grant application portal will be accessible via www.ldi.la.gov/fortifyhomes.

2. Unless otherwise notified by the commissioner, the homeowner will be responsible for paying for a certified home evaluator of the homeowner's choice to provide an IBHS home review evaluation on the home seeking to be fortified. A list of certified home evaluators can be found at www.ldi.la.gov/fortifyhomes.

3. The home evaluator shall determine whether the home meets a minimum structural standard on a pass-or-fail basis before identifying all improvements required to meet the IBHS FORTIFIED roof standard. Thereafter, the home evaluator shall submit a report to the LFHP for approval.

4. The homeowner must access the LFHP online application portal and obtain bids from not less than three LFHP-approved contractors of their choice to improve the home to meet the IBHS FORTIFIED roof standard. The commissioner may waive the minimum number of bids required for the application to reflect the number of contractors available in the area or for other good cause shown. A list of eligible contractors can be found at www.ldi.la.gov/fortifyhomes.

C. Awarding of Grants. The LFHP will award grants through a lottery process, subject to the availability of funding. The LFHP will review all applications for completeness and perform appropriate audits to verify the accuracy of the information in the application and whether the applicant meets the eligibility criteria. Applicants will have 30 days from selection in the lottery process to provide information to verify eligibility. LFHP-approved contractors may not begin work on a home until selected by the applicant and the bid process is complete. The LFHP may extend the time for review and approval of applications as it deems necessary. The LFHP will notify an applicant if the time for review and approval of the application has been extended.

D. Maximum Grant Award. The amount of a grant award shall be equivalent to the actual cost of retrofitting the roof to comply with the IBHS FORTIFIED roof standard, not to exceed \$10,000. The commissioner may periodically update the amount of the grant award.

E. Release of Funds. Grant funds will only be released on behalf of an approved applicant once an IBHS FORTIFIED certificate has been issued for the home. Funds will be paid by the LFHP, on behalf of the homeowner, directly to the contractor who performed the work to fortify the roof.

F. Grant Award Process

1. Once the LFHP approves the grant application, the homeowner may contract with an LFHP-approved contractor to fortify the home. Once the LFHP-approved contractor completes the fortification work on the home, they must submit a copy of the signed contract to the LFHP with a final invoice. The final invoice must include written verification that the work was completed to the FORTIFIED roof standard and that the total invoiced amount does not include any costs or fees incurred by the contractor for those items identified in R.S. 22:1483.1(B).

2. The home evaluator will perform all required evaluations to confirm that the LFHP-approved contractor completed the work according to the IBHS FORTIFIED roof standard. The IBHS will review the evaluation and determine whether to issue a FORTIFIED designation, which is a written certificate that the home meets the FORTIFIED roof standard.

3. ...

4. The LFHP reserves the right to conduct random inspections.

5. To timely manage the processing of grant applications or to meet funding limitations, the LFHP may establish specific periods when it will accept grant applications.

G. The commissioner may create pilot projects as needed to establish a sustainable distribution system of the program in any geographic area within the State of Louisiana.

H. Coordination with Other Funding Sources

1. Applicants shall report any funds received or anticipated from insurance, disaster relief, or other sources to ensure that the grant only covers actual costs.

2. Insurers shall not reduce settlement payments based on the payment or an LFHP grant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 49:698 (April 2023), amended LR 50:1500 (October 2024).

§18207. Effective Date

A. Regulation 126, as amended, shall be effective upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1483.1.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:1501 (October 2024).

Timothy J. Temple
Commissioner

2410#026

RULE

**Department of Insurance
Office of the Commissioner**

Regulation 130—Insurance Premium Tax Credits for
Retaliatory Taxes Paid by Certain Domestic Insurers
(LAC 37:XIII.Chapter 199)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S.

49:950 et seq., hereby promulgates *Regulation 130—Insurance Premium Tax Credits for Retaliatory Taxes Paid by Certain Domestic Insurers*. Regulation 130 implements the provisions of Act No. 428 of the 2023 Regular Session. The law creates an insurance premium tax refundable credit for retaliatory taxes paid by certain domestic insurers. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 199. Regulation Number 130—Insurance
Premium Tax Credits for Retaliatory
Taxes Paid by Certain Domestic Insurers**

§19901. Purpose

A. The purpose of this regulation is to implement the provisions of Act No. 428 of the 2023 Regular Session. The law creates an insurance premium tax refundable credit for retaliatory taxes paid by certain domestic insurers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:836, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:1501 (October 2024).

§19903. Applicability and Scope

A. This regulation applies to Louisiana domestic insurers that are authorized to write and do write insurance in Louisiana on an admitted basis and in at least one other state on an admitted basis as of July 1, 2023.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:836, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:1501 (October 2024).

§19905. Definitions

Commissioner—the commissioner of insurance for the State of Louisiana.

LDI—the Louisiana Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:836, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:1501 (October 2024).

**§19907. Calculation of the Refundable Credit; Proof of
Credit; Affidavit**

A. Domestic admitted insurers who have paid retaliatory tax based on premiums written in the preceding year shall provide evidence of the retaliatory taxes paid to other states along with Form 836. Evidence may consist of tax returns, invoices, copies of checks, or other documents that support the payment of the retaliatory taxes. Form 836 will be due by April 15th of each year.

B. Within 60 days after receiving all applications of the retaliatory credits, the LDI shall issue a refund for the retaliatory amounts paid by the domestic insurer. The maximum amount of refundable credits shall not exceed nine million dollars per fiscal year for the total of all domestic insurers claiming credits. If the total amount of refundable credits claimed by all eligible domestic insurers exceeds nine million dollars, the refunds shall be made on a pro rata basis to the eligible domestic insurers based upon

the proportion of the total amount paid by each domestic insurer for the preceding year.

C. An affidavit must be included with Form 836 certifying the commissioner that the domestic insurer will use the retaliatory credit refund monies exclusively for Louisiana-specific purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:836, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:1501 (October 2024).

§19909. Request for Refundable Tax Credit; Dispute Resolution

A. Domestic insurers seeking a refundable tax credit shall submit a request to the LDI pursuant to R.S.22:836 on Form 836 which shall be designed by the commissioner. The request shall be submitted no later than April 15th of each year. The commissioner may disapprove a tax credit either in whole or in part if the required supporting documents are missing.

B. If the commissioner disapproves in whole or in part, a refundable tax credit filed by a domestic insurer, he shall give written notice to the domestic insurer, stating grounds for disapproval. The notice shall be sent to the address shown on the records of the LDI. The insurer shall have 30 days to dispute the disapproval of the commissioner or supply the missing documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:836, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:1502 (October 2024).

§19911. Effective Date; Implementation

A. This regulation shall take effect on January 1, 2024. The initial applications for the refundable retaliatory tax credits must be filed by April 15, 2025. This regulation sunsets December 31, 2029. The last applications for the refundable tax credits must be filed by April 15, 2030, for the year of 2029.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:836, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 50:1502 (October 2024).

Timothy J. Temple
Commissioner

2410#033

RULE

Office of the Lieutenant Governor

Open Meetings Accessibility and Accommodations (LAC 4:XXIII.501)

In accordance with the provisions of R.S. 49:950 et seq.), the Office of the Lieutenant Governor (OLG) adopts LAC 4:XXIII.501. The Rule is to accommodate people with disabilities so that they may participate via electronic means in public meetings of public bodies placed

in the OLG. Such rulemaking is required pursuant to Act 393 of the 2023 Regular Session of the Louisiana Legislature, specifically R.S. 42:14(E)(4) and R.S. 42:17.2.1(B). This Rule is hereby adopted on the day of promulgation.

Title 4

ADMINISTRATION

Part XXIII. ADA Accessibility

Chapter 5. Office of the Lieutenant Governor

§501. Open Meetings Accessibility and Accommodations

A. All public bodies placed within the Office of the Lieutenant Governor shall provide for access to and participation in open meetings held by the public body via electronic means on an individualized basis to people with disabilities.

B. People with disabilities means any of the following:

1. a member of the public with a disability recognized by the Americans with Disabilities Act (ADA) or a designated caregiver of such person; or

2. a member of the public body with an ADA-qualifying disability.

C. People with disabilities interested in participating in the open meeting via electronic means should submit such request to the designated agency representative listed on the written public notice of the open meeting, in advance of the applicable meeting.

D. As soon as possible, but no later than the start of the open meeting, the public body shall provide the requestor the teleconference phone number and/or video conference link (with the passcode, if applicable) to accommodate the requestor's participation in the open meeting.

E. People with disabilities interested in providing written comments on agenda items shall be permitted by the public body to submit such comments to an address, email address, or other portal that is specifically described by the public body in the written public notice of its meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:14 and R.S. 42:17.2.1.

HISTORICAL NOTE: Promulgated by the Office of the Lieutenant Governor, LR 50:1502 (October 2024).

Nancy Watkins
Undersecretary

2410#040

RULE

Department of Revenue Tax Policy and Planning Division

Restaurant Oyster Shell Recycling Tax Credit (LAC 61:I.1933)

Under the authority of R.S. 47:1511 and 6043, and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Revenue, Tax Policy and Planning Division, adopts LAC 61:I.1933 to effectively administer R.S. 47:6043 relative to the restaurant oyster shell recycling tax credit.

Act 404 of the 2023 Regular Legislative Session (“Act 404”) enacted R.S. 47:6043, which authorizes an income tax credit for Louisiana restaurants that donate oyster shell material to the oyster shell recycling program of the Coalition to Restore Coastal Louisiana or a department-approved oyster shell recycling program. The credit authorized by Act 404 may be claimed for taxable years beginning between January 1, 2024 and December 31, 2028. The credit is refundable and may be applied against corporation, individual, and fiduciary income taxes for the year in which donations are made. The primary purpose of this regulation is to implement Act 404.

The Rule is written in plain language in an effort to increase transparency. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 19. Miscellaneous Tax Exemptions, Credits and Deductions

§1933. Restaurant Oyster Shell Recycling Tax Credit

A. Definitions

Compensation—for purposes of this section, any amount of payment in any form that contributes to an entity’s profit.

CRCL—the Coalition to Restore Coastal Louisiana.

Department—the Department of Revenue.

OSRP—an oyster shell recycling program or activity certified by the department for purposes of this credit. The CRCL is considered an OSRP.

Restaurant—a food establishment as defined by LAC 51:XXIII.101 that

- a. holds a state health department permit to operate,
- b. has an owner or designated employee possessing a state food safety certificate,
- c. collects, accounts for, and remits state sales tax to the department.

Taxpayer—a person who is required to file a Louisiana income tax return.

B. General Description

1. For taxable years beginning on or after January 1, 2024 but before January 1, 2029, taxpayers are eligible for the restaurant oyster shell recycling tax credit for donations of oyster shell material by restaurants to the oyster shell recycling program of the Coalition to Restore Coastal Louisiana or other oyster shell recycling program or activity approved by the department. The credit is a refundable income tax credit and is limited to \$2,000 per restaurant.

2. OSRPs are certified by the department to receive donations eligible for the tax credit. Only donations to the CRCL or an OSRP qualify for the credit.

C. Claiming the Tax Credit

1. Taxpayers claiming the restaurant oyster shell recycling credit must attach Form(s) R-90154, Receipt for Restaurant Oyster Shell Recycling Credit, to their return. The receipt shall contain the information set forth in this paragraph and must be issued by the OSRP to the donor on a quarterly basis, or monthly if approved by the department.

a. The OSRP section shall contain the following information:

- i. name and physical location address of the restaurant;
- ii. name of the OSRP;
- iii. beginning and ending dates of the donation period;
- iv. receipt number for tracking; and
- v. the total amount, in pounds, of oyster shell material donated by the donor to the OSRP during the donation period.

b. The donor section shall contain the following:

- i. legal name of the restaurant making the donation, whether an individual or entity; and
- ii. last four digits of the Social Security number, or Louisiana revenue account number, of the owner of the restaurant that donated to the OSRP; and
- iii. the amount of the credit.

c. The amount of donated oyster shell material may be ineligible for the credit for failure to include any information required on the receipt.

2. The credit shall be claimed for the taxable year in which the donation was made.

a. Exception: Receipts issued on a quarterly basis shall be claimed for the taxable year in which the quarter ends.

3. If the total amount of credits claimed in a particular calendar year exceeds the \$100,000 annual cap, the Department shall treat the excess as having been applied for on the first day of the following year. To utilize the credits in the subsequent year during which the taxpayer’s claim has priority, the taxpayer shall claim the credits on the subsequent tax year’s return and file it prior to the end of the calendar year. If the taxpayer fails to file a return in the subsequent year, the credits shall lose their priority status.

D. Application for Certification as an Oyster Shell Recycling Program

1. An organization that seeks to become certified as an OSRP may apply for certification at any time during the year by submitting a completed Form R-90152, Application for Certification as an Oyster Shell Recycling Program to the department.

2. The application shall contain:

- a. the name, mailing and physical address, Louisiana revenue account number, and federal employer identification number of the OSRP;
- b. contact information, including an email address, for the OSRP’s designated representative;
- c. a statement detailing the planned method of calculating approximate weights of oyster shell material donated to the program;
- d. a statement that the program intends use 100 percent of donated oyster shell material to improving water quality, benefitting aquatic habitats, supporting local economies, and protecting the coastline of this state;
- e. a statement that the OSRP will not use or otherwise facilitate the use of donated oyster shell material for commercial aquaculture or as aggregate in commercial use;
- f. a statement that the program will not receive or provide compensation for donated oyster shell material.

3. Within two months of receipt of an application for certification as an OSRP, the department shall notify the applicant of their status by way of approval notated on the

application to the email address designated on the application. The notification shall designate whether the OSRP is approved to issue quarterly or monthly receipts to donors. Certification is valid beginning January 1 of the year that an organization is approved.

4. If the application is denied, the department will inform the applicant of its grounds for denial and allow 15 business days from date of notification for the applicant to correct any defects. Grounds for denial include, but are not limited to:

- a. failure of the applicant to submit any information required by the application;
- b. failure of the applicant to submit any additional information requested by the department.

E. OSRP Reporting

1. An OSRP shall submit a completed Form R-90154, Receipt for Restaurant Oyster Shell Recycling Credit, with a completed OSRP section to each donor on a quarterly basis, or monthly if approved by the department.

2. An OSRP shall file an annual report with the department no later than January 31 of each year to OysterShell.RecyclingCredit@la.gov.

3. The annual report shall contain the following information:

- a. a certification that the OSRP continues to abide by the statements attested to in their OSRP application;
- b. copies of all receipts issued to donors during the prior calendar year;
- c. a listing in Excel format of all donations made for the purpose of this credit. For every donation of oyster shell material made during the prior calendar year, include:
 - i. the date of donation, the weight of materials donated, in pounds, the restaurant name and physical location address, and the receipt number on which the donation is included;
 - ii. if issuing receipts quarterly, the last day of the quarter;
- d. notification to the department of changes that may affect certification eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:6043.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Planning and Policy Division, LR 50:1503 (October 2024).

Richard Nelson
Secretary

2410#025

RULE

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

**Marking System for Passive Nets and Traps
(LAC 76:VII.114)**

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby revise a Rule (LAC 76:VII.114) by adding the requirement of marking crawfish and bream traps, cans, and barrels. Recreational crawfish trap marking requirements were removed from R.S. 56 with the license restructure in 2021, and this Rule reinstates that

requirement and expands it to commercial traps. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic life

Chapter 1. Freshwater Sports and Commercial Fishing

§114. Marking System for Passive Nets and Traps

A. Each gill net or trammel net shall be marked with a waterproof tag attached to the corkline at each end of the net, no more than three feet from the edge of the webbing or on an attached buoy. Each hoop net, slat trap, wire net, recreational crawfish trap, can, barrel, and bream trap shall be marked with a waterproof tag attached directly to the device or on an attached buoy. Said tags shall be supplied by the fisher and shall be completely waterproof. Each tag or buoy shall have the fisher's appropriate commercial or recreational fisher's license number (not the net license number) etched, stamped, or printed or written in indelible ink thereon in the English language, so as to be clearly legible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6, R.S. 56:320(F), and R.S. 56:322.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 48:2372 (September 2022), amended LR 49:1144 (June 2023), LR 50:1504 (October 2024).

Madison D. Sheahan
Secretary

2410#041

RULE

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

**Passive Hooked Fishing Gear Regulations
(LAC 76:VII.116)**

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby revise a Rule (LAC 76:VII.116) by expanding marking, setting, and tending requirements to freshwater commercial passive hooked gear and reinstating waterbody-specific requirements for commercial gear that were inadvertently nullified upon the recent update to LAC 76:VII.116. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic life

Chapter 1. Freshwater Sports and Commercial Fishing

§116. Freshwater Yo-Yos, Trigger Devices, Trotlines, Limb Lines, Jugs, and all Passive Fishing Devices Containing a Hook or Hooks

A. The Wildlife and Fisheries Commission hereby adopts the following regulations applicable to the use of yo-yos, trigger devices, trotlines, limb lines, jugs, and all other passive fishing devices containing a hook or hooks in freshwater areas of the state.

1. No more than 50 recreational yo-yos, or trigger devices, limb lines, or floating devices containing a hook or

hooks shall be allowed per person. There is no limit for commercial use of this gear, except that no more than 50 commercial yo-yos, or trigger devices, limb lines, or floating devices containing a hook or hooks shall be allowed per person in Black Lake, Clear Lake and Prairie Lake (Natchitoches Parish), Caddo Lake (Caddo Parish), Chicot Lake (Evangeline Parish), D'Arbonne Lake (Union Parish), Lake St. Joseph (Tensas Parish), and Lake Bruin, including the portion known as Brushy Lake (Tensas Parish), Louisiana.

2. At any given time, no person shall set more than 150 hooks on all recreational trotlines, combined. There is no limit for commercial use of this gear, except that no person shall set more than 150 hooks on all commercial trotlines, combined, in Black Lake, Clear Lake and Prairie Lake (Natchitoches Parish), Caddo Lake (Caddo Parish), Chicot Lake (Evangeline Parish), D'Arbonne Lake (Union Parish), Lake St. Joseph (Tensas Parish), and Lake Bruin, including the portion known as Brushy Lake (Tensas Parish), Louisiana.

3. Each yo-yo, trigger device, trotline, limb line, jug, or other passive fishing device containing a hook or hooks, whether recreational or commercial, shall be clearly tagged with the fishing license number of the owner or user. Information must be attached with a waterproof tag or written directly on the device in indelible ink.

4. Each yo-yo, trigger device, trotline, limb line, jug, or other passive fishing device containing a hook or hooks, whether recreational or commercial, shall be rebaited at least once every 24 hours, and all fish and any other animal caught, entangled, ensnared, or hooked, shall be immediately removed from the device.

5. Each yo-yo, trigger device, trotline, limb line, jug, or other passive fishing device containing a hook or hooks shall be removed from the waterbody immediately by the owner or user once the device is not being used in accordance with the provisions of this Section, except for those devices that are attached to a privately owned pier, boathouse, seawall, or dock.

6. Where allowed, objects sourced from another location used to anchor yo-yos, trigger devices, trotlines, limb lines, jugs, or other passive fishing devices containing a hook or hooks, whether recreational or commercial, which are driven into or attached to the lake bottom, a stump, tree, or the shoreline must be removed from the waterbody along with the passive devices by the user when not in use.

7. No driven or attached objects used to attach yo-yos, trigger devices, trotlines, limb lines, jugs, or other passive fishing devices containing a hook or hooks shall be larger than two inches by two inches or two inches in diameter.

8. No metal object which is driven into or attached to the lake bottom, a stump, tree, or the shoreline shall be used to anchor a yo-yo, trigger device, trotline, limb line, jug, or other passive fishing device containing a hook or hooks. A metal object may be used to anchor yo-yos, trigger devices, trotlines, limb lines, jugs, or other passive fishing devices containing a hook or hooks if it is attached to a pier, boathouse, seawall, dock, or a retrievable anchor (that is not attached to the water bottom) as part of the typical construction of that structure or object.

9. In Black Lake, Clear Lake and Prairie Lake (Natchitoches Parish), Caddo Lake (Caddo Parish), Chicot Lake (Evangeline Parish), D'Arbonne Lake (Union Parish), Lake St. Joseph (Tensas Parish), and Lake Bruin, including the portion known as Brushy Lake (Tensas Parish), Louisiana, except for an object used strictly in the construction of a pier, boathouse, seawall, or dock, no object sourced from another location which is driven into the lake bottom, a stump, tree, or the shoreline shall be used to anchor a yo-yo or trigger device.

10. All trotlines shall have a cotton leader on each end of the trotline. Commercial trotlines shall not have hooks spaced closer than 24 inches apart.

B. A violation of any of the provisions of this Section shall be a class one violation, except there shall be no imprisonment. In addition, any device found in violation of this Section shall be immediately seized by and forfeited to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6, R.S. 56:8, and R.S. 56:320.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 37:355 (January 2011), amended LR 48:2610 (October 2022), LR 50:1504 (October 2024).

Madison D. Sheahan
Secretary

2410#042

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Passive Saltwater Hooked Fishing Gear Regulations (LAC 76:VII.389)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby promulgate a Rule to add marking, setting, and tending requirements to saltwater recreational and commercial passive hooked gear (LAC 76:VII.389). The Rule is intended to provide consistency with similar freshwater regulations under LAC 76:VII.116 as these passive gears can drift across the designated saltwater-freshwater line in Louisiana. The regulations are further intended to reduce the abandonment of gear in the waters of Louisiana. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic life

Chapter 3. Saltwater Sport and Commercial Fishery §389. Passive Saltwater Hooked Fishing Gear Regulations

A. The Wildlife and Fisheries Commission hereby adopts the following regulations applicable to the use of yo-yos, trigger devices, trotlines, limb lines, jugs, and all other passive fishing devices containing a hook or hooks in saltwater areas of the state.

1. No more than 50 recreational yo-yos, trigger devices, trotlines, limb lines, or floating devices containing a hook or hooks shall be allowed per person.

2. At any given time, no person shall set more than 150 hooks on all recreational trotlines, combined.

3. Each yo-yo, trigger device, trotline, limb line, jug, or other passive fishing device containing a hook or hooks, whether recreational or commercial, shall be clearly tagged with the fishing license number of the owner or user. Information must be attached with a waterproof tag or written directly on the device in indelible ink.

4. Each yo-yo, trigger device, trotline, limb line, jug, or other passive fishing device containing a hook or hooks, whether recreational or commercial, shall be rebaited at least once every 24 hours, and all fish and any other animal caught, entangled, ensnared, or hooked, shall be immediately removed from the device.

5. Each yo-yo, trigger device, trotline, limb line, jug, or other passive fishing device containing a hook or hooks, whether recreational or commercial, shall be removed from the waterbody immediately by the owner or user once the device is not being used in accordance with the provisions of this Section, except for those devices that are attached to a privately owned pier, boathouse, seawall, or dock.

6. Where allowed, objects sourced from another location used to anchor yo-yos, trigger devices, trotlines, limb lines, jugs, or other passive fishing devices containing a hook or hooks, whether recreational or commercial, which are driven into or attached to the water bottom, a stump, tree, or the shoreline must be removed from the waterbody along with the passive devices by the user when not in use.

7. No driven or attached objects, where allowed, used to attach yo-yos, trigger devices, trotlines, limb lines, jugs, or other passive fishing devices containing a hook or hooks, whether recreational or commercial, shall be larger than two inches by two inches or two inches in diameter.

8. No metal object which is driven into or attached, to the water bottom, a stump, a tree, or the shoreline shall be used to anchor yo-yos, trigger devices, trotlines, limb lines, jugs, or other passive fishing devices containing a hook or hooks. A metal object may be used to anchor yo-yos, trigger devices, trotlines, limb lines, jugs, or other passive fishing devices containing a hook or hooks if it is attached to a pier, boathouse, seawall, dock, or a retrievable anchor (that is not attached to the water bottom) as part of the typical construction of that structure or object.

B. A violation of any of the provisions of this Section shall be a class one violation, except there shall be no imprisonment. In addition, any device found in violation of this Section shall be immediately seized by and forfeited to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6, R.S. 56:8, and R.S. 56:320.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 50:1505 (October 2024).

Madison D. Sheahan
Secretary

2410#039

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences Horticulture Commission

Retail and Wholesale Florists
(LAC 7:XV.126 and XXIX.Chapter 1)

The Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, proposes to amend and adopt additions to LAC 7:XV.126 and LAC 7:XXIX.102, 107, 109, 113, 115, 117 and 119. The proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. The proposed Rule change is made in accordance with R.S. 3:3801, which gives the Commissioner of Agriculture and Forestry the authority to adopt rules and regulations. The proposed Rule changes are being made pursuant to ACT 643, ACT 243, ACT 217, and ACT 245 in the 2024 Regular Session.

ACT 643 of the 2024 Regular Session made several changes relative to retail and wholesale florists. ACT 643 removed the regulation, examination, and licensing of retail and wholesale florists, and established the occupation of and the requirements for floral dealers. ACT 643 gives the Commissioner of the Department of Agriculture and Forestry the requirement to issue a notice of intent to amend its rules and regulations in conformity with ACT 643. ACT 217 of the 2024 Regular Session relative to arborists, to provide for arboricultural examination requirements, license renewal requirements for arborists and utility arborists and related matters. The proposed Rule changes also clarify the examination application process and approved examination sites. The proposed amendments provide for a fee exemption for governmental agencies, schools, and non-profit organizations not in the business of commercial sales of nursery stock and cut flowers.

This proposed Rule is written in plain language in an effort to increase transparency.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter B. Nursery Stock Quarantines

§126. Nursery Certificate Permit Fees

A. ...

1. Any nursery which consists of acreage greater than 2,500 square feet or greenhouse area greater than 200 square feet shall be \$100 per location per year and all other nursery certificate permittees shall pay a fee of \$25 per location per year.

2. Governmental agencies, schools, and nonprofit organizations which are not in the business of commercial sales of nursery stock are exempt from the payment of fees by this section. However, entities engaged in sales shall

apply for a nursery certificate and are subject to all crop pests and disease laws and regulations.

3. There is hereby established and henceforth there shall be a fee of \$0.10 per nursery certificate permit tag issued by the Louisiana Department of Agriculture and Forestry to the nursery certificate permittee.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:78 (February 1989), amended LR 29:2297 (November 2003), LR 51:

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§102. Definitions

A. - C. ...

Floral Design—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Horticulture Commission, LR 26:627 (April 2000), amended LR 33:1854 (September 2007), LR 34:2547 (December 2008), LR 40:758 (April 2014), LR 51:

§107. Application for Examination and Licensure or Permitting

A. Each applicant must complete the application form prescribed by the commission for the area in the practice of horticulture for which the license or permit is sought and submit the application to the commission at 5825 Florida Boulevard, Baton Rouge, LA 70806 along with any other information required by the commission in this Chapter for an applicant to take the requested examination.

B. ...

C. Applicants who have an occupational license or certification in a regulated profession or occupation from another state and reside in the state of Louisiana should refer to R.S. 37:51 et seq. for the Welcome Home Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, R.S. 3:3807, and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 18:249 (March 1992), LR 20:639 (June 1994), LR 23:854 (July 1997), LR 29:1460 (August 2003), LR 31:1053 (May 2005), LR 35:1227, 1228 (July 2009), LR 37:3464 (December 2011), LR 40:758 (April 2014), LR 51:

§109. Examination and Licensure or Permitting Fees

A. - A.2. ...

B. Arborist, Landscape Horticulturist, Landscape Irrigation Contractor, Utility Arborist

1. The fee for examination or re-examination for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, or utility arborist shall be \$114.

2. The fee for issuance or renewal for licensure as an arborist, landscape horticulturist, landscape irrigation contractor, landscape architect, or utility arborist shall be \$100.

C. Nursery Stock, Cut Flower, and Floral Dealer

1. The fee for issuance or renewal of a nursery stock dealer permit shall be \$150.

2. The fee for issuance or renewal of a cut flower dealer permit shall be \$90.

3. The fee for issuance or renewal of a floral dealer permit shall be \$100.

4. Governmental agencies, schools, and nonprofit organizations which are not in the business of commercial sales of nursery stock or cut flowers shall be exempt from the payment of fees by this section. However, entities engaged in sales shall apply for a permit and are subject to all commission laws and regulations.

D. A late fee of \$25 shall be charged after the fifteenth working day after a license or permit has expired for the renewal thereof.

E. All fees required under this rule must be submitted at the same time as the application; failure to submit any required fees will bar the applicant from taking the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3806, R.S. 3:3805, and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:184 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:249 (March 1992), LR 20:640 (June 1994), LR 29:2297 (November 2003), LR 31:1053 (May 2005), LR 35:1227 (July 2009), LR 37:3464 (December 2011), LR 40:758 (April 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 41:2098 (October 2015), LR 41:2578 (December 2015), LR 51:

§113. Examination Schedule and Administration

A. Examinations for licensure shall be administered in the commission's state office at 5825 Florida Boulevard, Baton Rouge, LA 70806 and, upon written request, in district offices of the department or at a site approved by the commission. Each applicant shall be notified of the date for the examination.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3807 and R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 18:250 (March 1992), LR 20:640 (June 1994), LR 31:1053 (May 2005), LR 35:1227 (July 2009), LR 37:3465 (December 2011), LR 40:759 (April 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 44:2127 (December 2018), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 44:2127 (December 2018), LR 46:1076 (August 2020), LR 51:

§115. General Requirements for All Licensees or Permittee

A. - B. ...

C. The permits of cut flower, floral and nursery stock dealers must be prominently displayed at all times in a

location accessible to the general public or any representative of the commission.

D. Licensees must display at least one of their license numbers on both sides of all vehicles that have advertisement or signs and are used for business purposes with lettering at least 2 inches high and legible at the distance of 25 feet. The number to be displayed shall be the last four digits of the license number preceded by two letters indicating the type of license as follows.

- AR—Arborist
- LH—Landscape Horticulturist
- LA—Landscape Architect
- IC—Landscape Irrigation Contractor
- UA—Utility Arborist

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 20:640 (June 1994), LR 21:548 (June 1995), LR 31:1053 (May 2005), LR 34:2547 (December 2008), LR 35:1227 (July 2009), amended LR 46:1076 (August 2020), LR 51:

§117. Professional and Occupational Standards and Requirements

A. Floral Dealer

1. All cut flowers, ornamental plants, and living or freshly cut plant materials sold or offered for sale shall be fresh, of high quality, and free from injurious insects, diseases, and other pests. No plant material of low quality and no wilted or dead plant materials may be offered for sale to the general public or sold to a consumer except when specifically requested by the consumer.

2. Cut flowers and ornamental plants, and living or freshly cut plant materials shall be cared for in a manner that, to the extent reasonably possible, maintains their freshness and increases their longevity.

3. Coolers where cut flowers, ornamental plants, or living or freshly cut plant materials, are kept or stored shall be clean and maintained at a temperature conducive to prolonging the freshness of the said products kept or stored in the coolers.

4. Containers holding cut flowers or living or freshly cut plant materials shall be maintained in a manner that does not adversely affect the cut flowers or plant material. Water in containers shall be changed periodically so as to remain clean at all times.

5. Floral dealers may rent potted ornamental plants for special events such as weddings, conventions, trade shows, etc., if such plants are normally and customarily sold by floral dealers and such plants do not require maintenance, other than normal watering. Plants rented by floral dealers for a special event shall be rented only for the duration of that special event.

B. - B.4.h. ...

C. Landscape Irrigation Contractor

1. Before the commission issues a landscape irrigation contractor license the person to be licensed shall first furnish to the commission a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant, as a licensee, for personal injuries and property damages. The insurance policy shall provide for not less than \$25,000 per personal

injuries and not less than \$50,000 for property damages, both limits applicable to each separate accident. The certificate of insurance shall provide for 30 days' written notice to the commission prior to cancellation. The commission may, however, waive the requirement for the stated insurance coverage for any licensed landscape irrigation contractor who does not physically work on landscape irrigation systems or accept responsibility for work on landscape irrigation systems but only provides consultation or other associated services with respect to landscape irrigation systems or the work performed on such systems.

2. Failure to maintain the required insurance may constitute a violation of this Part.

3. Licensees are required to attend and complete a commission approved continuing training seminar at least once every three years. Each licensee, prior to renewal of his or her license, shall provide the commission with certifiable evidence that the licensee has timely and successfully completed such a seminar.

4. Licensed landscape irrigation contractors shall enter into a written contract with the property owner, specifying the landscape irrigation services to be performed and the sum to be paid for the services. The contract shall include the following statement: "Any complaints regarding landscape irrigation installation should be directed to the Louisiana Horticulture Commission at 225/952-8100." Both parties shall receive a copy of the contract.

5. Licensees shall display their license at all times in a location accessible to the general public or any representative of the commission.

6. The following clarifications apply to licensed landscape irrigation contractors.

a. A licensed landscape irrigation contractor is not required to have a water supply protection specialist endorsement from the State Plumbing Board in order to install an irrigation system up to the point of connecting the irrigation system to a public or private water supply system or installing a backflow prevention device.

b. A licensed landscape irrigation contractor shall also have a water supply protection specialist endorsement from the State Plumbing Board before connecting any irrigation system to a public or private water supply system or installing a backflow prevention device, pursuant to R.S. 3:3808(Q)(4), (5).

c. A governing authority, such as a parish or municipality, shall issue all necessary permits, including necessary electrical permits, to a licensed landscape irrigation contractor who does not hold a water supply protection specialist endorsement for the installation of an irrigation system, except for those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.

d. A governing authority, such as a parish or municipality shall issue all necessary permits to a licensed landscape irrigation contractor who holds a water supply protection specialist endorsement from the State Plumbing Board for the installation of an irrigation system, including necessary electrical permits and those permits that would allow such a licensed landscape irrigation contractor to

connect the irrigation system to a public or private water supply system or install a backflow prevention device.

e. A licensed landscape irrigation contractor who also holds a water supply protection specialist endorsement from the State Plumbing Board is required by R.S. 3:3816(6) to install backflow prevention devices in accordance with ordinances adopted by local governing authorities, such as parishes and municipalities, regulating the installation of backflow prevention devices. If a local governing authority does not have an ordinance regulating the installation of backflow prevention devices, such devices shall be installed in accordance with the requirements of Part XIV (Plumbing) of the Sanitary Code, state of Louisiana.

D. - E.1. ...

2. Before the commission issues an arborist's license, the person to be licensed shall first furnish to the commission a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant for personal injuries and property damages, and workers' compensation if applicable. The certificate of insurance shall provide for 30 days' written notice to the commission prior to cancellation.

a. The commission may waive the requirement for the stated insurance coverages for any licensed arborist who does not physically work on trees or accept responsibility for work on trees but only provides consultation with respect to work on trees.

E.2.b. - E.3. ...

4. Licensees shall enter into a written contract with the property owner employing him for arboricultural work, and the contract shall specify the services to be performed and the sum to be paid for the services. Both parties shall receive a copy of the contract.

E.5. - F.3. ...

4. Nursery stock dealers operating from a mobile unit shall not sell nursery stock within 300 feet of a place of business that holds a nursery stock or floral dealer's permit, nursery certificate permit, or a landscape horticulturist license.

F.5. - G.3. ...

4. Cut flower dealers, operating from a mobile unit shall not sell cut flowers, within 300 feet of place of business that holds a cut flower dealer's permit.

H. - H.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801, and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 31:1054 (May 2005), LR 32:78 (January 2006), LR 32:1010 (June 2006), LR 33:1854 (September 2007), LR 35:1228 (July 2009), LR 36:2520 (November 2010), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 42:1645 (October 2016), LR 46:1077 (August 2020), LR 48:2287 (September 2022), LR 51:

§119. Prohibition

A. - E. ...

F. No licensee, permittee or person engaged in any profession or occupation regulated by the commission shall use the words "design" or "designer" or any form of these

words, whether separately or in combination with other words in any advertisement, solicitation or title, or on any estimate, contract or other document, except for those persons who are licensed as a landscape architect or permitted as a floral or cut flower dealer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:186 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 29:1460 (August 2003), LR 36:2520 (November 2010), LR 51:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons 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 children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

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;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 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, data, opinions and arguments regarding the proposed Rules via U.S. Mail or hand delivery. Written submissions must be

directed to Tina Peltier, Director of Horticulture and Quarantine Programs, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4 p.m. on November 10, 2024. All written comments must be signed and dated.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Retail and Wholesale Florists

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in any costs or savings to state or local governmental units.

The proposed rule changes omit the regulations pertaining to retail and wholesale florists, add a fee exemption for governmental agencies, schools and nonprofit organizations not in the business of commercial sales of nursery stock, and cut flowers and makes additional technical changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes may decrease revenue collections for Louisiana Department of Agriculture and Forestry (LDAF) for the statutorily dedicated Horticulture and Quarantine Fund by an indeterminable amount. The proposed rule changes eliminate the regulation of retail and wholesale florists along with the requirement to pass an examination to obtain a retail florist and wholesale florist license. LDAF reports approximately 140 retail and wholesale florist examinations given yearly with a fee of \$114 per exam and approximately 1,900 license renewals each year with a fee of \$100. Floral businesses will need to determine if a floral dealer permit (\$100 fee) or a cut flower dealer permit (\$90 fee) will be required to operate. The proposed rule change creates a floral dealer permit at a cost of \$100 per location. Without the requirement of an examination for a retail or wholesale florist license, permit sales may increase. Additionally, the number of governmental agencies, schools, and nonprofit organizations that currently possess either a nursery stock dealer (\$150 fee), cut flower dealer (\$90) or nursery grower permit (\$25 or \$100 fee) that will be exempt from the appropriate fees once the proposed rule change is in effect is unknown at this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes may result in cost savings to retail florist licensees who choose to operate with a cut flower dealer permit. The fee for a license renewal is \$100 per year, while a cut flower dealer permit is \$90 per year. With the removal of testing requirements, an increase in the number of businesses operating may increase.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes may affect competition and employment opportunities for retail and wholesale florists as licenses and examinations will no longer be needed to operate a florist or wholesale florist location. Businesses that employ these individuals may be required to obtain the proper permits.

Dane Morgan
Assistant Commissioner
2410#044

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agro-Consumer Services Weights and Measures Division

Seafood Consumer Protection
(LAC 7:XXXV.Chapter 5)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 3:4706, the Department of Agriculture and Forestry (LDAF), Office of Agro-Consumer Services, Weights and Measures Division proposes to adopt LAC 7:XXXV,Chapter 5, Subchapter C. Sections 513-. 523, relative to Seafood Consumer Protection.

Pursuant to R.S. 3:4706 the commissioner shall adopt by rule the provisions necessary to enforce the provisions of Act 148 from the 2024 Legislative Session. Section 513 provides for the authority of these proposed Rules. Section 515 provides for the application of the proposed Rules. Section 517 provides for the prohibitions relative to the marketing, labeling, packaging, or advertising of crawfish, shrimp, or any product thereof. Sections 519, 521, and 523 provide for complaints, investigations, enforcement, and penalties. This proposed Rule is written in plain language in an effort to increase transparency.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 5. Consumer Products—Testing and Labeling

Subchapter C. Seafood Consumer Protection

§513. Authority

A. The Department of Agriculture and Forestry adopts these regulations under the authority of R.S. 3:4706 for the purposes of regulating and enforcing the truthfulness in labeling crawfish, shrimp, and products thereof and to prohibit the misleading packaging and marketing of seafood products.

AUTHORITY NOTE: Promulgated in accordance with Act 148 of 2024 and R.S. 3:4706.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division LR 51:

§515. Application

A. The provisions of this Chapter shall apply only to persons who place a label on retail food products sold or offered for sale.

AUTHORITY NOTE: Promulgated in accordance with Act 148 of 2024 and R.S. 3:4706.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division LR 51:

§517. Prohibitions

A. No person shall engage in the marketing, labeling, packaging, or advertising of crawfish, shrimp, or any product thereof, that implies or suggests any association with Louisiana's culture and heritage if the association is likely to deceive the public as to its origin.

B. No person shall market crawfish, shrimp, or any product thereof using any Louisiana-related imagery, phrases, colors, or styles if the products are not genuinely

linked to Louisiana's cultural heritage and produced within this state or landed within the state.

C. The prohibitions in this section shall not apply if the country of origin appears on the front of the package in thirty-point Arial Black font.

AUTHORITY NOTE: Promulgated in accordance with Act 148 of 2024 and R.S. 3:4706.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division LR 51:

§519. Complaints and Investigations

A. The department may receive complaints regarding violations of this Chapter. Complaints may be directed to the department's Weights and Measures Division.

B. Upon receipt of a complaint, the department may investigate the alleged violation.

C. The department may also investigate possible violations that the department may notice.

AUTHORITY NOTE: Promulgated in accordance with Act 148 of 2024 and R.S. 3:4706.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division LR 51:

§521. Enforcement

A. Whenever the department has reason to believe that a violation of this Chapter or the Act has occurred, the department may present the alleged violations at an adjudicatory hearing before the Weights and Measures Commission.

B. The department shall notify the respondent of the alleged violation as well as an opportunity to respond thereto, by certified mail, prior to any hearing date in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with Act 148 of 2024 and R.S. 3:4706.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division LR 51:

§523. Penalties

A. Penalties may be assessed only by a ruling of the commissioner based upon a recommendation by the Weights and Measures Commission adjudicatory hearing held pursuant to R.S. 3:4706 and the Administrative Procedures Act.

AUTHORITY NOTE: Promulgated in accordance with Act 148 of 2024 and R.S. 3:4706.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Weights and Measures Division LR 51:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons 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 children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

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 is 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;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 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 Paul Floyd, Director of Weights and Measures, 5825 Florida Blvd, Suite 5000 Baton Rouge, LA 70806 or via email to pfloyd@ldaf.state.la.us. Comments will be accepted until 3 p.m. on November 20, 2024.

Public Hearing

A public hearing on this proposed Rule has been scheduled for Tuesday, November 26, 2024 at 10 a.m. The public hearing will allow all interested parties will be afforded an opportunity to submit data, views, or arguments either orally or in writing. The hearing will take place in the Veteran's Memorial Auditorium located on the first floor of the Department of Agriculture and Forestry headquarters 5825 Florida Blvd. Baton Rouge, LA 70806.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Seafood Consumer Protection

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to result in additional workload for the Louisiana Department of Agriculture and Forestry (LDAF) staff, the new duties are anticipated to be accomplished within the normal scope of

business related to price verification inspections. The proposed rule change is not estimated to have any costs to implement, except the cost to promulgate the rule which is already included in the department's annual budget. There is no anticipated impact on local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change provides for the regulation and enforcement of marketing, labeling, packaging, and advertising of crawfish and shrimp products in compliance with Act 148 of the 2024 regular legislative session. Specifically, the proposed rule changes require the commissioner of LDAF to issue fines to any person for violations of Act 148, especially when implied association with Louisiana's culture and heritage. Fine amounts are as follows: for the first offense, a fine of no more than \$15,000 for each violation; for the second offense, a fine of not more than \$25,000 for each violation; and for third and subsequent offenses, a fine of not more than \$50,000 for each violation. The number of individuals who may violate the proposed rule changes and be assessed civil fines is speculative and indeterminable. There is no anticipated impact on local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules are estimated to economically benefit consumers in the state of Louisiana by preventing misleading packaging that may influence their purchasing decisions for crawfish, shrimp, and related products. Affected businesses, seafood packagers, and distributors may incur additional production costs associated with repackaging existing product or modifying future packaging to comply with the provisions of R.S. 3:4706, pursuant to Act 148 of the 2024 Regular Session, and the proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to affect competition and employment.

Dane Morgan
Assistant Commissioner
2410#045

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Forestry

Indian Creek Recreation Area
(LAC 7:XXXIX.Chapter 5)

In accordance with the provisions of the Administrative Procedure Act, R.S 49:953(A), the Department of Agriculture and Forestry (LDAF) and through the authority granted in R.S. 3:4402 proposes to amend LAC 7:XXXIX, Chapter 5, Sections 505, 509, 523, 527, 531, 533, 535, 539, 545 to provide for fee and policy updates relative to the management of Indian Creek Recreation Area.

R.S. 3:4402 provides for the recreational management of the Indian Creek Lake. The proposed Rule changes provide for updates to the day-use fee, camping fees, boating rental fees, and pavilion rental fees. The proposed Rule changes provide for the adoption of a golf cart permit fee and a vendor application fee. The proposed Rule changes amend policies relative to pets, equine, and camping. These proposed Rules are written in plain language in an effort to increase transparency.

**Title 7
AGRICULTURE AND ANIMALS**

Part XXXIX. Forestry

Chapter 5. Indian Creek Recreation Area

§505. Vehicle Use

A. - G. ...

H. All golf carts must be registered and approved with site staff. Site staff will issue permits to approved golf carts. The golf cart permit fees can be found in §533(B).

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1503 (September 2016), amended LR 51:

§509. Livestock, Animals and Pets

A. - B. ...

C. Pets are not permitted to be left outside at an unattended campsite; this includes, but is not limited to, kennelled, tethered, or fenced.

D. All equine entering the recreation area shall be accompanied by a record of a negative Coggins test, official test for equine infectious anemia (EIA), conducted within the past 12 months. The test shall be conducted at an approved laboratory and the name of the laboratory, the case number, and the date of the test shall appear on the record.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1504 (September 2016), amended LR 51:

§523. Business Activities

A. No person may sell or offer for sale any merchandise or service without the written consent of the site manager.

B. No person may distribute, post, place, or erect any advertising device without the written consent of the site manager.

C. Events

1. The site manager may allow businesses to participate in site events as a vendor.

2. The vendors must submit an application and a \$75 application fee to be considered for participation in events.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1505 (September 2016), amended LR 51:

§527. Overnight Use

A. - A.12. ...

B. Camping

1. With the exception of a campground host and campsites reserved at the 30-day off-season rate, overnight camping is limited to 14 consecutive days. After 14 consecutive days of occupancy at a site, all registered visitors of the site and all camping equipment must vacate the site for 7 consecutive days before occupancy may be resumed. The site manager reserves the right to cancel any reservations in violation of this provision.

B.2 - B.5.b...

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1505 (September 2016), amended LR 43:1518 (August 2017), amended LR 51:

§531. Fees; Day-Use Fees

A. General Admission Day-Use Entrance Fees

1. The day-use fee at Indian Creek Recreational Area is up to \$8 per vehicle with 5 or fewer occupants and up to \$10 with more than 5 occupants. Pavilion rental does not include day-use fee.

2. ...

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1506 (September 2016), amended LR 43:1518 (August 2017), amended LR 51:

§533. Fees; Boating and Vehicle Use

A. Canoes, kayaks, flat bottom boats, paddleboats or other watercraft may be rented for up to \$60 per vessel per day. Rental of any watercraft includes paddles and two lifejackets. Additional life jackets are available for rental at fee of \$1 per day. Hourly watercraft rental is available at the following rates:

Time	Rental Fee
1 hour	\$20
2 hours	\$30
4 hours	\$40
8 hours	\$60

B. Golf Carts

1. All golf carts must be registered and approved with site staff. Site staff will issue permits to approved golf carts. The golf cart permit fees are as follows:

Permit Term	Permit Fee
Daily	\$10
Monthly	\$50
Annual	\$100

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1506 (September 2016), amended LR 43:1518 (August 2017), amended LR 51:

§535. Fees and Exemptions; Exemptions/Discounts

A. - D. ...

E. Law Enforcement. Law enforcement personnel who show proof of same and any person(s) accompanying him in a single, private, non-commercial vehicle, may receive a 10 percent discount on camp site rental fees. There is no discount on the winter rates or other rental rates (kayaks, boats, etc.). The person(s) will also receive a 50 percent discount off day-use fees. Proper picture identification is required.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1506 (September 2016), amended LR 43:1518 (August 2017), amended LR 51:

§539. Fees and Exemptions; Overnight Use

A. Camping

1. The winter season is November 1 - February 28 and the summer season is March 1 - October 31.
2. A standard campsite is a non-waterfront campsite. A premium campsite is a waterfront campsite.
3. A Pull-Thru Campsite consists of two sites. An Ultra Pull-Thru campsite consists of a pull-thru waterfront double campsite for use by a single tenant camper.
4. The nightly rental rate for each campsite offered is up to the amount as shown in the following table:

Campsite	Summer Nightly Rate	Winter Nightly Rate
Standard Campsite	\$29	\$25
Premium Campsite	\$35	\$29
Standard Single Pull-Thru	\$29	\$25
Premium Single Pull Thru	\$35	\$29
Ultra Pull Thru	\$61	\$49
Primitive Area	\$21	\$17
Full Hook-Up	\$40	\$35

B. Rally camping areas are those designated and reserved for use by organized groups of overnight campers in the primitive area of the campsite.

1. Fees—Rally Camping

a. A fee up to \$55 per night is assessed to the group for the exclusive use of an area. Rally camping is available for tent camping in the primitive area of the campsite only.

C. Thirty-Day Off-Season Rates (available November 1 - February 28 only)

1. The thirty-day rental rate for each campsite offered is up to the amount as shown in the following table:

Campsite	Winter Season 30-Day Rate
Non-Waterfront Single	\$400
Waterfront Single	\$525
Full Hook Up	\$575

D. The fees set forth in this Section shall become effective February 1, 2025.

E. Online or telephone payments of the fees set forth in this Chapter may be subject to a credit card transaction fee.

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970, R.S. 36:802.10, and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:1507 (September 2016), amended LR 43:1518 (August 2017), LR 47:229 (February 2021), repromulgated LR 47:1101 (August 2021), amended LR 51:

§545. Pavilion Use; Rate; Restrictions

A. Pavilion Rental

1. Exclusive use of the pavilion can only be made by executing a rental agreement and payment of a rental fee.

2. The pavilion rental rate is \$125 per day for the large pavilion and \$35 per day for the small pavilion. Pavilion rental does not include day-use fee.

3. Full payment of the \$125 rental fee for the large pavilion and \$35 rental fee for the small pavilion is due at time of reservation. Prior to, or on the date of the reservation, a \$50 cleaning deposit is required for the large pavilion and \$15 cleaning deposit for the small pavilion. The party renting the pavilion is responsible for cleanup after the event and ensuring the pavilion is not damaged. The cleaning deposit will be refunded to the customer either electronically or by U.S. mail within 10 days of the event if sufficiently clean.

A.4 - A.8. ...

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970 and R.S. 3:4402.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 43:1519 (August 2017), amended LR 51:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons 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 children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

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 is 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;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 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 Melissa Hildago, Director of Indian Creek Recreation Area , 5825 Florida Blvd., Suite 2000 Baton Rouge, LA 70806 or via email to mhildago@ldaf.state.la.us. Comments will be accepted until 3 p.m. on November 10, 2024.

Public Hearing

No public hearing on this proposed Rule has been scheduled. If a public hearing is needed, all interested parties will be afforded an opportunity to submit data, views, or arguments either orally or in writing. Interested parties may submit a written request to conduct a public hearing to Melissa Hildago, 5825 Florida Blvd., Suite 2000 Baton Rouge, LA 70806 or via email to mhildago@ldaf.state.la.us; however such request must be received no later than 3 p.m. on November 10, 2024.

Mike Strain, DVM
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Indian Creek Recreation Area

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation costs for the proposed rule changes are \$1,000. This includes updating the signage at the recreation area as well as information listings on the department webpage. The proposed rule changes increase fees and regulations at the Indian Creek Recreation Area. The proposed rule amendments are not anticipated to impact the costs or savings of local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Collectively, the proposed rule changes are estimated to increase revenue collections by an amount ranging from \$202,075 to \$220,275 annually, based on analysis by Louisiana Department of Agriculture and Forestry (LDAF) staff.

The proposed rule changes are not anticipated to affect the revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes increase the following fees at the recreation area:

Day-use visitors will pay an additional \$1 or \$3 per visit depending on if the number of occupants in their vehicle is greater than five occupants.

Campsite patrons will pay an additional \$5 per night for the campsite rental.

During the winter months, patrons who take advantage of the 30-day campsite rental will spend an additional \$70 or \$90 depending on the type of campsite they rent.

Large pavilion renters will pay an additional \$25, and small pavilion rentals \$5 per rental.

Watercraft renters up to \$30 additionally per day of watercraft usage.

Businesses that wish to attend hosted events as vendors will pay \$75 per event.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not estimated to impact competition and employment.

Dane Morgan
Assistant Commissioner
2410#037

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Agriculture and Forestry
Office of Forestry**

Timber Harvesting
(LAC 7:XXXIX.1500, 1507, and 1509)

In accordance with the Administrative Procedure Act, R.S. 49:950, *et seq.*, and pursuant to the authority set forth in R.S. 3:17, notice is hereby given that the Louisiana Department of Agriculture and Forestry (“Department”), through the Office of Forestry, proposes to adopt and amend LAC 7:XXXIX.1500, 1507, and 1509 relative to timber harvesting.

The proposed Rule changes are being made pursuant to ACT 214 in the 2024 Regular Session which establishes a written contract or agreement shall be made for conducting timber harvesting operations with the intent to cut five acres or more of timberland, as well as civil penalties for failure to comply. ACT 214 gives the Commissioner authority to adopt rules and regulations to implement the provisions of the ACT.

This proposed Rule is written in plain language in an effort to increase transparency.

**Title 7
AGRICULTURE AND ANIMALS
Part XXXIX. Forestry
Chapter 15. Timber Harvesting and Receiving
Records**

§1500. Definitions

Commissioner—the Commissioner of the Louisiana Department of Agriculture and Forestry.

Forest Products—any tree, shrub, plant or related vegetation, or any part thereof.

Landowner—any individual, corporation, partnership, association, trust, joint venture, other legal entity or combination thereof who owns 5 contiguous acres or more of land located in Louisiana.

Written Contract or Agreement—a written and signed contract or agreement between the landowner or an individual with timber ownership rights and the purchaser of the standing timber that defines the terms and obligations of the timber harvesting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4278.3 and R.S. 3:4278.6.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 51:

§1507. Timber Harvesting Written Contract or Agreement

A. Pursuant to R.S. 3:4278.6, any person conducting timber harvesting operations with the intent to cut five acres or more of timberland shall enter into a written contract or agreement with the owner, purchaser, or an agent or

representative of either the owner or the purchaser of such timberland.

B. The written contract or agreement for conducting timber harvesting operations shall contain the following:

1. term of timber harvest;
2. obligations of both parties;
3. amount or quantity;
4. payment; and
5. description of timber harvest:
 - a. location of tract such as a plat map;
 - b. type of harvest such as clear cut or thinning;
 - c. species and product such as pine log or hardwood logs; and
 - d. final destination of species and product

C. The written contract or agreement must be signed by both parties, and a fully executed copy must be provided to all parties prior to harvesting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4278.6.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 51:

§1509. Penalty for Violations [Formerly §1507]

A. In the event of a violation of R.S. 3:4278.3 or R.S. 3:4278.6 or the regulations promulgated thereunder, the maximum penalty allowed may be imposed after an adjudicatory hearing held in accordance with the Administrative Procedure Act. The Louisiana Forestry Commission shall make an initial determination on the matter. Their decision shall be submitted to the commissioner in writing.

B. The commissioner shall make the final determination on the matter. If the determination of the commissioner differs from the commission, the commissioner shall issue a written opinion based on the record of the hearing.

C. Appeals from ruling of the commissioner shall be taken in accordance with the provisions of the Administrative Procedure Act.

D. Pursuant to R.S. 3:4278.6, the commissioner may impose a civil penalty of not more than \$5000 for each instance of failure to comply with the provisions of §1507. Each day on which a violation occurs shall be considered a separate offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4278.3 and R.S. 3:4278.6.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 51:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons 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 children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

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;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 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, data, opinions and arguments regarding the proposed Rules via U.S. Mail or hand delivery. Written submissions must be directed to Wade Dubea, State Forester, Assistant Commissioner for Forestry, Department of Agriculture & Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4 p.m. on November 10, 2024. All written comments must be signed and dated.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Timber Harvesting

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to have any costs for implementation, besides the cost of rule promulgation which is already included in the Department of Agriculture and Forestry's annual budget.

The proposed rule establishes the requirements that any person conducting timber harvesting in Louisiana must have a written contract or agreement if the landowner intends to cut five acres or more.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change establishes a civil penalty, which may result in increased revenue collections for the department. Louisiana R.S. 3:4278.6 gives the Commissioner of Agriculture and Forestry authority to impose a civil penalty for failure to comply with the provisions of this section. The proposed rule change establishes a civil penalty of not more than \$5,000 for

each failure to comply. Each day on which a violation occurs is a separate offense. LDAF is unable to determine the number of civil penalties that may be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule establishes the requirements that any person conducting timber harvesting in Louisiana must have a written contract or agreement if the landowner intends to cut five acres or more. to have a written contract or agreement. Failure to comply may result in a civil penalty of up to \$5,000. There are no estimated costs or economic benefits to directly affected persons, small businesses, or non-governmental groups for establishing an agreement for conducting timber harvesting.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated impacts on competition and employment as a result of the proposed rule change.

Dane Morgan
Assistant Commissioner
2410#037

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Officer

NOTICE OF INTENT

**Louisiana Economic Development
Office of the Secretary**

Administrative and Miscellaneous Provisions
(LAC 13:VII Chapter 1)

Louisiana Economic Development (LED), pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 36:104, 42:14(E), 42:17.2 (E), and 42:17.2.1(B), propose to adopt rules relative to Louisiana’s open meetings law.

Act 393 of the 2023 Regular Session amended R.S. 42:17.2 and enacted R.S. 42:14(E) and 17.2.1 of Louisiana’s Open Meetings law to permit certain, eligible public bodies to conduct its open meetings via electronic means (e.g. videoconference or teleconference.) Regardless of its eligibility status, electronic or alternate participation are required in open meetings as an ADA accommodation for people with disabilities. The purpose of the proposed Rule is therefore to promulgate rules to allow for electronic or alternate participation in open meetings, as required by R.S. 42:14 E (4), 42:17.2 and 42:17.2.1(B).

Title 13

ECONOMIC DEVELOPMENT

Part VII. Administrative and Miscellaneous Provisions

Chapter 1. Open Meetings via Electronic Means Policy

§101. Agency Eligibility

A. Louisiana Economic Development (LED), meets the criteria pursuant to Act 393 of the 2023 Regular Legislative Session to be eligible to conduct open public meetings via electronic means.

1. is a state agency as defined by R.S. 49:951;
2. has powers, duties, or functions that are not limited in scope to a particular political subdivision or region;
3. conducts at least six regularly scheduled meetings in a calendar year; and
4. is not one of the agencies identified by R.S. 42:17.2(I) to which open meetings via electronic means shall not apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104 and R.S. 42:17.2.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§103. Postings Prior to Meeting via Electronic Means

A. At least 24 hours prior to the meeting, LED shall post the following on the agency’s website at www.opportunitylouisiana.gov:

1. meeting notice and agenda; and
2. detailed information regarding how members of the public may:
 - a. participate in the meeting via electronic means, including the applicable videoconference link and/or teleconference phone number; and
 - b. submit written comments regarding matters on the agenda prior to the meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, R.S. 42:14(E) and R.S. 42:17.2.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§105. Electronic Meeting Requirements and Limitations

A. For any meeting conducted via electronic means, LED shall ensure compliance with all requirements outlined in R.S. 42:17.2(C).

B. LED shall not conduct any more than one-third of its open meetings, in a calendar year, via electronic means, and will only conduct successive meetings via electronic meetings as needed.

C. To the extent practicable, LED shall publish a schedule of its meetings indicating which upcoming meetings will be conducted via electronic means and which will be conducted only in person meetings.

D. All participating members of LED whether participating from the anchor location or via electronic means, shall be counted for the purpose of establishing a quorum and may vote.

E. An online archive of any open meetings conducted via electronic means shall be maintained and available for two years on LED’s website at www.opportunitylouisiana.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:104, R.S. 42:14(E) and R.S. 42:17.2.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

§107. Disability Accommodations

A. Although an open meeting may be scheduled as in-person, LED is obligated to provide for participation via electronic means on an individualized basis by people with disabilities.

B. People with disabilities may request access, in advance of scheduled meetings, for participation in the public meetings via electronic means for LED, or for any public body within LED.

C. People with disabilities are defined as any of the following:

1. a member of the public with a disability recognized by the Americans with Disabilities Act (ADA);
2. a designated caregiver of such a person; or
3. a participant member of LED or any public body within LED, with an ADA-qualifying disability.

D. LED shall ensure that the written public notice for an open meeting, as required by R.S. 42:19, includes the name, telephone number and email address of the designated representative to whom a disability accommodation may be submitted.

E. The designated LED representative shall provide the requestor with the accommodation, including the teleconference and/or video conference link, for participation via electronic means as soon as possible following receipt of the request, but no later than the start of the scheduled meeting.

F. Participation via electronic means shall count for purposes of establishing quorum and voting.

AUTHORITY NOTE: with R.S. 36:104, R.S. 42:14(E), R.S. 42:17.2, and R.S. 47:17.2.1.

HISTORICAL NOTE: Promulgated by Louisiana Economic Development, LR 51:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.R

Poverty Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule should have no adverse impact on small business as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons should submit written comments on the proposed Rules to Leticia Johnson, Louisiana Department of Economic Development, 617 North 3rd Street, 11th Floor, Baton Rouge, LA 70802 or via email to Leticia.Johnson@la.gov. All comments must be received no later than close of business day, November 22, 2024.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments on the Notice of Intent will be held at 10 a.m. on November 25, 2024 in the La Belle Conference Room at the LaSalle Building, 617 North 3rd Street, Baton Rouge, LA 70802.

Anne G. Villa
Deputy Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Administrative and Miscellaneous Provisions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of this proposed rule is to implement the provisions of La. R.S. 42:14(E) and 42:17.2 enacted by ACT 393 of the 2023 Regular Session of the Louisiana Legislature. La. R.S. 42:14(E) requires agencies (with certain exceptions) to provide electronic or alternate participation in open meetings as an ADA accommodation for people with disabilities. Additionally, La. R.S. 42:17.2 was amended to permit certain, eligible public bodies and agencies to conduct open meetings via electronic means (e.g., videoconference or teleconference).

Louisiana Economic Development's implementation costs are expected to be minimal and the agency currently has sufficient funding to implement the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is currently no estimated impact on revenue collections of LED or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs to directly affected persons, small businesses, or non-governmental groups. To the extent someone is able to attend a meeting via electronic means that might not otherwise be able to, an economic impact may result.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to have a material effect on competition and employment.

Anne G. Villa
Deputy Secretary
2410#069

Ben Vincent
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Advisory Groups and Remote Participation
(LAC 28:I.503, 505, and 507, LAC 28:XI.103,
LAC 28:LXV.109, LAC 28:CXV.1319, and
LAC 28:CLXVII.1101)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education (BESE) proposes to amend LAC 28:I in *BESE/8(g) Operations*, LAC 28:XI in *Bulletin 111—The Louisiana School, District, and State Accountability System*, LAC 28:LXV in *Bulletin 106—Agriculture Education Content Standards Curriculum Framework*, LAC 28:CXV *Bulletin 741—Louisiana Handbook for School Administrators*, and LAC 28:CLXVII in *Bulletin 140—Louisiana Early Childhood Care and Education Network*. The proposed amendments align BESE policy with Act 393 of the 2023 Regular Legislative Session. The revisions adopt requirements to provide accommodations, upon request, to persons with disabilities to facilitate participation in advisory group meetings. Further amendments revise policy regarding LDOE and BESE advisory group membership and meetings.

Title 28

EDUCATION

Part I. BESE/8(g) Operations

Subpart 1. Board of Elementary and Secondary Education

Chapter 5. Organization

§503. Advisory Councils

- A. - C.2.c.ii. ...
- 3. Superintendents' advisory council:
 - a. ...
 - b. membership—23 members as follows:
- C.3.b.i. - F.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:6(A)(15), 17:11, 17:24.4, and 42:19.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:416 (March 2008),

amended LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2140 (July 2011), LR 38:772 (March 2012), LR 38:3152 (December 2012), LR 39:3263 (December 2013), LR 42:563 (April 2016), LR 44:744 (April 2018), LR 44:1995 (November 2018), LR 45:1444 (October 2019), LR 48:412 (March 2022); LR 48:2086 (August 2022), LR 51:

§505. Special Advisory Councils/Task Forces/Commissions/Study Groups

A. ...

1. MFP Task Force. The Task Force will be convened upon, annually and/or as needed, by the BESE chair of the Board Administration and Education Finance Committee and BESE President in order to advise BESE in the development of the MFP formula as it applies to the distribution of funding of public schools.

- a. authority—per BESE policy;
- b. membership—29 members consisting of the following:

i. eight ex-officio representatives as follows:

(a). Board Administration and Education Finance Committee chair (serves as task force chair);

(b). four Board Administration and Education Finance Committee members;

(c). - ii.(d). ...

iii. ten designated representatives as follows:

(a). - (i). ...

(j). Repealed.

(k). - iv.(e). ...

(f). two public school parents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:6(A)(15), 17:11, 17:24.4, and 42:19.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:2086 (August 2022), amended LR 51:

§507. Open Meetings Participation via Electronic Means

A. BESE is an agency identified in R.S. 42:17.2(I) to which open meetings via electronic means shall not apply.

B. Public notice for a meeting shall include the contact information of the agency representative to whom a disability accommodation request may be submitted.

C. Where the capability exists, remote participation via electronic means shall be teleconference or video conference. BESE and LDOE shall provide for participation via electronic means or by email on an individualized basis to persons with disabilities recognized by the Americans with Disabilities Act.

D. Public Participants. Members of the public with a disability recognized by the Americans with Disabilities Act or a designated caregiver of such a person may request remote participation for any meeting held by BESE or LDOE.

E. Membership Participants. A member of BESE or any advisory group who has a disability recognized by the Americans with Disabilities Act shall be allowed to participate and vote in a meeting via electronic means.

1. The presiding officer of any advisory group shall be present and shall preside over the meeting in person at the physical location at which the meeting is held.

2. Members participating in a meeting via electronic means shall be counted for the purpose of establishing a quorum and may vote.

3. Members who participate in a meeting via electronic means are not eligible to receive per diem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:11, R.S. 17:24.4, R.S. 42:17.2.1, R.S. 42:14, and R.S. 42:19.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

Title 28

EDUCATION

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 1. General Provisions

§103. Accountability Council (formerly Accountability Commission)

A. - B. Repealed.

C. Accountability Council (Formerly the Accountability Commission) Established.

1. - 2.c.iii. ...

d. The majority of the Accountability Council (AC) membership must be representatives of local educational agencies and shall consist of no fewer than nineteen voting members, all subject to approval or ratification of the board, as follows:

i. - D. ...

1. Terms. Unless otherwise provided by state or federal law, persons appointed by board members shall serve at the pleasure of the recommending authority. Persons appointed by organizations and agencies other than BESE shall serve terms determined by the appointing authority and ratified by the board. A council member may be removed without cause by the appointing authority at any time. Appointees must maintain employment and qualifications appropriate to the organizational category represented. Upon retirement, employment in a different capacity, or otherwise failure to maintain eligibility requirements, the member shall become ineligible to continue to serve and shall be replaced.

2.

3. Repealed.

4. Proxy. Any person serving on an advisory council who cannot attend a scheduled meeting may designate a person to attend as proxy.

5. Quorum. Unless otherwise provided, a quorum is a simple majority of the total membership. When known prior to an agenda being posted that a quorum is unlikely, the council chair shall be so notified, and the meeting may be canceled.

6. - 8. ...

a. Appointed members are expected to attend all scheduled meetings of an advisory body. A council member shall be removed and the seat declared vacant if the member is no longer a legal resident of Louisiana, fails to remain active in or is no longer employed by the appointing organization or agency represented, or resigns.

b. - b.iii. Repealed.

E. Chair

1. The AC shall have one Chairperson appointed by the State Superintendent of Education and ratified by the Board.

2. The appointed Chair shall preside at all meetings of the AC, shall perform such duties as may be required by the council, and shall be a nonvoting member.

F. Meetings

1. The council shall meet as scheduled in order to consider referrals from the board or the LDOE.

2. Regular meeting dates shall be scheduled one year in advance.

3. Agendas of regularly scheduled council meetings shall be distributed to council members by the LDOE staff at least seven calendar days in advance of a meeting. All council meetings shall be conducted in accordance with Louisiana open meetings law R.S. 42:11 et seq. In the event that no items have been referred for consideration, there are no items pending, and the LDOE has no items to bring forward to the council at least 10 days prior to a scheduled meeting, the meeting shall be cancelled, and the members shall be notified of the cancellation.

4. - 5. ...

6. - 9. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:2090 (August 2022), amended LR 50:

**Title 28
EDUCATION**

Part LXV. Bulletin 106—Agriculture Education Content Standards Curriculum Framework

Chapter 1. General

§109. Agricultural Education Commission

A. - B. Repealed.

C. - D.1 ...

2. Vacancies. A vacancy in an appointed position shall occur if an appointee, for any reason, is unable to serve the full extent the appointed term.

3. ...

4. Proxy. Any person serving on AEC who cannot attend a scheduled meeting may designate a person to attend as the member proxy.

5. Quorum. Unless otherwise provided, a quorum is a simple majority of the total membership. When known prior to an agenda being posted that a quorum is unlikely, the council chair shall be so notified and the meeting may be canceled.

6. - 8. ...

a. Appointed members are expected to attend all scheduled meetings of an advisory body. A commission member shall be removed and the seat declared vacant if the member is no longer a legal resident of Louisiana, fails to remain active in or is no longer employed by the appointing organization or agency represented, or resigns.

b. - b.iii. Repealed.

E. - F. ...

1. The AEC shall meet as scheduled in order to consider referrals from the board or the LDOE.

2. Regular meeting dates shall be scheduled to convene one year in advance. The commission shall schedule meetings upon the call of the chairperson, but not less than once quarterly.

3. Agendas of regularly scheduled commission meetings shall be distributed to the members by the LDOE staff at least 7 calendar days in advance of a meeting. All

meetings shall be conducted in accordance with Louisiana open meetings law R.S. 42:11 et seq. In the event that no items have been referred for consideration, there are no items pending, and the LDOE has no items to bring forward to the commission at least 10 days prior to a scheduled meeting, the meeting shall be cancelled, and the members shall be notified of the cancellation.

4. ...

5. Except where listed herein, the business shall be conducted in accordance with *Robert's Rules of Order*.

6. - 8. Repealed

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:2088 (August 2022), amended LR 50:

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 13. Discipline

§1319. Advisory Council on Student Behavior and Discipline

A. - B. Repealed.

C. - C.2.a. ...

b. Members of the council shall annually elect a new chair from among its membership by February 15 of each calendar year.

C.2.c. - D.1. ...

2. Vacancies. A vacancy in an appointed position shall occur if an appointee, for any reason, is unable to serve the full extent the appointed term.

3. Repealed.

4. Proxy. Any person serving on the council who cannot attend a scheduled meeting may designate a person to attend as the proxy.

5. Quorum. Unless otherwise provided, a quorum is a simple majority of the total membership. When known prior to an agenda being posted that a quorum is unlikely, the council chair shall be so notified and the meeting may be canceled.

6. - 8. ...

a. Appointed members are expected to attend all scheduled meetings of the council. A council member shall be removed and the seat declared vacant if the member is no longer a legal resident of Louisiana, fails to remain active in or is no longer employed by the appointing organization or agency represented, or resigns.

E. Meetings

1. Advisory councils shall meet as scheduled in order to consider referrals from the board or the LDOE.

2. Regular meeting dates shall be scheduled to convene one year in advance. The council shall schedule meetings upon the call of the chairperson, at least three times annually.

3. - 5. ...

6. - 8. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.1 and R.S. 17:253.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:2096 (August 2022), amended LR 51:

Title 28
EDUCATION

Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

Chapter 11. Early Childhood Care and Education Advisory Council

§1101. Early Childhood Care and Education Advisory Council

A. Functions.

A.1. - D. ...

1. Terms. Members shall serve a term of three years at the pleasure of the appointing authority. Persons appointed by organizations and agencies other than BESE shall be ratified by the board. A council member may be removed without cause by the recommending agency at any time. Appointees must maintain employment and qualifications appropriate to the organizational category being represented. Once a member retires, becomes employed in a different capacity, or otherwise fails to maintain eligibility, the member shall become ineligible to continue to serve and shall be replaced.

2. Vacancies. A vacancy in an appointed position shall occur if an appointee, for any reason, is unable to serve the full extent of the term. At the conclusion of a membership term, LDOE and BESE shall publish a request for applications and select nominees for the subsequent term from the pool of applicants.

3. Repealed.

4. Proxy. Any person serving on an advisory council who cannot attend a scheduled meeting may designate a person to attend as proxy.

5. Quorum. A quorum is a simple majority of the total membership. When it is known prior to an agenda being posted that a quorum is unlikely, the council chair shall be so notified, and the meeting may be canceled. Proxies cannot be included for the purpose of establishing a quorum.

6. - 8. ...

a. Appointed members are expected to attend all scheduled meetings of an advisory body. A council member shall be removed and his/her seat declared vacant if the member is no longer a legal resident of Louisiana, fails to remain active in or is no longer employed by the organization or agency appointed to represent, or resigns.

b. - b.iii. Repealed.

E. Chair

1. The council shall have one chair and one vice-chair annually elected by the voting members of the council.

2. The chair shall preside at all meetings of the council and perform such duties as may be required by the council. The elected vice-chair shall serve in the absence of the chair and perform other duties as assigned by the chair.

F. Meetings

1. The council shall meet as scheduled in order to consider referrals from the board or the LDOE.

2. - 5. ...

6. - 9. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.1 and R.S. 17:407.51

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:2092 (August 2022), amended LR 50:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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 rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules 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 authority? 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 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, November 9, 2024, to Tavares A. Walker, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Tavares A. Walker, 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.

Tavares A. Walker
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Advisory Groups and Remote Participation**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule change. The proposed rule change aligns Board of Elementary and Secondary Education (BESE) policy with Act 393 of the 2023 RS. The rule change adopts requirements to provide accommodations, upon request, to persons with disabilities to facilitate participation in advisory group meetings. Further changes revise policy regarding Department of Education (LDOE) and BESE advisory group membership and meetings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

There are potential anticipated benefits to directly affected persons as a result of the proposed rule change. Remote participation by members of an advisory group or the public who have a disability may expand stakeholder input while reducing travel time and expense that may be incurred for an in-person meeting.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule change.

Beth Scioneaux
Deputy Superintendent
2410#060

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
Charter Schools

(LAC 28:CXXXIX.101, 311, 503, 515, Chapter 11, 1301, 1303, Chapter 15, 1701, 2105, 2107, 2501, Chapter 27, Chapter 29, 3903, 4003, 4005, and Chapter 43)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education (BESE) proposes to amend LAC 28:CXXXIX in Bulletin 126—*Charter Schools*. The proposed amendments align BESE policy with legislation enacted by the 2024 Regular Legislative Session. The revisions adopt requirements for implementation of Act 172: extension and renewal, Act 198: local special education advisory council, Act 216: mandatory reporters; Act 331: print “988” on student ID cards; Act 334: charter law and notice; Act 337: expulsion; Act 352: tobacco and marijuana products; Act 364: Type 2 charter applicants with a corporate sponsor; Act 375: school nurse training; Act 400: discipline; Act 428: ten-point grading scale; Act 659: student enrollment percentages; Act 680: student names; Acts 686 and 716 required instruction and trainings; and Act 780: student discipline.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 1. General Provisions

§101. Purpose, Scope, and Effect

A. The purpose of this bulletin is to provide rules to govern the implementation of R.S. 17:3971 *et seq.*, the "Louisiana Public Charter School Law" (hereafter, the "Charter School Law").

B. - C. ...

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 34:1357 (July 2008), amended LR 51:

Chapter 3. Charter School Authorizers

§311. Application Process for Locally-Authorized Charter Schools

A. - A.1. ...

a. Upon submission of an application for a Type 1 or Type 3 charter school to a local charter authorizer, an applicant shall provide notice to the LDOE.

A.2. - F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3981, 17:93, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 44:231 (February 2018), amended LR 47:570 (May 2021), LR 51:

Chapter 5. Application and Approval Process for BESE-Authorized Charter Schools

§503. Eligibility to Apply for a Type 2 Charter School

A. - A.4. ...

5. except as provided in Subsections B, C, or F of this Section, has submitted a proposal for a type 1 or type 3 charter school to the local school board in whose jurisdiction the charter school is proposed to be located which:

A.5.a. - E. ...

F. Applicants applying to operate a charter school with a corporate partner, as defined in §3903 of this Part, are not required to submit a Type 1 charter application to such local school system and may submit a proposal for a Type 2 charter school directly to BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:3982, R.S. 17:3983, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1360 (July 2008), amended LR 37:868 (March 2011), LR 38:3117 (December 2012), LR 39:1431 (June 2013), LR 39:3064 (November 2013), LR 44:232 (February 2018), LR 47:571 (May 2021), LR 51:

§515. Application Components for BESE-Authorized Charter Schools

A. - D.8. ...

9. a description of how the proposed charter school fulfills one or more of the purposes specified in the charter school law and this bulletin, including how the best interests of students who are economically disadvantaged will be considered;

10. ...

11. the school plan for identifying and successfully serving students with disabilities, English language learners, students with academic difficulties, students who qualify as economically disadvantaged, and gifted and talented students, as applicable, in order to comply with applicable laws and regulations;

D.12. - H.13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1362 (July 2008), amended LR 37:869 (March 2011), LR 37:2383 (August 2011), LR 38:38 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 38:3118 (December 2012), LR 39:1432 (June 2013), LR 43:2477 (December 2017), LR 44:233 (February 2018), LR 44:2130 (December 2018), LR 47:572 (May 2021), amended LR 50:656 (May 2024), LR 51:

Chapter 11. Ongoing Review of Charter Schools

§1101. Evaluation for BESE-Authorized Charter Schools

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

b. transparency in student applications and enrollment;

I.2.c. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:871 (March 2011), repromulgated LR 37:1124 (April 2011), amended LR 37:2385 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 39:1433 (June 2013), LR

39:3065 (November 2013), amended LR 40:1322 (July 2014), LR 44:235 (February 2018), LR 44:2130 (December 2018), LR 51:

§1103. Alternate Renewal Standards for Certain BESE-Authorized Charter Schools

A. BESE may approve alternate renewal standards for a charter school serving a unique student population or populations, or for a charter school that is not included in the Louisiana School and District Accountability System provided that:

1. ...

2. the alternate renewal standards are set forth in a framework approved by BESE; and

3. the alternate renewal standards include specific academic performance criteria.

B. The department shall develop the alternate renewal standards framework and shall engage with charter schools requesting use of such framework to determine the specific criteria to be included in the framework to be proposed for approval by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1366 (July 2008), amended LR 40:1322 (July 2014), LR 44:236 (February 2018), LR 51:

§1105. Intervention Process for BESE-Authorized Charter Schools

A. The charter school performance compact must include an intervention process that articulates the steps the Department of Education may take should a school fall out of compliance with requirements outlined in the charter school performance compact, law, or BESE policy. The stages of the intervention process shall include, at a minimum:

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

4. revocation review. Upon failure to meet the requirements specified in the notice of breach, in instances of ongoing and significant concerns, or when the safety, health, or welfare of students is threatened, the department may initiate a revocation review. The review may include additional visits to the school or an in-depth audit to assess financial and/or organizational health. Findings from the revocation review will determine whether the LDOE shall commence revocation proceedings, whether the school will be granted a new or revised notice of breach, or whether reconstitution of the governing board will be recommended in accordance with §2105 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 39:1435 (June 2013), amended LR 44:236 (February 2018), LR 51:

Chapter 13. Charter Term

§1301. Initial Charter

A. An approved charter shall be valid for an initial term of five years.

B. A charter operator shall have a right to operate a charter school during its initial five year term unless the charter is revoked or surrendered.

C. A charter operator's right to operate a charter school shall cease upon the expiration of the initial five year term, unless the charter operator is granted an extension in accordance with Subsection D of this Section.

D. In the event of extraordinary circumstances, the initial charter may be extended by the same length of time as the impacting occurrence. Qualifying extraordinary circumstances include:

1. lack of issuance of a school performance score;
2. qualification as a severe impact school in accordance with LAC 28:XI.4503 (*Bulletin III*); or
3. other extraordinary circumstances as certified by the state superintendent.

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 in LR 34:1366 (July 2008), amended LR 38:3118 (December 2012), LR 51:

§1303. Extension Review for BESE-Authorized Charter Schools

A. Each charter school shall be reviewed by its chartering authority after the completion of the fourth year of operation. If the charter school is achieving its stated goals and objectives pursuant to its approved charter, then the chartering authority shall extend the duration of the charter for a maximum initial term of five years. If the charter school is not achieving its stated goals and objectives pursuant to its approved charter, then the chartering authority shall not extend the duration of the charter, and the charter shall expire at the end of the school's fifth year.

B. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1367 (July 2008), amended LR 37:2387 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 39:1435 (June 2013), LR 39:3065 (November 2013), LR 40:1322 (July 2014), LR 41:1264 (July 2015), LR 43:2477 (December 2017), LR 44:237 (February 2018), LR 51:

Chapter 15. Charter Renewal

§1501. Renewal of Charter

A. - C. ...

D. Charter renewal criteria shall include academic performance and progress indices, as well as distinguish among charter schools with selective admissions criteria, charter schools without selective admissions criteria, and alternative charter school educational models.

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 in LR 34:1367 (July 2008), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 44:237 (February 2018), LR 51:

§1505. Eligibility for Renewal for BESE-Authorized Charter Schools (Formerly §1503.B)

A. - A.1. ...

2. the school growth is in the top quartile of the state in the most recent year and for more than half of the years in which the school received a growth score during the charter term; or

3. the school falls within the top quartile of the state in at least three of the following categories:

- a. total SPS;
- b. growth score;

- c. English learner proficiency growth;
 - d. growth for economically disadvantaged students;
- or
- e. growth for students with disabilities.

B. For subsequent renewals, a BESE-authorized charter school receiving a letter grade of "D" or "F" in the prior academic year will not be eligible for renewal, unless one of these conditions are met:

1. - 2.a. ...

b. the school growth is in the top quartile of the state in the most recent year and for more than half of the years in which the school received a growth score during the charter term; or

i. Repealed.

c. the school falls within the top quartile of the state in at least three of the following categories:

- i. total SPS;
- ii. growth score;
- iii. English learner proficiency growth;
- iv. growth for economically disadvantaged students; or
- v. growth for students with disabilities.

C. - E. ...

F. A recommendation for non-renewal may also include a recommendation that a new charter provider operate the school or that the charter governing board be reconstituted in accordance with §2105 of this Part.

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 36:479 (March 2010), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015), amended LR 44:238 (February 2018), LR 46:788 (June 2020), LR 51:

§1507. Renewal Term Length for BESE-Authorized Charter Schools (Formerly §1503.C)

A. For each charter school meeting the eligibility criteria for renewal, the state superintendent shall recommend that BESE renew of the charter for a specified number of years as provided for in Subsection C of this Section, unless the charter school has significant, intentional, or repeated non-compliance with financial or organizational requirements outlined in the charter school performance compact, in which case the state superintendent may recommend that BESE allow the charter to expire at the conclusion of the school's current charter term.

B. - B.2. ...

C. The state superintendent shall recommend renewal term lengths. Minimum renewal term lengths with potential additional years are based on organizational and financial performance over the current term.

1. A charter school with a current letter grade of A shall receive a minimum term length of 6 years, with potential additional years as follows:

- a. Does not meet expectations in any year, no additional years;
- b. Meets all and/or meets most expectations in all years, ≤ 2 years;
- c. Meets all expectations in all years, ≤ 4 years.

2. A charter school with a current letter grade of B shall receive a minimum term length of 5 years, with potential additional years as follows:

a. Does not meet expectations in any year, no additional years;

b. Meets all and/or meets most expectations in all years, ≤ 1 year;

c. Meets all expectations in all years, ≤ 2 years.

3. A charter school with a current letter grade of C shall receive a minimum term length of 4 years, with no additional years.

4. No letter grade or a current letter grade of D or F shall receive a minimum term length of 3 years, with no additional years.

D. - D.1.b. ...

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 36:479 (March 2010), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015), LR 44:238 (February 2018), LR 51:

§1509. Automatic Renewal of BESE-Authorized Charter Schools (Formerly §1503.G)

A. - B.1. ...

2. has demonstrated growth in student academic achievement as measured by a current growth indicator equivalent to a letter grade of "A";

B.3 - C. ...

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 36:479 (March 2010), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015) LR 44:239 (February 2018), LR 51:

Chapter 17. Revocation

§1701. Reasons for Revocation

A. - B.2. ...

C. In lieu of revocation, an authorizer may consider reconstitution of the charter school governing board in accordance with §2105 of this Part when the authorizer determines such an action would be in the best interests of the students of the charter school.

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 in LR 34:1368 (July 2008), amended LR 37:872 (March 2011), LR 38:3120 (December 2012), LR 51:

Chapter 21. Charter School Governance

§2105. Reconstitution of Governing Board

A. A charter authorizer may reconstitute the governing body of a charter school if the charter authorizer determines that the governing body has done any of the following:

1. committed a material and uncorrected violation of applicable law relative to the finances of the school or the health, safety, or welfare of students enrolled at the school;

2. failed to satisfy accountability provisions prescribed by the charter or chartering authority;

3. failed to meet generally accepted accounting standards of fiscal management;

4. committed material violations of the bylaws of the organization or nonprofit laws of the state; or

5. is imminently insolvent as determined by the chartering authority.

B. Prior to a decision regarding reconstitution of a charter governing body, the charter authorizer shall conduct a public hearing regarding the recommendation to reconstitute.

C. In any decision regarding reconstitution of a governing body, the charter authorizer shall consider the best interests of the students at the charter school, the severity of the violation, any previous violation, and the accreditation status of the school.

D. In the event of reconstitution of a governing body, the composition of the governing body shall comply with §2101 of this Chapter.

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 in LR 51:

§2107. Prohibitions

A. - J. ...

1. as an administrator, teacher, substitute teacher, bus operator, substitute bus operator, janitor, or other school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children who has been convicted of or has pled nolo contendere to a crime listed in R.S. 15:587.1(C);

2. - 2.c. ...

K. A charter school shall not require the parent or legal guardian of any student to disclose any medical information or special education needs, income, or economically disadvantaged status prior to enrollment in the charter school, unless otherwise specifically required by law. However, a charter school may provide enrollment preference to a student with special needs or who is economically disadvantaged when information regarding such needs has been voluntarily provided by the parent or legal guardian of the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 44:241 (February 2018), LR 44:2134 (December 2018), LR 51:

Chapter 25. Charter School Fiscal Responsibility

§2501. Qualified and Competent Business Professional

A. - D. ...

1. The Louisiana Association of Public Charter Schools (LAPCS) may develop a charter school business professional certification program comparable to the CLSBA and CLCSBA certification issued by LASBO and required in LAC 28:XLI (*Bulletin 1929*). The certification program plan shall include a training curriculum, compliance tracking and data reporting system and must be submitted to the LDOE for approval.

2. A certification issued by LAPCS may substitute for the requirements under LAC 28:XLI.1301 once the plan is approved by the LDOE.

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 in LR 34:1372 (July 2008), amended LR 38:3120 (December 2012), LR 39:1437 (June 2013), LR 39:3068 (November 2013), LR 44:241 (February 2018), amended LR 50:657 (May 2024), LR 51:

Chapter 27. Charter School Recruitment and Enrollment

§2705. Admission Requirements for BESE-Authorized Charter Schools

A. ...

B. Admission requirements imposed by a school must be set forth in the charter school's approved charter contract and shall be specific and shall include a system for admission decisions which precludes exclusion of pupils based on race, religion, gender, ethnicity, national origin, intelligence level as ascertained by an intelligence quotient examination, or identification as a child with an exceptionality as defined in R.S. 17:1942(B), or identification as a student who is economically disadvantaged. Such admission requirements may include, however, specific requirements related to a school's mission such as auditions for schools with a performing arts mission or proficiency in a foreign language for schools with a language immersion mission. Any charter school which began operation prior to July 1, 2012, and which incorporated achievement of a certain academic record as part of its admissions requirements may continue to utilize such admission requirements. No charter school beginning operation on or after July 1, 2012 may incorporate the achievement of a certain academic record as part of its admission requirements.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 37:875 (March 2011), LR 38:3120 (December 2012), LR 44:243 (February 2018), LR 51:

§2707. Application Period for BESE-Authorized Charter Schools

A. Prior to each school year, a charter school shall establish a designated student application period. Application information shall be made available to all applicants and posted on the school website, to include at least the following:

1. enrollment eligibility;
2. program enrollment capacity;
3. application period; and
4. notice of application and enrollment dates.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 43:310 (February 2017), LR 51:

§2709. Enrollment of Students, Lottery, and Waitlist in BESE-Authorized Schools

A. - D.2.a. ...

b. Lottery information shall be made available to all applicants, including but not limited to when and where the lottery will be conducted, the mechanism by which the lottery will be conducted, and the results of the lottery including any wait list information.

c. Applicants placed on a lottery enrollment wait list shall be notified of their wait list ranking and notified of any changes to the enrollment wait list throughout the year.

d. An established lottery shall occur each successive year, as necessary.

e. Lottery enrollment wait lists shall not roll over from one school year to the next.

3. If a charter school's enrollment capacity is increased for the purpose of enrolling students displaced due to a federally-declared disaster and the charter school's designated application period has passed, the charter school may enroll students displaced due to a federally-declared disaster on a first-come, first-served basis until the enrollment capacity is reached.

E. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1374 (July 2008), amended LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012), amended LR 38:3120 (December 2012), LR 39:1021 (April 2013), LR 39:1437 (June 2013), LR 39:3252 (December 2013), LR 41:1265 (July 2015), LR 43:310 (February 2017), LR 43:2478 (December 2017), LR 44:243 (February 2018), LR 51:

§2713. Required Student Enrollment Percentages

A. - D. ...

1. the charter school percentage of economically disadvantaged students shall be greater than or equal to 70 percent of the percentage of economically disadvantaged students from the local public school districts from which the charter school enrolls; and

2. the charter school percentage of students with exceptionalities shall be greater than or equal to 70 percent of the percentage of students with exceptionalities from the local public school districts from which the charter school enrolls.

E. - H.2. ...

a. Failure to meet the requirements of this Section does not solely constitute grounds for revocation of a charter; however, the charter authorizer may require compliance with actions prescribed pursuant to this Subsection.

b. Required actions may include, but are not limited to, targeted outreach efforts and enrollment lotteries weighted proportionately to the specific deficiency identified in the required percentages.

c. Each school is responsible for maintaining documentation of outreach efforts and lottery proceedings conducted in an effort to meet the requirements of this Section.

I. If the aggregate student enrollment data for all of the charter schools located within the boundaries of the city or parish school system in which a charter school is located meets the enrollment requirements of economically disadvantaged students and students with exceptionalities, not including gifted and talented, every charter school located within the boundaries of the school system shall be

deemed to be in compliance with the provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) R.S. 17:3973, R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008), amended LR 37:875 (March 2011), LR 40:1325 (July 2014), LR 42:550 (April 2016), LR 43:310 (February 2017), LR 43:2478 (December 2017), LR 51:

Chapter 29. Charter School Staff

§2903. Teaching Authorizations

Repealed.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:2134 (December 2018), repromulgated LR 45:39 (January 2019), repealed LR 51:

§2905. Criminal History Review

A. - A.2. ...

B. No person who has been convicted of or has pled *nolo contendere* to a crime listed in R.S. 15:587.1 shall be hired by a public elementary or secondary school as a teacher, substitute teacher, school bus operator, substitute school bus operator, janitor, or as any school employee who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children.

1. Repealed.

C. ...

D. - D.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1375 (July 2008), amended LR 37:875 (March 2011), LR 39:3068 (November 2013), LR 44:245 (February 2018), LR 44:2134 (December 2018), LR 51:

§2907. Mandatory Reporters

A. Any school employee or school resource officer having reasonable cause to believe that a student has been mentally, physically, or sexually abused shall report these facts to the appropriate authorities.

B. Any person making a report in good faith regarding child abuse shall have immunity from civil liability that may be otherwise incurred.

C. An employer shall not discriminate or retaliate against an employee who is a mandatory reporter from complying with reporting requirements.

D. An employer shall not enact policies that prohibit or limit mandatory reporting to the Louisiana Department of Children and Family Services and/or state or local law enforcement.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

Chapter 39. Corporate Partnerships

§3903. Requirements for Corporate Partnerships

A. A corporate partner is any legal entity except for a corporation identified in R.S. 18:1505.2(L)(3), whether for profit or not for profit, registered with the secretary of state, a regional airport, or any federal or state agency, including a public postsecondary education institution, that has, acting

individually or as part of a consortium of corporations, donated or provided one or more of the following to the school:

A.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012), amended LR 51:

Chapter 40. Charter School Autonomy

§4003. Applicability of State Laws

A. Notwithstanding any state law, rule, or regulation to the contrary and except as may be otherwise specifically provided for in an approved charter, a charter school established and operated in accordance with the provisions of this Chapter and its approved charter and the school's officers and employees shall be exempt from all statutory mandates or other statutory requirements that are applicable to public schools and to public school officers and employees except for the following laws otherwise applicable to public schools with the same grades:

1. - 6. ...

7. tobacco or marijuana products, R.S. 17:240;

8. - 11. ...

12. Repealed.

13. - 20. ...

21. Repealed.

22. ...

23. Repealed.

24. - 28...

29. Repealed.

30. - 31. ...

32. school crisis management and response plans, R.S. 17:416.16 and LAC 28:CXV.339 (*Bulletin 741*);

33. - 34. Repealed.

35. - 42. ...

43. Repealed.

44. ...

45. - 46. Repealed.

47. - 51. ...

52. use of certain names and pronouns for students and employees, R.S. 17:2122;

53. ten-point grading scale, R.S. 17:184;

54. school nurse in-service training relative to sickle cell disease, R.S. 17:436.5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 44:246 (February 2018), amended LR 48:1269 (May 2022), LR 50:178 (February 2024), LR 50:657 (May 2024), repromulgated LR 50:783 (June 2024), amended LR 51:

§4005. Other Statutory Requirements

A. ...

B. Each local public school superintendent or the administrative head of a charter school shall create a special education advisory council (SEAC) in accordance with IDEA and LAC 28:CXV.331 *Bulletin 741*.

C. The governing authority of each public secondary school that issues student identification cards shall have printed on the cards and shall have posted on the school website the following information:

1. the National Suicide Prevention Lifeline hotline number, “988”; and

2. a local suicide prevention hotline number, if available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3996.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 44:247 (February 2018), amended LR 51:

Chapter 43. Discipline

§4301. Disciplinary Regulations

A. Each charter school shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, on any school bus, on the street or road while going to and from school, or during intermission and recess, or at any school sponsored activity or function.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons. A student whose behavior prevents the orderly instruction of other students or poses an immediate threat to the safety or physical well-being of any student or teacher shall be immediately removed from the classroom and placed in the custody of the principal or designee.

2. ...

3. The plan shall not prohibit or discourage a teacher from taking disciplinary action, recommending disciplinary action, or completing a form to initiate disciplinary action against a student who violates school policy or who interferes with an orderly education process.

4. A principal or administrator shall not retaliate or take adverse employment action against a teacher for taking disciplinary action.

5. Each charter school shall adopt rules regarding the reporting and review of disciplinary actions.

B. - G.2.c.xi. ...

xii. requiring the completion of all assigned school work and homework that would have been assigned and completed by the student during the period of out-of-school suspension.

xiii. any other disciplinary measure authorized by the principal with the concurrence of the teacher of the school building level committee pursuant to law and charter school policy.

3. ...

4. Upon the third disciplinary removal from the same classroom, the teacher and principal shall discuss the disruptive behavior patterns of the student and the appropriate classroom disciplinary action prior to principal application of a disciplinary measure. A conference between the teacher or other appropriate school employee and the student’s parent or legal custodian is required prior to student readmission to the same classroom. Such conference may be in person, by telephone, or by other virtual means. If such a conference is required by the school or charter school policy, the school shall give written notice to the parent.

G.5. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:223-224, R.S. 17:416, and R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:999 (April 2022), amended LR 51:

§4303. Student Code of Conduct

A. - A.4. ...

a. Before an initial referral for student expulsion, codes of conduct shall require the prior administration of interventions in accordance with the minor tiers in the code of conduct, except in instances where the expulsion referral is the result of accumulated minor infractions in accordance with the code of conduct, or the underlying incident threatens the safety and health of students or staff, or the offense is related to possession of tobacco, alcohol, or vaping products on school property, on a school bus, or at a school-sponsored event.

A.4.b. - 5. ...

6. Each charter school shall include in its code of conduct clearly defined rules of conduct and expectations of students engaged in virtual instruction as well as clearly defined consequences of conduct, respecting the student and family rights to privacy and other constitutional rights while at home or in a location that is not school property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81, R.S. 17:223-224, R.S. 17:416, and R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1000 (April 2022), amended LR 51:

§4305. Bullying

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

B. - B.5. Repealed.

C. - G.3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:415, R.S. 17:416, and R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1000 (April 2022), LR 49:254 (February 2023), repromulgated LR 49:860 (May 2023), amended LR 51:

§4307. Classroom Management Training for School Staff

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:252.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1002 (April 2022), repealed LR 51:

§4313. Reasons for Expulsions

A. Students may be expelled for any of the following reasons:

1. Any student, after being suspended for committing any of the offenses listed in §4305 of this Chapter, may be expelled upon recommendation by the principal of the public school in which the student is enrolled.

2. Any student, after being suspended on three occasions for committing drugs or weapons offenses during the same school session, shall, on committing the fourth offense, be expelled from all the public schools of the parish or city school system wherein he or she resides until the beginning of the next regular school year, subject to the review and approval of the local educational governing authority.

3. The conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act which, had it been committed by an adult, would have constituted a felony, may be cause for expulsion of the student for a period of time as determined by the board.

a. Such expulsions shall require the vote of two thirds of the elected members of the local educational governing authority.

b. Such expulsions shall not be for a period of time longer than the student's period of adjudication as determined by the applicable court presiding over the student's criminal matter, shall run concurrent to the student's period of disposition, and may require the student to serve the time left in the expulsion period as required by the superintendent or designee if the student was serving an expulsion period when the student was incarcerated for a separate offense and the student completes the period of incarceration with time left in the expulsion period.

c. Such conviction or incarceration may be sufficient cause for a superintendent to refuse admission of the student to a school except upon review and approval of a majority of the elected members of the local school board.

4. Any student in sixth grade and above found guilty of being in possession of tobacco, alcohol, or vaping products on school property, on a school bus, or at a school-sponsored event, may be recommended for expulsion.

5. A student in sixth grade and above who is found guilty of being in possession of a firearm, a knife with a blade equal to or in excess of two and one-half inches in length, or any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event shall be expelled from school according to the requirements of R.S. 17:416(C)(2). The school principal or designee shall, within five days of arrest, refer such student for testing or screening by a qualified medical professional for evidence of abuse of alcohol, illegal narcotics, drugs, or other controlled dangerous substances. If evidence of abuse is found, the principal or designee shall refer the student to an alcohol and drug abuse treatment professional chosen by the student's parent or legal guardian.

6. Any student in sixth grade and above who is suspended a third time within the same school year for any offense, excluding dress code or tardiness, shall be recommended for expulsion.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1003 (April 2022), amended LR 51:

§4315. Guidelines for Expulsions

A. - C. ...

D. A student expelled from school pursuant to the provisions of R.S. 17:416 may be readmitted on a probationary basis to school at any time during the specified period of expulsion on such terms and conditions as may be stipulated by the city, parish, or other local school superintendent and agreed to in writing by the student and by the student's parent or other person responsible for the student's school attendance. However, any such written agreement shall include a provision that upon the school principal or superintendent of schools determination that the student has violated any term or condition of the agreement, the student shall be immediately removed from the school premises without the benefit of any hearing or other procedure applicable to student out-of-school suspensions and expulsions and returned to the school system alternative

school setting. As soon thereafter as possible, the principal or designee shall provide verbal notice to the superintendent of schools of any such determination and also shall attempt to provide such verbal notice to the student's parent or other person responsible for the student's school attendance. The principal or his designee also shall provide written notice of the determination and the reasons therefore to the superintendent and to the student's parent or other responsible person.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1004 (April 2022), amended LR 51:

§4321. Corporal Punishment

A. - B. ...

1. Taping a student's mouth shut or otherwise restricting a student's airway in any manner is prohibited regardless of parental consent.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:416.1, R.S. R.S. 17:3981, and 17:3996(B)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1005 (April 2022), amended LR 51:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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? Yes.

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 rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules 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 authority? 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 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, November 9, 2024, to Tavares A. Walker, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Tavares A. Walker, 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.

Tavares A. Walker
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 126—Charter Schools Charter Schools**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule change. The proposed rule change aligns Board of Elementary and Secondary Education (BESE) policy with legislation enacted during the 2024 Regular Legislative Session. The revisions adopt requirements for implementation of Act 172: extension and renewal; Act 198: local special education advisory council; Act 216: mandatory reporters; Act 331: print “988” on student ID cards; Act 334: charter law and notice; Act 337: expulsion; Act 352: tobacco and marijuana products; Act 364: Type 2 charter applicants with a corporate sponsor; Act 375: school nurse training; Act 400: discipline; Act 428: ten-point grading scale; Act 659: student enrollment percentages; Act 680: student names; Acts 686 and 716: required instruction

and trainings; and Act 780: student discipline. Workload may be slightly reduced due to removal of the requirement to conduct an extension review after the third year of a charter school term as well as a renewal review after the fourth year of the term.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

Workload for charter school administrators may be slightly reduced due to removal of the requirement to apply for an extension review after the third year of a charter school term as well as a renewal review after the fourth year of the term. Workload for charter school teachers may also be reduced due to removal of several state-mandated training requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule change.

Beth Scioneaux
Deputy Superintendent
2410#059

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel
Performance and Professional Development
(LAC 28:CXLVII.313 and 331)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education (BESE) proposes to amend LAC 28: CXLVII in *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*. The proposed amendments align BESE policy with legislation enacted by the 2024 Regular Legislative Session. The revisions adopt requirements for implementation of Act 193, which requires superintendent contracts to provide that the local superintendent is subject to a performance evaluation. At least fifteen percent of the evaluation shall be based on evidence of growth in student achievement by the end of third grade in literacy, and at least fifteen percent of the evaluation shall be based on evidence of growth in student achievement by the end of third grade in mathematics, as determined by BESE. Further revisions provide teachers greater autonomy in the selection of professional learning.

Title 28

EDUCATION

Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel Chapter 3. Personnel Evaluation §313. Professional Learning

A. - A.4. ...

5. Educators rated Proficient or higher on the previous year evaluation should be afforded greater autonomy in the selection of professional learning.

B. ...

C. Each LEA must conduct an annual needs assessment to determine the effectiveness of its professional learning requirements and program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1218 (May 2012), LR 51:

§331. Superintendent Performance Evaluation

A. The superintendent of a city, parish, or other local public school system shall be evaluated based on performance as established in a written contract.

B. At least fifteen percent of the evaluation shall be based on evidence of growth in student achievement by the end of third grade in literacy, and at least fifteen percent of the evaluation shall be based on evidence of growth in student achievement by the end of third grade in mathematics.

1. For the purposes of this Section, student achievement by the end of third grade in literacy shall be the percentage of students determined to be proficient by scoring at or above grade level on the end-of-year literacy screener administered in accordance with LAC 28: CXV.2307 (*Bulletin 741-Louisiana Handbook for School Administrators*).

2. For the purposes of this Section, student achievement by the end of third grade in mathematics shall be follows:

a. Through the 2025-2026 school year, student achievement by the end of third grade in mathematics shall be the percentage of students determined to be proficient by scoring at or above grade level on a system-selected objective measure of mathematics administered to all students in the school system.

b. Beginning with the 2026-2027 school year, student achievement by the end of third grade in mathematics shall be the percentage of students determined to be proficient by scoring at or above grade level on the end-of-year numeracy screener administered in accordance with LAC 28: CXV.2307 (*Bulletin 741-Louisiana Handbook for School Administrators*).

3. Growth in student achievement shall be measured as the change in the percentage of proficient students from the end of second grade to the end of third grade.

4. The remaining percentage of the evaluation shall be determined as established in the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:54.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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 rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules 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 authority? 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 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, November 9, 2024, to Tavares A. Walker, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton

Rouge, LA 70804-9064. Written comments may also be hand delivered to Tavares A. Walker, 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.

Tavares A. Walker
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel Performance and Professional Development**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule change. The proposed rule provides for clarity regarding certain components of the evaluation of school superintendents, as required by their contracts. At least fifteen percent of the evaluation shall be based on evidence of growth in student achievement by the end of third grade in literacy, and at least fifteen percent of the evaluation shall be based on evidence of growth in student achievement by the end of third grade in mathematics, as determined by the Board of Elementary and Secondary Education (BESE). The rule change additionally provides teachers greater autonomy in the selection of professional learning.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

There is a potential consequence of contract non-renewal should a superintendent fail to meet the performance criteria established; however, the proposed rule does not address contract provisions in their entirety but rather adds clarity regarding the literacy and mathematics components of the evaluation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule change.

Beth Scioneaux
Deputy Superintendent
2410#052

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 135—Health and Safety
Medication and Student Health
(LAC 28:CLVII.Chapters 3, 5, and 7)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education

(BESE) proposes to amend LAC 28:CLVII in *Bulletin 135—Health and Safety*. The proposed amendments align BESE policy with legislation enacted by the 2024 Regular Legislative Session. The revisions set forth the requirements for implementation of the following acts: Act 95, CPR/AED training for coaches; Act 161, practitioner provision of services; Act 378, emergency medications; Act 421, cardiac health information for student athletes; Act 460, medication administration; Act 674, COVID vaccine not required for enrollment or attendance; and Act 745, behavioral health services.

Title 28 EDUCATION

Part CLVII. Bulletin 135—Health and Safety

Chapter 3. Health

§303. Immunizations

A. - H.2. ...

I. No teacher, school employee, or administrator shall discriminate based on a student's vaccination status to determine eligibility or participation in any classroom, school, or extracurricular activity, including organizing seating arrangements or issuing surveys to students relative to vaccine status.

J. No person shall be required to receive a COVID-19 vaccine as a condition of initial enrollment or continuing attendance at any public school or facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:170, 17:170.2, and 17:170.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1029 (April 2013), amended LR 45:35 (January 2019), LR 48:2549 (October 2022), LR 51:

§305. Administration of Medication

A. - B. ...

1. Medication shall not be administered to any student without an order from a Louisiana, or any other state of the United States, licensed physician, dentist, or other authorized healthcare prescriber and it shall include the following information:

B.1.a. - F.1. ...

2. The school nurse shall be responsible for the training of non-medical personnel who have been designated by each principal to administer medications in each school. Except for training in administration of an opioid antagonist such as Naloxone, the training shall be at least six hours and include but not be limited to the following provisions:

a. - e. ...

3. No employee other than a registered nurse, licensed medical physician, an appropriate licensed health professional, or hired and trained unlicensed nursing personnel or unlicensed assistive personnel as defined by the Louisiana State Board of Nursing shall be required to perform an outside tracheostomy suctioning procedure on any child in an education setting. However, nothing shall prohibit an employee who volunteers to perform such procedure and who complies with the training and demonstration requirement from being allowed to perform such procedure on a child in an educational setting.

G. - I.8. ...

J. Each LEA shall adopt a policy regarding the administration of naloxone and other opioid antagonists that authorizes a school to maintain a supply of naloxone or other

opioid antagonists and authorizes a school nurse or other school employee to administer naloxone or other opioid antagonists to any student or other person on local school grounds in the event of an actual or perceived opioid emergency.

1. Designated school employees other than school nurses shall receive training to address techniques on how to recognize signs of opioid-related overdose, standards and procedures for the storage and administration of naloxone or other opioid antagonist, and emergency follow-up procedures, including the requirement to summon emergency services either immediately before or immediately after administering naloxone or other opioid antagonist.

2. The following are not liable for damages in a civil action for injury, death, or loss to person or property that allegedly arises from an act or omission associated with administration or self-administration of naloxone or another opioid antagonist, unless the act or omission constitutes willful or wanton misconduct:

- a. a public or nonpublic school;
- b. a public or nonpublic school employee or volunteer;
- c. a licensed health professional authorized to prescribe medication who personally furnishes or prescribes naloxone or other opioid antagonist; and
- d. a trained organization and its personnel.

3. The LDOE shall develop and distribute the list of approved medications. Schools may maintain a stock of certain life-saving medications dispensed with a prescription issued in accordance with this Subsection and R.S. 17:436.1.M.(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436.1, R.S. 17:436.(M)(1), and R.S. 17:436.1(J).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Board of Nursing, LR 39:1030 (April 2013), amended LR 39:2193 (August 2013), LR 51:

§309. Communicable Disease Control

A. - F. ...

G. Repealed.

H. - I.6.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10)(15), R.S. 17:170, R.S. 17:437, R.S. 17:1941, and 20 USCS 1232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1035 (April 2013), amended LR 41:371 (February 2015), LR 51:

§313. Non-Complex Health Procedures

A. - B.2. ...

3. Prescribed Procedures.

a. Following the training provided for in Paragraph 2, no noncomplex health procedure, except screenings and activities of daily living such as toileting/diapering, toilet training, oral/dental hygiene, oral feeding, lifting, and positioning may be performed unless prescribed in writing by a physician licensed to practice medicine in the state of Louisiana or any other state of the United States.

B.3.b. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436(A)(2) and (E).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1037 (April 2013), LR 51:

Chapter 5. Sports Injury and Health Management Program

§503. Injury Management Program Protocol for Educational Training on Serious Sports Injuries

A. - B.1. ...

2. Each LEA shall distribute information relative to cardiac health including, at a minimum, the requirements that a student athlete who has or has had a cardiac health issue must meet before returning to participation in athletics.

a. The information will be provided to LEAs by LDOE.

b. Coaches, athletic trainers, athletic directors, or other appropriate school personnel shall collect parent signatures to verify receipt and understanding of the requirements.

C. Effective beginning with the 2025-2026 school year and subject to the availability of funds, any high school employee who serves as a coach for the school shall obtain and maintain certification in CPR, first aid, and AED use consistent with national evidence-based emergency cardiovascular care guidelines. This requirement is contingent upon the following:

1. The legislature appropriates funds in an amount necessary to implement the provisions of Subsection C of this Section; or

2. Grants or other private donations are made to the school to pay for the costs of implementing the provisions of Subsection C of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.186.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:762 (April 2014), amended LR 47:451 (April 2021), LR 51:

Chapter 7. Behavioral Health Services

§701. Definitions

Applied Behavior Analysis Provider—a provider who is licensed, certified, or registered by the Louisiana Behavior Analyst Board and is in good standing to provide applied behavior analysis services.

Applied Behavior Analysis Services—the design, implementation, and evaluation of systematic instructional and environmental modifications by an applied behavior analysis provider to produce socially significant improvements in behavior as described in the Behavior Analyst Practice Act.

Behavioral Health Evaluation—process and analysis that includes, but is not limited to, diagnosis, type of intervention, length of intervention, identification of student goals, identification of impact of student behavior on a student's educational program, and recommendations for applied behavior analysis services.

Behavioral Health Provider—a provider who is licensed by the Louisiana Department of Health or a health profession licensing board and is in good standing to provide behavioral health services in Louisiana including but not limited to a psychiatrist, psychologist, medical psychologist, licensed specialist in school psychology, marriage and family therapist, professional counselor, clinical social worker, applied behavior analysis provider, or a behavioral health provider organization licensed to provide behavioral health service in Louisiana.

Behavioral Health Services—services that include but are not limited to individual psychotherapy, family psychotherapy, psychotropic medication management, community psychiatric support and treatment, crisis intervention, and medically necessary applied behavior analysis services.

Evaluator—a licensed psychiatrist, psychologist, medical psychologist, licensed specialist in school psychology, professional counselor, marriage and family therapist, clinical social worker, or applied behavior analysis provider who is certified by the respective board of examiners in Louisiana to provide necessary evaluations and who is not an employee of the public school governing authority or LDOE.

Independent Third-Party Payor—an individual who serves as a case reviewer for Medicaid or commercial insurers.

Medically Necessary Services—any services provided for diagnosis, treatment, cure, or relief of a health condition, illness, injury, or disease except for clinical trials that are described within the policy, not for experimental, investigational, or cosmetic purposes, and are within the generally accepted standards of medical care in the community, not solely for the convenience of the insured, the insured's family, or the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944 and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

§703. Behavioral Health Services for Students

A. A public school governing authority shall not prohibit a behavioral health service provider from providing medically necessary behavioral health services authorized by an independent third-party payor, including but not limited to Medicaid and commercial insurance, to a student at school during school hours if the student's parent or legal guardian requests such services from the provider.

B. Each public school governing authority shall adopt and make available to the public a policy to implement the provisions of this Section. The policy shall not create onerous requirements for behavioral health providers resulting in a delay or barrier to the provision of medically necessary services. The policy, at a minimum, shall include:

1. A behavioral health provider who provides services in accordance with this Section shall maintain general liability insurance coverage in an amount not less than one million dollars per occurrence and one million dollars per aggregate and provide a certificate of insurance naming the public school as the certificate holder.

2. No person who has been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C) shall be permitted to provide behavioral health services to a student at school during school hours. Prior to providing services in accordance with this Section, a behavioral health provider shall complete a criminal background check (CBC) conducted by the Louisiana State Police and shall pay all related costs. However, applied behavior analysis providers who are licensed, certified, or registered by the Louisiana Behavior Analyst Board, who provide documentation of having passed a CBC conducted by the Louisiana State Police and FBI, and who are in good standing with the board

shall not be required by the public school governing authority to complete an additional CBC in order to begin providing behavioral health services at a school.

3. Behavioral health services shall be permitted during school hours if the student's parent or legal guardian presents a behavioral health evaluation performed by an evaluator as well as an assessment and authorized treatment plan performed by a behavioral health provider chosen by the parent or legal guardian, and the evaluation indicates that the services are necessary during school hours to assist the student with behavioral health impairments associated with a medical diagnosis that the evaluator determines are interfering with a student's ability to thrive in the educational setting.

4. A behavioral health evaluation or assessment presented by the parent or legal guardian of a student shall not be construed as an independent educational evaluation for the purposes of determining if a student meets the criteria established for eligibility for special education and related services.

5. A public school governing authority shall not prohibit a behavioral health evaluation, assessment, or authorized treatment plan from being performed on school property in order to establish medical necessity or deliver medically necessary services. Behavioral health services may be provided during any part of the school day, including any and all instructional time in English, reading, mathematics, and science. The school administrator and service provider shall work collaboratively to create a consistent schedule that meets the medical needs of the student and complies with the provider's ethical code of conduct. In developing the student's plan, consideration shall include impacts on the school's operations and a student's testing schedule. If the parties cannot agree, then the parties shall engage in a dispute resolution process set forth by LDOE in accordance with §705 of this Chapter.

6. The public school governing authority shall not enter into a contract or an exclusive agreement with a behavioral health provider that prohibits the parent or legal guardian from choosing the behavioral health provider for the student. The provisions of this Subparagraph shall not impair any extant contract on the effective date of this Section, or the renewal thereof.

7. The cost of all behavioral health services provided to a student pursuant to this Section shall be the sole responsibility of the parent or legal guardian, individually or through an applicable health insurance policy, Medicaid, or other third-party payor, other than the public school governing authority, that has made funds available for the payment for the services provided.

8. While on a school campus, a behavioral service provider shall comply with, and abide by, the terms of any IEP, IAP, Section 504 Plan, Behavior Management Plan, or Individual Health Plan applicable to a student who is a patient of the provider. The services furnished by a provider shall be incorporated into a written treatment plan applicable to the student.

9. The parent or legal guardian of a student receiving services from a behavioral service provider shall be required to execute a "consent to release information form" between the provider and the public school governing authority.

10. The public school governing authority shall establish reporting requirements for a behavioral health provider related to the student's progress and student and school safety concerns as related to the student's educational program.

11. The public school governing authority may establish sanctions, including termination of a provider's authorization to provide services on any school campus, against a behavioral health provider for failure to comply with the policies established by the public school governing authority.

C. The failure of a public school governing authority to adopt a policy shall not be cause to prohibit the provision of behavioral health services to a student in accordance with this Section.

D. Any behavioral health evaluation, assessment, or treatment plan administered by a public school governing authority shall not supersede the behavioral health evaluation, assessment, or treatment plan provided by an independent behavioral health provider of a student's parent's choosing.

E. Any applied behavior analysis services provided by the public school governing authority in accordance with this Section shall be delivered either by behavioral health providers licensed, certified, or registered by the Louisiana Behavior Analysis Board in accordance with R.S. 37:3701 *et seq.* or behavioral health providers providing services in accordance with R.S. 37:3715.

F. Nothing in this Chapter shall be construed to supersede any of the following:

1. the authority of the student's IEP team or Section 504 committee to determine appropriate services for a student in accordance with applicable federal and state law;
2. the provisions of the Behavioral Health Service Provider Licensing Law or any regulation promulgated by the Louisiana Department of Health pursuant to such law; or
3. provisions of the Behavior Analyst Practice Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944 and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

§705. Behavioral Health Service Complaint Procedures

A. Complaint Procedures. The LDOE shall establish written procedures for the purpose of resolving any complaint which is filed by an affected individual alleging that a public school governing authority has violated a requirement of R.S. 17:173 or this Chapter and that meets the requirements herein by providing for the filing of a formal written complaint with the LDOE.

B. The written complaint shall include the following information:

1. a statement that a public school governing authority has violated a requirement of R.S. 17:173 or this Chapter;
2. the facts on which the statement is based;
3. the signature and contact information for the complainant;
4. if alleging violations relevant to a specific student,
 - a. the name and address of the residence of the student;
 - b. the name of the school the student is attending;
 - c. in the case of a homeless child or youth, as identified in Section 725(2) of the McKinney-Vento

Homeless Assistance Act (42 U.S.C. 11434a(2)) available contact information for the student and the name of the school the student is attending;

d. a description of the nature of the problem of the student, including facts relating to the problem; and

e. a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

5. a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

C. The complaint shall allege a violation that occurred not more than one year prior to the date that the complaint is received by LDOE.

D. Upon receipt of a valid complaint, the LDOE shall review the allegations as submitted and shall provide written notice to the public school governing authority serving the student, including the following:

1. a request for specific information needed by LDOE to conduct its independent investigation of the complaint;

2. reasonable timelines established for providing such information to the LDOE; and

3. a statement of the public school governing authority's opportunity to respond to the complaint, including the opportunity to provide a proposal to resolve the complaint, at their discretion.

E. The LDOE shall provide written notice to the complainant including a statement of the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

F. The LDOE shall review all relevant information and make an independent determination as to whether the public school governing authority is in violation of R.S. 17:173 or this Chapter and, if such violation is determined, the actions by which the public school governing authority will be required to correct the violation.

G. Final Decision. Within 60 days of the LDOE receipt of a complaint, the LDOE shall issue a written decision to the complainant and the public school governing authority that addresses each remaining allegation of the complaint and contains:

1. findings of fact and conclusions; and
2. the reason for the LDOE final decision.

H. Time Extension. The LDOE shall permit an extension of the 60-day time limit only if:

1. Exceptional circumstances exist with respect to a particular complaint; or
2. The parent, individual, or organization and the public school governing authority involved agree to extend the time to engage in negotiations or other means of non-adversarial dispute resolution.

I. The decision of the LDOE in accordance with this Section is a final decision and is not subject to appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944 and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted,

amended, or repealed rules 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 rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules 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 authority? 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 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, November 9, 2024, to Tavares A. Walker, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Tavares A. Walker, 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.

Tavares A. Walker
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 135—Health and Safety Medication and Student Health

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are possible implementation costs to state or local governmental units due to the proposed rule change. The proposed rule change updates training requirements for high school coaches and mandates that such employees maintain certification in cardiopulmonary resuscitation (CPR), first aid, and automated external defibrillator (AED) use; however, these requirements are subject to appropriation or donation and will not result in an automatic increase in local fund expenditures. The proposed rule change is in response to acts of the 2024 R.S. The change expands licensed practitioners recognized for medication orders, prohibits the requirement of a COVID vaccine in educational settings, prohibits discrimination based on vaccine status, incorporates emergency medication standards, and establishes expectations for the provision of behavioral health services for students. Further revisions require distribution of cardiac health information to student athletes and their parents and adds training and certification requirements for high school coaches, subject to appropriation or donation.

Depending on whether a system selects to train regarding naloxone or another opioid antagonist, free training materials are available online. The required cardiac health information has already been created and disseminated to schools using existing Louisiana Department of Education (LDOE) resources and in collaboration with the Louisiana Department of Health.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the revenue collections of state or local governmental units as a result of the proposed rule change, unless a local education system receives a donation to cover the cost of training coaching staff in CPR, first aid, and AED use. The extent to which donations will be offered and accepted is indeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

There are potential anticipated costs or benefits to directly affected persons, small business, or nongovernmental groups as a result of the proposed rule change to the extent that credentialing entities that provide the training and certification may see increased scheduling of services and additional receipt of the associated fees. Such an increase would be dependent upon receipt by the local system of appropriated or donated funds to cover training costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule change.

Beth Scioneaux
Deputy Superintendent
2410#056

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—School Administration
(LAC 28: CXV.333, 337, Chapter 11, and Chapter 23)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education (BESE) proposes to amend LAC 28: CXV in *Bulletin 741—Louisiana Handbook for School Administrators*. The proposed amendments align BESE policy with legislation enacted by the 2024 Regular Legislative Session. The revisions adopt requirements for implementation of Act 216: Mandatory reporters; Act 324: Behavior health intervention and referral; Act 352: Use of vapes at school; Act 375: School nurse training on sickle cell disease; Act 428: 10 point grading scale; Act 680: Student names; Acts 686 and 716: Required Instruction and Trainings; Act 715: Home study participants to school activities; and Act 780: Discipline/tape mouth. Further changes waive LEAP 2025 civics test score inclusion in final grades during the transition year, add a process for instructional minutes waivers near the end of the school year, add the requirement for a local School Health Advisory Council in accordance with R.S. 17: 17.1, and revise credit recovery units for graduation.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§333. Instructional Time

A. - A.1.b. ...

c. When the request is submitted such that consideration by BESE would occur after the scheduled end of the school year, the state superintendent shall consult with the board president and may approve the request. The approval shall be presented for ratification at the next convening BESE meeting.

A.2. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 39:2197 (August 2013), LR 44:263 (February 2018), LR 49:32 (January 2023), LR 51:

§337. Written Policies and Procedures

A. - B.4. ...

5. - 6. Repealed.

7. ...

8. Repealed.

9. - 23. ...

24. Repealed.

25. - 29. ...

30. - 32.d. Repealed.

33. - 34. ...

35. Repealed.

36. - 42. ...

43. use of certain names and pronouns for students and employees in accordance with R.S. 17:2122;

44. school nurse in-service training relative to sickle cell disease;

45. allowing students enrolled in approved home study programs to try out or apply for extracurricular activities or interscholastic athletics in accordance with R.S. 17:176.2.

C. Each LEA shall have written policies and procedures regarding health and safety in accordance with LAC 28:CLVII *Bulletin 135*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(29), R.S. 17:81, R.S. 17:240, R.S. 17:100.8, 17:184, and R.S.17:437.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:1224 (June 2010), LR 37:1141 (April 2011), LR 37:1380, 1380 (May 2011), LR 37:2134 (July 2011), LR 38:40, 41 (January 2012), LR 39:2197 (August 2013), LR 40:2530 (December 2014), LR 48:1273 (May 2022), LR 49:33 (January 2023), LR 49:250 (February 2023), repromulgated LR 49:855 (May 2023), amended LR 50:175 (February 2024), LR 51:

Chapter 11. Student Services

§1107. Entrance Requirements

A. Enrollment.

A.1. - A.1.a. ...

b. a record of immunization or parent dissent; and

A.1.c. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3, 17:170, and 17:222.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1274 (June 2005), amended LR 33:2353 (November 2007), LR 39:2206 (August 2013), LR 51:

§1135. Child Abuse

A. Any school employee, including a school resource officer, having reasonable cause to believe that a student has been mentally, physically, or sexually abused shall report these facts to the appropriate authorities.

B. ...

C. An employer shall not discriminate or retaliate against an employee who is a mandatory reporter for complying with reporting requirements.

D. An employer shall not enact policies that prohibit or limit mandatory reporting to the Louisiana Department of Children and Family Services and/or state or local law enforcement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 14:403.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 51:

§1143. Prohibition against the Use of Tobacco and Marijuana

A. The use of any tobacco, tobacco product, marijuana product, or chemical derivatives thereof, including but not limited to smoked or smokeless products and electronic devices, in any school building, on any school property, or

on any school bus or school vehicle used to transport students is prohibited.

B. The prohibition is applicable to all school employees, students, and visitors. No person shall smoke or carry a lighted cigar, cigarette, pipe, or any other form of smoking object or device on the grounds of any public or private elementary or secondary school property, except in an area specifically designated as a smoking area.

C. This prohibition shall not be applicable to any tobacco cessation product approved by the U.S. Food and Drug Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:240.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 51:

§1155. School Health Advisory Council

A. Each city, parish, and other local school board shall establish a school health advisory council to advise the board on physical activity for students, physical and health education, nutrition, and overall student health.

B. The council may advise the board on issues relative to compliance with school vending machine restrictions, use of physical fitness assessment results, and school recess policies.

C. The council members shall be appointed by the school board and shall include parents of students and individuals representing the community. All council members shall serve without compensation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:17.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

Chapter 13. Discipline

§1315. Corporal Punishment

A. - C. ...

1. Taping a student's mouth shut or otherwise restricting a student's airway in any manner is prohibited regardless of parental consent.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81.6, R.S. 17:223, and R.S. 17:416.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 39:2212 (August 2013), LR 43:2483 (December 2017), LR 50:177 (February 2024), LR 51:

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2302. Uniform Grading Policy

A. LEAs shall use the following uniform ten point grading scale for students enrolled in all grades K-12 for which letter grades are used.

1. 90-100 points is an A.
2. 80-89 points is a B.
3. 70-79 points is a C.
4. 60-69 points is a D.
5. 0-59 points is an F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(31)(A).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2390 (August 2011), amended LR 39:2213 (August 2013), LR 51:

§2318. The TOPS University Diploma

A. - A.6.a.i. ...

ii. U.S. history scores from the fall and spring administrations in 2017-2018;

iii. biology scores from the fall and spring administrations in 2018-2019; and

iv. civics scores from the fall and spring administration in 2024-2025.

A.6.b. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016), LR 42:1878 (November 2016), LR 42:2176 (December 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2483 (December 2017), LR 44:263 (February 2018), LR 44:1868 (October 2018), repromulgated LR 44:1998 (November 2018), amended LR 45:1454 (October 2019), LR 46:556 (April 2020), LR 47:860 (July 2021), amended LR 48:33 (January 2022), LR 48:39 (January 2022), repromulgated LR 48:1092 (April 2022), amended LR 48:2098 (August 2022), LR 48:2560 (October 2022), LR 49:642 (April 2023), LR 49:862 (May 2023), LR 50:480 (April 2024), LR 51:

§2319. The Career Diploma

A. - B.7.a.i. ...

ii. U.S. history scores from the fall and spring administrations in 2017-2018;

iii. biology scores from the fall and spring administrations in 2018-2019; and

iv. civics scores from the fall and spring administrations in 2024-2025.

B.7.b. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, 17:183.3, 17:274, 17:274.1, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:1482 (August 2015), LR 41:2594 (December 2015), LR 42:232 (February 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2484 (December 2017), LR 44:1868 (October 2018), LR 45:1747 (December 2019), LR 46:557 (April 2020), LR 46:1086 (August 2020), LR 47:860 (July 2021), LR 48:39 (January 2022), repromulgated LR 48:1093 (April 2022), LR 48:2560 (October 2022), LR 49:252 (February 2023), LR 49:643 (April 2023), repromulgated LR 49:858 (May 2023), LR 50:482 (April 2024), amended LR 50:972 (July 2024), LR 51:

§2324. Credit Recovery

A. - B.1. ...

2. A maximum of seven credit recovery units may be applied towards graduation requirements with no more than two annually. If additional credits are utilized, the rationale must be reported to LDOE.

B.2.a. - b. Repealed.

3. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:2352 (November 2007), amended LR 38:3134 (December 2012), amended LR 39:2216 (August 2013), LR 39:3260 (December 2013), LR 46:1084 (August 2020), LR 51:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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 rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules 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 authority? 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 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, November 9, 2024, to Tavares A. Walker, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Tavares A. Walker, 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.

Tavares A. Walker
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—School Administration

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule change. The proposed rule change aligns Board of Elementary and Secondary Education (BESE) policy with legislation enacted in the 2024 Regular Legislative Session. The rule adopts requirements for implementation of Act 216: Mandatory reporters; Act 324: Behavior health intervention and referral; Act 352: Use of vapes at school; Act 375: School nurse training on sickle cell disease; Act 428: 10-point grading scale; Act 680: Student names; Acts 686 and 716: Required Instruction and Trainings; Act 715: Home study participants to school activities; and Act 780: Discipline/tape mouth. Further changes waive LEAP 2025 civics test score inclusion in final grades during the transition year, add a process for instructional minutes waivers near the end of the school year, add the requirement for a local School Health Advisory Council in accordance with R.S. 17:17.1, and revise credit recovery units for graduation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs or benefits to directly affected persons, small business, or nongovernmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule change.

Beth Scioneaux
Deputy Superintendent
2410#058

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators
Nonpublic Schools Legislative Response
(LAC 28:LXXIX.119, 121, 903, 1101, 1303, 1309, 1311, and 1501)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education (BESE) proposes to amend LAC 28: LXXIX in *Bulletin 741* (Nonpublic)—*Louisiana Handbook for Nonpublic School Administrators*. The proposed amendments align BESE policy with legislation enacted by the 2024 Regular Legislative Session. The revisions adopt requirements for implementation of Act 216: mandatory reporters; Act 331: print “988” on student ID cards; Act 352: use of vapes/marijuana at school; Act 460: vaccine status discrimination; Act 674: COVID vaccine not required for enrollment or attendance; and Acts 686 and 716: required instruction and training.

**Title 28
EDUCATION**

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

Chapter 1. Operation and Administration

§119. Written Policies

- A. - B. ...
- C. - C.4. Repealed.
- D. - E.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, R.S. 17:416.11, R.S. 44:411, and R.S. 17:437.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003), amended LR 31:3074 (December 2005), LR 38:1008 (April 2012), LR 39:1439 (June 2013), LR 48:1273 (May 2022), LR 49:36 (January 2023), LR 51:

§121. Emergency Planning and Procedures

- A. - B.1.c. ...

C. Preventative Programs. Each nonpublic school shall develop, as a component of the Crisis Management and Response Plan, one hour of training in each of the following areas. The school selecting and providing the initial training must provide the educator with a certificate containing the educator’s name, date of completion, length of training, and

topic covered. The educator and school shall maintain documentation of the training, once completed, which is sufficient to satisfy this requirement upon transfer to another school or school system.

1. communicable diseases and universal precautions;
2. adverse childhood experiences;
3. mental health;
4. bullying;
5. first aid; and
6. suicide prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, R.S. 17:411, R.S. 17:416.16, and R.S. 29:726.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003), amended LR 31:3074 (December 2005), LR 40:766 (April 2014), LR 51:

Chapter 9. Student Services

§903. Entrance Requirements

- A. - A.1. ...
- 2. a record of immunization or parent dissent; and
- A.3. - B. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003), amended LR 31:3078 (December 2005), LR 51:

Chapter 11. Health

§1101. Immunization

A. Each student entering any school within the state for the first time, at the time of registration or entry, shall present satisfactory evidence of immunity to or immunization against vaccine-preventable diseases according to a schedule approved by the Office of Public Health (OPH), Department of Health and Hospitals (DHH), parental dissent, or shall present evidence of an immunization program in progress.

- A.1. - H. ...

I. No teacher, school employee, or administrator shall discriminate based on a student’s vaccine status to determine eligibility or participation in any classroom, school, or extracurricular activity, including organizing seating arrangements or issuing surveys to students relative to vaccine status.

J. No person shall be required to receive a COVID-19 vaccine as a condition of initial enrollment or continuing attendance at any nonpublic school or facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 44:411, 17:170(D), and 17:170(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:3078 (December 2005), LR 35:1232 (July 2009), LR 35:2348 (November 2009), LR 39:1443 (June 2013), repromulgated LR 46:1674 (December 2020), amended LR 50:973 (July 2024), LR 51:

Chapter 13. Preventive Programs

§1303. Abuse

A. Any school employee, including a school resource officer, having reasonable cause to believe that a student has been mentally, physically, or sexually abused shall report these facts to the appropriate authorities.

B. ...

C. An employer shall not discriminate or retaliate against an employee who is a mandatory reporter for complying with reporting requirements.

D. An employer shall not enact policies that prohibit or limit mandatory reporting to the Louisiana Department of Children and Family Services and/or state or local law enforcement.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:3079 (December 2005), LR 51:

§1309. Suicide Prevention

A. – A.7. Repealed.

B. The governing authority of each nonpublic secondary school that issues student identification cards shall have printed on the cards and shall have posted on the school website the following information:

1. the National Suicide Prevention Lifeline hotline number, “988”; and

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 17:411, and 17:437.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:38 (January 2019), amended LR 45:1055 (August 2019), amended LR 45:1747 (December 2019), LR 50:174 (February 2024), LR 51:

§1311. Bullying

A. – A.2.c. ...

B. – B.5. Repealed.

C. – C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:246 (February 2023), repromulgated LR 49:852 (May 2023), amended LR 51:

Chapter 15. Building Operation and Maintenance

§1501. Building and Maintenance

A. – B. ...

C. Use of any tobacco, tobacco product, marijuana product, or chemical derivatives thereof, including but not limited to smoked or smokeless products and electronic devices, in any school building, on any school property, or on any school bus or school vehicle used to transport students is prohibited. The prohibition is applicable to all school employees, students, and visitors. This prohibition shall not be applicable to any tobacco cessation product approved by the U.S. Food and Drug Administration.

D. No person shall smoke or carry a lighted cigar, cigarette, pipe, or any other form of smoking object or device on the grounds of any nonpublic elementary or secondary school property, except in an area specifically designated as a smoking area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411, R.S. 17:240.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:3079 (December 2005), LR 51:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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? Yes.

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? Yes.

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 rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules 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 authority? 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 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, November 9, 2024, to Tavares A. Walker, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Tavares A. Walker, 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.

Tavares A. Walker
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators Nonpublic Schools Legislative Response

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule change. The proposed rule change aligns Board of Elementary and Secondary Education (BESE) policy with legislation enacted in the 2024 Regular Legislative Session. The rule change adopts requirements for implementation of Act 216: mandatory reporters; Act 331: print “988” on student ID cards; Act 352: use of vapes/marijuana at school; Act 460: vaccine status discrimination; Act 674: COVID vaccine not required for enrollment or attendance; and Acts 686 and 716: required instruction and training.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the revenue collections of state or local governmental units as a result of the proposed rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may result in a decrease in workload for teachers and administrators due to the removal of several state-mandated training requirements for educators. There are no anticipated impacts to small businesses or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule change.

Beth Scioneaux
Deputy Superintendent
2410#061

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression Policies and Procedures
Numeracy and High Dosage Tutoring
(LAC 28:XXXIX.Chapter 7)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education (BESE) proposes to amend LAC 28:XXXIX in *Bulletin 1566—Pupil Progression Policies and Procedures*. The proposed amendments align BESE policy with legislation enacted during the 2024 Regular Legislative Session. The revisions adopt requirements for implementation of Act 650: K-3 numeracy and Act 771: high dosage tutoring.

Title 28

EDUCATION

Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

Chapter 7. Promotion and Support Policy

§700. Support Standard for Grades Kindergarten-3

A. ...

1. Beginning with the 2026 - 2027 school year and beyond, each LEA shall identify all students in kindergarten, first, second, and third grades who score below grade level on the numeracy screener.

B. The school shall notify the parents or legal guardian of students identified as scoring below grade level pursuant to this Section in writing regarding the student's performance within 15 days of identification. Such notification shall:

1. Provide information on activities that can be done at home to support the student's literacy and/or numeracy proficiency.

2. Provide information about supports and interventions that will be provided by the school to support the student's literacy and/or numeracy proficiency.

B.3. - C. ...

1. Repealed.

D. Beginning no later than the 2026 - 2027 school year, a student in kindergarten through third grade, within 30 days of being identified as being below grade level based on the numeracy screener shall receive an individual numeracy improvement plan. The plan shall be created by the teacher, principal, other pertinent school personnel, and the parent or legal guardian; describe the evidence-based numeracy intervention services the student will receive; and include suggestions for strategies parents can use at home.

E. The school shall provide mid-year and end-of-year updates to the parent or legal guardian of students identified as below grade level pursuant to this Section.

F. The LDOE may audit a random sampling of the plans required by this Section in each LEA. The plans may be consolidated into a single expanded academic support plan in accordance with §705 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7; R.S. 17:24.4; and R.S. 14:24.10.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1760 (July 2022), LR 49:245 (February 2023), repromulgated LR 49:851 (May 2023), amended LR 51:

§701. Promotion and Support Standard for Grades 3-7

A. - C.2. Repealed.

D. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:24.9; R.S. 17:24.10 and R.S. 17:24.11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:481 (March 2018), amended LR 48:1760 (July 2022), LR 50:679 (May 2024), LR 51:

§705. Supports for Students

A. - A.3.a. ...

b. teachers shall be rated “proficient”, “highly effective,” or “exemplary” pursuant to the teacher’s most recent evaluation or have achieved a value-added rating of “proficient”, “highly effective”, or “exemplary” on the most recent evaluation;

B. Student Level Plans

1. The individual academic support plan outlined in this Section shall be provided to identified students by the LEA and will be differentiated based on student needs. The individual academic support plan should provide intervention information and outline progress monitoring for each student.

2. LEAs shall design and implement additional instructional strategies to move the students to grade-level proficiency by providing at least 2 of the following, which shall be documented in the expanded academic support plan.

a. The student is placed in the classroom of a teacher who has been rated “highly effective” or “exemplary” pursuant to his/her most recent evaluation or has achieved a value-added rating of “highly effective” or “exemplary” pursuant to his/her most recent evaluation, or has documented evidence derived from state summative assessments of improving the academic performance of improving the academic performance of students having academic support plans in the past.

2.b. - 3. ...

4. The individual academic support plan should be considered the holistic plan that is differentiated based on student need and could include one or more of the following:

a. an individual reading improvement plan, in accordance with §700 of this Chapter;

b. an individual numeracy improvement plan, in accordance with §700 of this Chapter;

c. the individual student plan required by Subsection C of this Section;

d. the individual student plan required by §701 of this Chapter;

5. The LDOE shall provide a template to LEAs which will support the creation of the individual academic support plan for identified students.

6. An individual academic support plan developed to outline support provided for a fifth grade student in English language arts or mathematics will remain in place, updated annually, until the student achieves a score of “Basic” or above in each of the subjects that initially led to the development of the plan.

C. - C.5. Repealed.

D. Expanded Academic Tutoring Support.

1. Each LEA shall identify kindergarten through fifth grade students who fail to achieve mastery in reading or math in accordance with LAC 28:XI *Bulletin 111*.

2. Not later than September 15 of each year, LEAs shall submit to the LDOE a system-level plan and supporting budget to provide expanded support to identified students.

a. The LDOE shall review each plan submitted for compliance with federal and state regulations and provide feedback as necessary for compliance with applicable regulations.

b. The LEA must make applicable corrections within 10 school days of the date on which LDOE feedback was sent and return the updated plan and budget to LDOE.

3. Students identified as needing expanded academic support shall be provided with one of the following options:

a. prioritized placement in a class taught by a teacher labeled as “highly effective” or higher in accordance with LAC 28:CXLVII (*Bulletin 130*), if available; or

b. high dosage tutoring to commence no later than thirty days after the student is identified as needing expanded academic support or, for students identified during the summer, within the first 30 days of the school year.

4. High-dosage tutoring provided shall meet all of the following criteria:

a. incorporate direct instruction by tutors using formative assessment aligned with grade-level content and tier 1 classroom instruction;

b. be sustained for a minimum of 10 weeks;

c. be provided, at least 3 times per week, in approximately 30 minute sessions, which shall be imbedded in the school day;

d. use assessments throughout the school year to monitor student progress;

e. be based on high-quality instructional materials that are aligned with the state content standards and are specifically designed for supplemental instruction;

f. be individualized and provided at a ratio of not higher than 4 students to 1 tutor;

g. be provided by a high-quality, consistent tutor, or by a limited, consistent set of tutors throughout the student’s supplemental instruction period; and

h. be provided in accordance with guidelines on research-based best practices and effective accelerated instruction strategies developed and provided by LDOE.

5. *High Quality Tutor*—an individual who meets at least one of the following criteria:

a. a person with training in using high quality instructional materials and who receives ongoing oversight while providing the high-dosage tutoring;

b. staff of a high quality tutoring provider;

c. current or retired teachers;

d. trained paraprofessionals.

6. Within 15 calendar days of a student being enrolled in high-dosage tutoring, the parent shall be provided a written expanded academic support plan detailing the high-dosage tutoring that will be provided, including information regarding who will provide the instruction and when the instruction will be provided. The plan shall include specific dates from progress reports and information on the parent role in accelerating student learning. The information shall be provided in a way that is accessible to the parent or legal guardian.

7. Each LEA shall provide a report by June 1 of each year to the LDOE on the following data regarding eligible and participating students:

a. the number of students identified as needing, and the number of students provided, expanded academic support, and related student metrics including tutoring subject, grade level, attendance, dosage, prior performance on the state assessment, and demographic information;

b. the number of students identified as needing, and the number of students provided, expanded academic support, related student metrics including tutoring subject, grade level, attendance, dosage, prior performance on the state assessment, demographic information for two or more consecutive years;

c. a list of high quality tutoring providers and any teachers used by the LEA to offer expanded academic support;

d. a summary of how the school day has been restructured to offer the expanded academic support; and

e. the amount and source of private, federal, state, or local funds spent on providing expanded academic support and how the funding was used by the LEA to provide high dosage tutoring.

8. LEAs shall utilize available state and federal funds to implement expanded academic support. If such funding is not available, a local school board shall not be obligated to provide funding to continue the expanded academic support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17.7, and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2005 (September 2010), amended LR 40:2533 (December 2014), LR 44:482 (March 2018), LR 44:1004 (June 2018), LR 46:18 (January 2020), LR 49:245 (February 2023), LR 51:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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 rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules 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 authority? 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 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, November 9, 2024, to Tavares A. Walker, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Tavares A. Walker, 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.

Tavares A. Walker
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1566—Pupil Progression Policies and Procedures Numeracy and High Dosage Tutoring

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change aligns Board of Elementary and Secondary Education (BESE) policy with education legislation enacted by the 2024 RS. The rule change adopts requirements

for implementation of Act 650: K-3 numeracy and Act 771: high dosage tutoring. The numeracy screener required by Act 650 is anticipated to cost approximately \$2.5 M in the first year and \$3 M annually thereafter. Development of student-specific numeracy plans and provision of intervention services may have an indeterminable additional impact on educator workload and may result in an increase in expenditures for local education agencies (LEA) in order to compensate these employees. These potential costs will vary by LEA and be dependent on its specific compensation schedule. Based on 2023 data, costs to provide high dosage tutoring services for the approximately 316,374 scores below benchmark in both English Language Arts (ELA) and Math assessments are estimated to total \$30 M.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Act 4 of the 2024 RS included a \$30 M appropriation to support the provision of tutoring services in public schools. Based on student data, each school system was notified of the amount of the appropriation it is eligible to receive. Systems will submit to the Department of Education (LDOE), by 9/15/24, a plan and supporting budget to provide expanded academic support to eligible students. Upon approval of the plan, the funds will be released to systems for use in providing tutoring during the school day.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

Depending on how each school system designs its plan; tutors, tutoring services, current or retired teachers, or trained paraprofessionals could receive additional compensation in exchange for the provision of tutoring services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Additional employment opportunities for tutors, tutoring services, current or retired teachers, or trained paraprofessionals could emerge depending on the demand for tutoring services in a particular region.

Beth Scioneaux
Deputy Superintendent
2410#054

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1929—Louisiana Accounting and Uniform
Governmental Handbook
Assignment of Chief Operating Officer
(LAC 28:XLI.1503)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) *et seq.*, the Board of Elementary and Secondary Education (BESE) proposes to amend LAC 28:XLI in *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*. The proposed amendments align BESE policy with legislation enacted by the 2024 Regular Legislative Session, adopting requirements for implementation of Act 368 regarding the assignment of a chief operating officer to assist a school system that is in noncompliance with the 70 percent instructional expenditure requirement of the MFP formula.

**Title 28
EDUCATION**

**Part XLI. Bulletin 1929—Louisiana Accounting and
Uniform Governmental Handbook
Chapter 15. Expenditure Requirements
§1503. Assignment of Chief Operating Officer**

A. The state superintendent of education may provide for the assignment of a chief operating officer to any city, parish, or other local school system that fails for two consecutive years to comply with any minimum instructional expenditure requirement contained in the Minimum Foundation Program formula as adopted by BESE and approved by the legislature.

B. Services of a chief operating officer shall be obtained through a contract for a length of time as determined necessary by the superintendent. The officer shall not be a permanent employee of the LDOE and shall not receive a state salary or associated benefits.

C. The officer shall research the financial position and practices of the system including factors contributing to the noncompliance with the minimum expenditure requirement contained in the Minimum Foundation formula. The officer shall submit a written report of the findings and recommendations generated from the research to the local school board and the state superintendent of education. The findings and recommendations for the system shall be included in any report made to BESE relative to system compliance with the minimum expenditure requirement.

D. The local school board shall develop a plan for compliance based on the officer’s recommendations and shall submit the plan to the state superintendent in accordance with the timelines set by LDOE. The plan is subject to approval of the superintendent prior to implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7, and 17:22.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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 rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules 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 authority? 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 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, November 9, 2024, to Tavares A. Walker, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Tavares A. Walker, 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.

Tavares A. Walker
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook Assignment of Chief Operating Officer**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change may result in implementation costs for the Department of Education (LDOE), but definitive costs are indeterminable at this time. The proposed rule change adopts requirements for implementation of Act 368 of the 2024 RS regarding the assignment of a chief operating officer to assist a school system that is in noncompliance with the 70% instructional expenditure requirement of the Minimum Foundation Program (MFP) formula. The extent to which such an officer will be assigned is unknown at this time. The work will be accomplished by individuals contracted for the assignment. Initial information provided an estimated cost associated with this work of up to \$150,000 annually. School systems will receive additional support in meeting the expenditure requirement, in the event a COO is assigned to it.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs or benefits to directly affected persons, small businesses, or nongovernmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may result in the hiring of one or more contracted chief operating officers to assist school systems that are in noncompliance with instructional expenditure requirements of the MFP formula.

Beth Scioneaux
Deputy Superintendent
2410#055

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Let Teachers Teach Legislation and Updates
(LAC 28:XI.907 and 909, LAC 28:LIX.309, and LAC
28:CXV.333, and 337, Chapter 11, 1315, and Chapter 23)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education (BESE) proposes to amend LAC 28:XI in *Bulletin 111—The Louisiana School, District, and State Accountability System*, LAC 28:CXV in *Bulletin 103—*

Louisiana Health Education Content Standards, and LAC 28: CXV in *Bulletin 741—Louisiana Handbook for School Administrators*. The proposed amendments align BESE policy with legislation enacted in the 2024 Regular Legislative Session. The revisions adopt requirements for implementation of Act 337: Mandatory expulsion; Act 313: Electronic telecommunication devices; Act 324: Behavioral and emotional challenges program; Act 331: Print 988 on ID cards; Act 386: Truancy; Act 400 Student Discipline and Teacher Bill of Rights; and Acts 686 and 716: Required instruction and training. Further revisions include policy updates in response to the recommendations of the Let Teachers Teach Workgroup. The aforementioned changes remove discipline statistics from criteria for assigning intervention status in the state accountability system and update policy regarding lesson planning and instruction.

**Title 28
EDUCATION**

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 9. Urgent Intervention and Comprehensive Intervention

§907. Urgent Intervention Required

- A. ...
- B. - B.2. Repealed.
- C. To be no longer labeled “urgent intervention required,” the school must not earn the equivalent of “urgent intervention required” for the same subgroup for two consecutive years.

D. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:456 (March 2018), amended LR 47:448 (April 2021), LR 51:

§909. Comprehensive Intervention Required

- A. - A.2. ...
- B. Beginning in 2019-2020 (2020 SPS), a school that is labeled “urgent intervention required” for a period of three consecutive years for the same subgroup will be labeled “comprehensive intervention required-;” unless in the current year the school has improved the subgroup score for which it has earned the label, such that the school no longer has a subgroup score equivalent to a “F”.

C. - D. ...

E. 2020-2021 CIR Label.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:456 (March 2018), amended LR 47:448 (April 2021), LR 51:

**Title 28
EDUCATION**

Part LIX. Bulletin 103—Louisiana Health Education Content Standards

Chapter 3. Teaching and Learning of Health Education

§309. Requirements

A. - C. ...

D. Grades 9-12: In order to graduate from high school, public school students must earn a 1/2 unit in health education (LAC 28: CXV.2319.C). A minimum of 3863 minutes of health instruction shall be taught (LAC 28: CXV.907.C). Nonpublic schools require health and physical education for graduation in accordance with LAC 28: CXV.2109.C.

E. ...

F. - K. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 28:1944 (September 2002), amended by the Board of Elementary and Secondary Education, LR 37:2099 (July 2011), LR 51:

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

**Chapter 3. Operation and Administration
§339. Emergency Planning and Procedures**

A. - J.3. ...

K. Preventative Programs. Each LEA shall develop, as a component of the Crisis Management and Response Plan, one hour of training in each of the following areas. The school selecting and providing the initial training must provide the educator with a certificate containing the educator’s name, date of completion, length of training, and topic covered. The educator and school shall maintain documentation of the training, once completed, which is sufficient to satisfy this requirement upon transfer to another LEA.

1. communicable diseases and universal precautions;
2. adverse childhood experiences;
3. mental health;
4. bullying;
5. first aid; and
6. suicide prevention.

L. Each LEA shall provide thirty minutes of firearm safety instruction during second grade, using Eddie Eagle GunSafe program.

M. Each school shall designate and train appropriate school personnel in accordance with LAC 28: CLVII (*Bulletin 135*) in, at a minimum, the following areas:

1. Medication administration;
2. Diabetes management;
3. Injury management;
4. Non-complex medical procedures; and
5. Cardiac arrest, CPR, and AED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:154.1, R.S. 29:726.5, et seq., R.S. 40:1137.3, and 17:416.16.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1262 (June 2005), amended LR 39:3258 (December 2013), LR 41:372 (February 2015), LR 45:36 (January 2019), LR 45:1746 (December 2019), LR 50:175 (February 2024), LR 51:

§353. Instruction and Training

A. Each LEA shall provide age and grade level appropriate awareness and/or prevention information through online, in-person, or written communication sources regarding the following:

1. High School.
 - a. safe haven relinquishment law;
 - b. substance abuse;
 - c. adoption;
 - d. shaken baby syndrome;
 - e. eating disorders;
 - f. dating violence; and
 - g. organ donation.
2. Middle School.
 - a. eating disorders;
 - b. dating violence.
3. Elementary.
 - a. Litter; and
4. All Grades, as appropriate.
 - a. child assault;
 - b. substance abuse;
 - c. mental health and wellness;
 - d. water safety;
 - e. spread of communicable diseases; and
 - f. internet and cell phone safety.

B. Each LEA shall implement a process to annually review training required of educators to minimize repetition of satisfactorily completed training and, where possible, provide for pre-test exemption opportunities for experienced teachers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(29), R.S. 17:81, R.S. 17:240, R.S. 17:100.8, 17:184, and R.S.17:437.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

Chapter 5. Personnel

§519. Teacher Bill of Rights

A. - A.5. ...

6. a teacher has the right to have a student immediately removed from the classroom and placed in the custody of the principal or designee when a student's behavior prevents the orderly instruction of other students or poses an immediate threat to the safety or physical well-being of any student or teacher;

7. - 10. ...

11. a teacher has the right to be treated with civility and respect as provided in R.S. 17:416.12.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.18.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1268 (June 2005), amended LR 35:1100 (June 2009), LR 39:3259 (December 2013), LR 51:

Chapter 11. Student Services

§1117. Child Welfare and Attendance

A. - F. ...

G. The parent or legal guardian of a truant student shall ensure that the student makes up missed school work by attending after-school tutoring session, weekend make-up class, or other remediation opportunities, as determined by the LEA, until the student has completed missed assignments.

1. The parent shall also attend meetings relative to the student's progress at the school on at least a monthly basis until the student has completed missed school work

2. The parent shall attend any assistance program conducted by the school district that provides information on supports to families.

3. Failure to comply may subject a parent to penalties in accordance with R.S. 14:92.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:232, R.S. 17:233, and R.S. 17:235.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1276 (June 2005), amended LR 34:608 (April 2008), LR 35:1475 (August 2009), LR 39:2207 (August 2013), LR 51:

§1127. Preventive Programs

A. - C. ...

D. - D.7.Repealed.

E. The governing authority of each public secondary school that issues student identification cards shall have printed on the cards and shall post on the school website the following information:

1. the National Suicide Prevention Lifeline hotline number, "988"; and

2. ...

F. Each LEA shall adopt regulations to implement a program regarding behavioral and emotional challenges and referral for assessment. The program shall:

1. Assist school personnel in identification of signs and symptoms of student behavior that may indicate a student could be at risk of escalation into aggression, disruption, disciplinary actions including suspension or expulsion, or juvenile delinquency.

2. Designate a specific employee at each school who shall be responsible for identifying behavioral and mental health support services available in the community and, when appropriate, facilitating referral to services for assessment and treatment.

3. Provide consultation with the principal or designee and employee designated in Paragraph 2 of this Subsection to determine the likelihood that a student's behavior could be attributable to behavioral or emotional challenges after any second disciplinary suspension of a student during the same school year.

4. Require that when behavior rises to the level in which supportive services could be beneficial, a parent conference is held to discuss the behavior and referral of the student and family to support services for assessment and treatment.

5. Submit an annual report to LDOE and the House and Senate Committees on Education by July first that reflects data from the previous school year regarding:

a. the number of students identified as possibly having behavioral or emotional challenges;

b. the number of students for which a conference was scheduled in accordance with this Subsection; and

c. the number of students referred for assessment and supportive services in accordance with this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:13.1, R.S. 17:283, and R.S. 17:403.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1278 (June 2005), amended LR 39:2208 (August 2013), LR 45:1746 (December 2019), LR 50:177 (February 2024), LR 51:

§1129. Dating Violence

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:2529 (December 2014), repealed LR 51:

§1141. Electronic Telecommunication Devices

A. No student, unless authorized by the school principal or his/her designee, shall use or operate any facsimile system, radio paging service, mobile telephone service, intercom, or electro-mechanical paging system, in any public school building or school grounds or in any school bus.

B. Beginning with the 2024-2025 school year, no student shall possess, on his person, an electronic telecommunication device throughout the instructional day, including wearable technology capable of sending or receiving text messages and other similar notifications.

1. If a student brings an electronic device in any public elementary or secondary school building or on the grounds thereof during an instructional day, the electronic device shall either be turned off and properly stowed away for the duration of the instructional day or prohibited from being turned on and used during the instructional day.

2. The provisions of Subsection B of this Section are not applicable to any student whose IEP, IAP, Section 504 Plan, or IHP requires the use of an electronic telecommunication device.

C. Nothing in this Section shall prohibit the use and operation by any person, including students, of any electronic telecommunication device in the event of an emergency in which there is actual or imminent threat to public safety.

1. - 2. Repealed.

D. No later than January 1, 2025, each LEA shall adopt a policy to implement the provisions of this Section.

1. Such policy shall include, but not be limited to:

a. A definition for instructional day to include start and ending times of the instructional day;

b. Applicability of this Section to school-sponsored events, including athletic competitions and field trips, taking place during an instructional day;

c. Acceptable means by which parents or guardians may contact students during the instructional day;

d. Prohibition of students from utilizing school-issued devices to access personal messaging features and social media accounts not used for educational purposes; and

e. Disciplinary regulations for a student who fails to comply with the policy on one or more occasions.

2. Prior to the adoption of such policy, the LEA must seek feedback from parents, students, teachers, administrators, and other school stakeholders. Solicitation of feedback may be satisfied through public comment received during an open meeting of the school board prior to final adoption.

E. No later than March 1, 2025, the LEA shall submit to the LDOE a copy of the local policy adopted in accordance with this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81 and R.S. 17:239.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005),

amended LR 37:1134 (April 2011), LR 39:2209 (August 2013), LR 51:

Chapter 13. Discipline

§1301. Disciplinary Regulations

A. Each LEA shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, on any school bus, on the street or road while going to and from school, or during intermission and recess, or at any school sponsored activity or function.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons. A student whose behavior prevents the orderly instruction of other students or poses an immediate threat to the safety or physical well-being of any student or teacher shall be immediately removed from the classroom and placed in the custody of the principal or designee.

2. ...

3. The plan shall not prohibit or discourage a teacher from taking disciplinary action, recommending disciplinary action, or completing a form to initiate disciplinary action against a student who violates school policy or who interferes with an orderly education process.

4. A principal or administrator shall not retaliate or take adverse employment action against a teacher for taking disciplinary action.

5. Each LEA shall adopt rules regarding the reporting and review of disciplinary actions.

B. - G.2.c.xi. ...

xii. requiring the completion of all assigned school work and homework that would have been assigned and completed by the student during the period of out-of-school suspension.

xiii. any other disciplinary measure authorized by the principal with the concurrence of the teacher of the school building level committee pursuant to law and LEA policy.

3. ...

4. Upon the third disciplinary removal from the same classroom, the teacher and principal shall discuss the disruptive behavior patterns of the student and the appropriate classroom disciplinary action prior to principal application of a disciplinary measure. A conference between the teacher or other appropriate school employee and the student's parent or legal custodian is required prior to student readmission to the same classroom. Such conference may be in person, by telephone, or by other virtual means. If such a conference is required by the school or LEA policy, the school shall give written notice to the parent.

G.5. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:223-224, R.S. 17:416, and R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 36:1225 (June 2010), LR 37:1132, 1133 (April 2011), LR 39:476 (March 2013), LR 39:2210 (August 2013), LR 39:3069 (November 2013), LR 48:1011 (April 2022), LR 51:

§1302. Student Code of Conduct

A. - A.4. ...

a. Before an initial referral for student expulsion, codes of conduct shall require the prior administration of interventions in accordance with the minor tiers in the code

of conduct, except in instances where the expulsion referral is the result of accumulated minor infractions in accordance with the code of conduct, the underlying incident threatens the safety and health of students or staff, or the offense is related to possession of tobacco, alcohol, or vaping products on school property, on a school bus, or at a school-sponsored event.

A.4.b. - 5. ...

6. Each LEA shall include in its code of conduct clearly defined rules of conduct and expectations of students engaged in virtual instruction as well as clearly defined consequences of conduct, respecting the student and family rights to privacy and other constitutional rights while at home or in a location that is not school property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81, R.S. 17:223-224, R.S. 17:416, and R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:477 (March 2013), amended LR 40:2530 (December 2014), LR 48:1012 (April 2022), LR 51:

§1303. Bullying

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

B. - B.5. Repealed.

C. - G.3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:415, R.S. 17:416, R.S. 17:416.13, and R.S. 17:416.14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:477 (March 2013), amended LR 39:3259 (December 2013), LR 49:250 (February 2023), repromulgated LR 49:856 (May 2023), amended LR 51:

§1304. Classroom Management Training for School Staff

[Formerly §1302]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:252.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1380 (May 2011), repromulgated LR 39:479 (March 2013), amended LR 39:2210 (August 2013), repealed LR 51:

§1307. Reasons for Expulsions

A. Students may be expelled for any of the following reasons:

1. Any student, after being suspended for committing any of the offenses listed in §1305 of this Chapter, may be expelled upon recommendation by the principal of the public school in which the student is enrolled.

2. Any student, after being suspended on three occasions for committing drugs or weapons offenses during the same school session, shall, on committing the fourth offense, be expelled from all the public schools of the parish or city school system wherein he or she resides until the beginning of the next regular school year, subject to the review and approval of the local educational governing authority.

3. The conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act which, had it been committed by an adult, would have constituted a felony, may be cause for expulsion of the student for a period of time as determined by the board.

a. Such expulsions shall require the vote of two thirds of the elected members of the local educational governing authority.

b. Such expulsions shall not be for a period of time longer than the student's period of adjudication as determined by the applicable court presiding over the student's criminal matter, shall run concurrent to the student's period of disposition, and may require the student to serve the time left in the expulsion period as required by the superintendent or designee if the student was serving an expulsion period when the student was incarcerated for a separate offense and the student completes the period of incarceration with time left in the expulsion period.

c. Such conviction or incarceration may be sufficient cause for a superintendent to refuse admission of the student to a school except upon review and approval of a majority of the elected members of the local school board.

4. Any student in sixth grade and above found guilty of being in possession of tobacco, alcohol, or vaping products on school property, on a school bus, or at a school-sponsored event may be recommended for expulsion.

5. A student in grades six and above who is found guilty of being in possession of a firearm, a knife with a blade equal to or in excess of two and one-half inches in length, or any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event shall be expelled from school according to the requirements of R.S. 17:416(C)(2). The school principal or designee shall, within five days of arrest, refer such student for testing or screening by a qualified medical professional for evidence of abuse of alcohol, illegal narcotics, drugs, or other controlled dangerous substances. If evidence of abuse is found, the principal or designee shall refer the student to an alcohol and drug abuse treatment professional chosen by the student's parent or legal guardian.

6. Any student in sixth grade and above who is suspended a third time within the same school year for any offense, excluding dress code violation or tardiness, shall be recommended for expulsion.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 34:608 (April 2008), LR 39:2211 (August 2013), LR 43:2483 (December 2017), LR 48:1013 (April 2022), LR 51:

§1309. Guidelines for Expulsions

A. - C. ...

D. A student expelled from school pursuant to the provisions of R.S. 17:416 may be readmitted on a probationary basis to school at any time during the specified period of expulsion on such terms and conditions as may be stipulated by the city, parish, or other local school superintendent and agreed to in writing by the student and by the student's parent or other person responsible for the student's school attendance. However, any such written agreement shall include a provision that upon the school principal or superintendent of schools determination that the student has violated any term or condition of the agreement, the student shall be immediately removed from the school premises without the benefit of any hearing or other procedure applicable to student out-of-school suspensions and expulsions and returned to the school system alternative school setting. As soon thereafter as possible, the principal or designee shall provide verbal notice to the superintendent

of schools of any such determination and also shall attempt to provide such verbal notice to the student's parent or other person responsible for the student's school attendance. The principal or his designee also shall provide written notice of the determination and the reasons therefore to the superintendent and to the student's parent or other responsible person.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 34:608 (April 2008), LR 35:1098 (June 2009), LR 48:1013 (April 2022), LR 51:

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2303. Planning and Instruction

A. - B. ...

1. Systematic planning includes weekly, job-embedded teacher collaboration led by a skilled facilitator to support groups of similar teachers in building expertise in the implementation of high quality instructional materials, strategies for meeting the needs of students and teachers using both student and teacher data and work samples, and strategies for most effectively meeting student needs during core instruction, tutoring, and intervention time.

2. For courses for which a high-quality curriculum has been adopted, systematic planning includes educator internalization of the lesson to understand how the lesson is designed to be approached and implemented. Expectations for internalization strategies must be differentiated to provide for professional autonomy according to the effectiveness of the teacher.

3. For courses for which a high-quality curriculum has not been adopted, systematic planning includes lesson design and preparation in accordance with Louisiana content standards.

C. - F. ...

1. Except for the explicit direct instruction required for specific intervention programs, educators rated Proficient or higher on the previous year evaluation must not be required to read verbatim from a teaching manual or lesson plan.

2. Educators rated Proficient or higher on the previous year evaluation must be provided professional autonomy regarding the selection and utilization of instructional strategies in alignment with state content standards.

G. - H. ...

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution Art. VIII Preamble and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 39:2213 (August 2013), LR 40:764 (April 2014), LR 51:

§2305. Ancillary Areas of Instruction

A. - E. ...

F. - F.5. Repealed.

G. - G.2. ...

H. - L.1. Repealed.

M. ...

N. - R. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:81, 17:154, 17:261 et seq., 17:263, 17:270, 17:280, 17:281 et seq., 17:404, and 17:405 et seq., and 36 USC 106.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 33:2353 (November 2007), LR 39:2214 (August 2013), LR 39:3259 (December 2013), LR 40:2531 (December 2014), LR 44:1443 (August 2018), LR 44:1868 (October 2018), LR 45:36 (January 2019), LR 45:1746 (December 2019), amended LR 48:33 (January 2022), LR 49:251 (February 2023), repromulgated LR 49:857 (May 2023), amended LR 50:177 (February 2024), LR 51:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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? Yes.

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 rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules 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 authority? 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 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, November 9, 2024, to Tavares A. Walker, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Tavares A. Walker, 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.

Tavares A. Walker
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Let Teachers Teach Legislation and Updates

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule change. The proposed rule change aligns Board of Elementary and Secondary Education (BESE) policy with legislation enacted in the 2024 Regular Legislative Session. The rule change adopts requirements for implementation of Act 337: Mandatory expulsion; Act 313: Electronic telecommunication devices; Act 324: Behavioral and emotional challenges program; Act 331: Print 988 on ID cards; Act 386: Truancy; Act 400 Student Discipline and Teacher Bill of Rights; and Acts 686 and 716: Required instruction and training. Further changes include policy updates in response to the recommendations of the Let Teachers Teach Workgroup. The proposed changes remove discipline statistics from criteria for assigning intervention status in the state accountability system and update requirements regarding lesson planning and instruction.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

Educators may realize a reduction in workload due to the removal of several state-mandated training requirements. There is no anticipated impact on small businesses or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Removal of redundant or unnecessary tasks could improve teacher satisfaction and elevate the profession. The result may increase the number of high-quality veteran teachers who remain in education.

Beth Scioneaux
Deputy Superintendent
2410#057

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Special Education
(LAC 28:XLIII.151, 322, Chapter 5, 1507, and 1511,
LAC 28:LXI.305, LAC 28:XCI.Chapter 1, 309, and 315,
and LAC 28:CXV.Chapter 3)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education (BESE) proposes to amend LAC 28:XLIII in *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*, LAC 28:LXI in *Bulletin 1573—Complaint Management Procedures*, LAC 28:XCI in *Bulletin 1922—Compliance Monitoring Procedures*, and LAC 28:CXV *Bulletin 741—Louisiana Handbook for School Administrators*. The aforementioned amendments align BESE policy with special education legislation enacted by the 2024 Regular Legislative Session. The revisions adopt requirements for implementation of Act 198: early resolution process, Act 512: IEP scheduling and due process, and Act 689: tutorship. Further updates address recommendations from the Louisiana Legislative Audit on Risk-Based Monitoring and response to public comments received during the Notice of Intent process regarding timelines for special education services.

Title 28

EDUCATION

Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act

Subpart 1. Students with Disabilities

Chapter 1. State Eligibility

Subchapter J. State Complaint Procedures

§151. Adoption of State Complaint Procedures and Early Resolution Program

A. - C.3. ...

D. A written agreement developed pursuant to the early resolution process is enforceable in any court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), amended LR 36:1499 (July 2010), LR 51:

Chapter 3. Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements

Subchapter D. Individualized Education Programs

§322. Parent Participation

A. - A.1. ...

2. scheduling the meeting at a mutually agreed upon time and place, including postponing an IEP team meeting to a reasonable alternative date when, after receiving notice as required in accordance with this Section, the parent or legal guardian requests such a postponement prior to the properly noticed meeting.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2062 (October 2008), LR 51:

Chapter 5. Procedural Safeguards

Subchapter A. Due Process Procedures for Parents and Students

§504. Prior Notice by the Public Agency; Content of Notice

A. Notice. Written notice that meets the requirements of Subsection B of this Section shall be given to the parents of a student with a disability within a reasonable amount of time, and no less than ten days, before the public agency:

A.1. - D. ...

E. Notice as required in this Section shall be given through one of the following forms of communication:

1. by certified mail with return receipt requested;

2. by electronic mail, if parent or legal guardian provides an electronic mail address;

3. by text message, if the parent or legal guardian provides a mobile phone number for the purposes of receiving text messages; or

4. through an online portal or other application that provides for documentation of the date of delivery of the notice.

F. All timetables established in this Section are subject to informed waiver by the parent or legal guardian.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2069 (October 2008), LR 51:

§507. Filing a Request for Impartial Due Process Hearing

A. - A.1. ...

2. Prescription. The due process hearing request shall allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the request for due process hearing, except that the exceptions to the timeline described in §511.G of this Chapter apply to the timeline in this Section.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2071 (October 2008), LR 51:

§511. Impartial Due Process Hearing and Hearing Officer Appointments

A. - E. ...

F. Timeline for Requesting a Hearing. A parent or agency shall request an impartial hearing on their request for due process hearing within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the request for due process hearing.

G. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2072 (October 2008), amended LR 38:2367 (September 2012), LR 51:

§520. Transfer of Parental Rights at the Age of Majority

A. - B.3. ...

C. Each LEA shall adopt a written policy requiring each school under its jurisdiction to provide written information to parents regarding legal procedures affecting the transfer of individual rights from parent to child when the child attains the age of majority, including but not limited to supported decision making, power of attorney, continuing or permanent tutorship, and limited to full interdiction.

1. The LDOE shall develop the information and provide such to each LEA for this purpose.

2. The information shall be provided at the first IEP meeting of the school year for a student who is fourteen to seventeen years old and participates in alternate assessment in accordance with R.S. 17:24.4(F)(3) or an alternate pathway to promotion in accordance with R.S. 17:24,4(H).

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2076 (October 2008), LR 51:

Subpart 2. Regulations for Gifted/Talented Students

Chapter 15 Procedural Safeguards

§1507. Filing a Request for Impartial Due Process Hearing

A. - A.1. ...

2. Prescription. The due process hearing request shall allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the request for due process hearing, except that the exceptions to the timeline described in §1511.G of this Chapter apply to the timeline in this Section.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2021 (September 2010), LR 51:

§1511. Impartial Due Process Hearing and Hearing Officer Appointments

A. - E. ...

F. Timeline for Requesting a Hearing. A parent or agency shall request an impartial hearing on their request for

due process hearing within two years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the request for due process hearing.

G. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2023 (September 2010), amended LR 46:181 (February 2020). LR 51:

**Title 28
EDUCATION**

**Part LXI. Bulletin 1573—Complaint Management
Procedures**

Chapter 3. General Provisions

§305. Filing a Complaint

A. - C. ...

1. a statement that a public agency has violated a requirement of Part B of the Act or of this Part, regardless of whether the violation resulted in a loss of FAPE; and

2. ...

D. The complaint must allege a violation that occurred not more than two years prior to the date that the complaint is received in accordance with §501 of this Part unless a longer period is reasonable because the violation is continuing.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:1082 (July 2003), LR 50:489 (April 2024), LR 51:

**Title 28
EDUCATION**

**Part XCI. Bulletin 1922—Compliance Monitoring
Procedures**

Chapter 1. Overview

§101. Monitoring

A. Monitoring is an integrated, comprehensive process to ensure a free, appropriate, public education for all children with disabilities and to assess and ensure program effectiveness for all children with disabilities in public schools. This includes students with disabilities, ages three through twenty-one.

B. The integrated monitoring system for Louisiana, through the analysis of various quantitative and qualitative data, will focus state resources on improving educational program outcomes for students with disabilities through a comprehensive, data-based process. Annually, the Louisiana Department of Education (LDOE) will select a list of specific variables and performance indicators for comparative purposes for all local educational agencies providing services to children with disabilities. This list is a combination of federally-required indicators, the required areas in §111 of this Part, state performance indicators or goal areas.

C. - D.3. ...

4. At least once within a six-year period based on the duration of the State Performance Plan/Annual Performance Report (SPP/APR), LEAs will receive monitoring activities. LDOE may impose more frequent or targeted monitoring as determined necessary.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:414 (March 2004), amended LR 31:3104 (December 2005), LR 37:3216 (November 2011), LR 43:516 (March 2017), LR 51:

§103. Authority

A. - F. ...

G. Uniform Grant Guidance (UGG).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:415 (March 2004), amended LR 37:3216 (November 2011), LR 51:

§107. Corrective Action and Sanctions

A. The LDOE has the responsibility to monitor all public educational agencies with programs for children with disabilities ages three through twenty-one within the state for compliance with applicable state and federal laws, regulations, and standards.

B. ...

C. LDOE determines the need for a corrective action plan (CAP) to address findings of non-compliance on an individual LEA case-by-case basis. If the LDOE requires a CAP as a result of risk-based monitoring activities, it will be developed in collaboration with the LDOE following the LEA's receipt of the LDOE's monitoring report. The CAP shall be submitted for approval to the LDOE within 35 business days of receipt of the monitoring report. However, upon receipt of the report, the LEA shall immediately begin correcting the findings of non-compliance documented in the report. The plan will address the activities the LEA will implement to correct the areas of non-compliance identified during the on-site visit as soon as possible, but in no case more than one year from the date of the notification report from the LDOE.

D. The progress toward completing the activities in the plan will be tracked by the LDOE to determine if the timelines are being met and that noncompliance is corrected as soon as possible, but not later than one year after receiving written notification from LDOE. LEAs will submit evidence and data as requested by the LDOE to show completion of activities and evidence of change in the LEA as a result of the corrective action plan. Based on a review of submitted evidence, the LDOE will decide whether the LEA has met compliance requirements or determine whether a follow-up, on-site visit must be conducted to determine if the LEA has made systemic changes and changes to address any student-specific noncompliance to correct the noncompliance addressed in the corrective action plan.

E. - F.5.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:415 (March 2004), amended LR 31:3105 (December 2005), LR 32:1839 (October 2006), LR 37:3216 (November 2011), LR 43:517 (March 2017), LR 50:680 (May 2024), LR 51:

**§109. Components of the Continuous Improvement
Monitoring Process**

A. The monitoring system will be implemented as a process that includes various components. This process will be comprehensive and continuous to include the use of

various data sources. The monitoring system will be an ongoing process through the use of different components, rather than a primarily cyclical process occurring on a scheduled basis.

B. - B.2. ...

3. Review complaint management logs and due process hearing decisions regarding specific complaints in an individual LEA.

4. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005), LR 32:1840 (October 2006), LR 37:3217 (November 2011), LR 43:517 (March 2017), LR 51:

§111. Purpose

A. The LDOE has the responsibility to ensure that each participating agency in the state is in compliance with all applicable federal and state laws, regulations, and standards required for the provision of a free and appropriate public education for all children with disabilities ages three through twenty-one for whom each is legally responsible. To fulfill this responsibility, the LDOE has established a purpose for conducting monitoring, as well as procedures and strategies that provide ongoing monitoring activities. The procedures provide continuous and comprehensive monitoring of all aspects of special education including the following:

1. - 3. ...

4. the provision of FAPE in the LRE including program, services, and placement implementation for students with disabilities three through twenty-one years of age; including transition from Part C by the child's third birthday;

5. professional development;

6. fiscal requirements relative to programmatic issues of local educational agencies; and

7. the use of resolution meetings and mediation.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:416 (March 2004), amended LR 31:3106 (December 2005), LR 37:3217 (November 2011), LR. 51:

Chapter 3. Operational Procedures for Compliance Monitoring

§309. Activities Conducted Prior to the On-Site Visit

A. - A.1. ...

2. LEA Application for IDEA Part B funds and end-of-year financial reports;

3. - 8. ...

9. information relative to certifications and professional development activities provided to personnel and parents;

10. any other data the LDOE determines is necessary to review as part of a comprehensive data review of the LEA; and

11. LEA policies and procedures.

B. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005), LR 37:3218 (November 2011), LR 51:

§315. Validation of Corrective Action

A. - C. ...

D. The LDOE will conduct, when necessary, an on-site visit in the year following the initial on-site visit, or sooner if deemed necessary by the LDOE, to validate the documentation of the implementation of the corrective action and to validate systemic change of areas of non-compliance. Validation of correction requires verification that the LEA has corrected each individual case of noncompliance and the LEA is correctly implementing the specific regulatory requirement based upon updated data with one hundred percent compliance.

E. The LDOE will notify the LEA in writing when all corrective action has been accepted as completed.

F. Noncompliance beyond one year will be considered long-standing noncompliance and additional enforcement actions may be taken in accordance with §107 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:419 (March 2004), amended LR 31:3108 (December 2005), LR 37:3219 (November 2011), LR 51:

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§303. General Powers of Local Educational Governing Authorities

A. - B. ...

1. Each member of a city or parish school board shall receive a minimum of six hours of training and instruction annually in the school laws of this state, in the laws governing the school boards, and in educational trends, research, and policy. Such training shall also include education policy issues, including but not limited to the Minimum Foundation Program (MFP) and formula, literacy and numeracy, leadership development, dropout prevention, career and technical education, redesigning high schools, early childhood education, special education, school discipline, harassment, intimidation, and bullying. Training shall also include instruction in Louisiana Open Meeting Law and the Louisiana public bid law. In an LEA that has one or more schools identified as an academically unacceptable school or a school in need of academic assistance as defined by BESE, at least two of the required hours shall focus on the improvement of schools identified as failing schools as defined by BESE.

B.2. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:53, R.S. 17:54, R.S. 17:81, 17:81.2, and 17:81.4-8, R.S. 17:100.2, and R.S. 17:151.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1257 (June 2005), amended LR 35:1474 (August 2009), LR 35:1876 (September 2009), LR 37:1136 (April 2011), LR 39:2195 (August 2013), LR 51:

§331. Special Education Programs

A. - D.2. ...

E. Special Education Advisory Council (SEAC). Each local public school superintendent and the administrative head of each charter school or other public school shall create a special education advisory council to provide advice and feedback regarding special education policies, procedures, and resources. The council shall also engage in outreach activities to the community at large to increase the level of knowledge, support, and collaboration with respect to special education.

1. Membership. The number of council members and composition of the council shall be determined by the local public school superintendent or the administrative head of each charter school and shall be composed as follows:

a. At least fifty percent of the membership shall be parents or legal guardians of students with an exceptionality, other than gifted and talented, who are enrolled in a school under the jurisdiction of or who are receiving special education services from the local education authority (LEA), none of whom shall be employees of the LEA. One high school student with an exceptionality, other than gifted and talented, and one person who represents an entity that serves students with disabilities or families of students with disabilities and who is not an employee of the LEA may be counted to meet this requirement.

b. At least one member shall be a teacher, principal, or paraprofessional who serves students with disabilities and who works in a school under the jurisdiction of the LEA.

c. At least ten percent of the membership shall be special education stakeholders who are not represented by council members selected under Subparagraphs a. or b. of this Paragraph.

d. The superintendent or administrative head of a charter school shall seek applications for council membership from parents of students with an exceptionality, other than gifted and talented, teachers, principals, paraprofessionals, and other stakeholders.

e. An effort shall be made in the selection of council members to include representation of parents of students in elementary, middle, and high school.

2. A council should be composed of at least eight members. If a council has fewer than eight members, the superintendent or administrative head of a charter school shall provide an explanation of the decision to establish a council with fewer than eight members. The explanation shall be provided to the council, and the council shall include it as an addendum to the annual report submitted to LDOE.

3. The superintendent or administrative head of a charter school shall designate the chairperson of the council. The chairperson shall call the council meetings, preside over the meetings, and establish the agenda for the meetings. The SEAC shall meet at least three times per year.

4. The superintendent or administrative head of a charter school shall provide an annual report to the SEAC which shall, at a minimum, include the following information regarding the school system or school:

a. special education financial data, including federal, state, and local funding;

b. subgroup academic data on students receiving special education and related services; and

c. compliance violations relative to special education requirements.

5. The SEAC shall submit a written report regarding its activities to the local superintendent or administrative head of a charter school and the Special Education Advisory Panel (SEAP) in May of each year. The report shall be posted on the LEA website, submitted to LDOE, and posted on the LDOE website.

6. There shall be no liability or cause of action against an LEA or any officer or employee thereof for any action taken by members of the council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 39:2197 (August 2013), LR 51:

§332. Installation and Operation of Cameras in Certain Special Education Settings

A. - E.1. ...

2. Upon receipt of such funds, grants, donations, or nonmonetary resources, the governing authority shall install and operate the cameras within 90 days according to the policies adopted pursuant to this section.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1948.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 49:34 (January 2023), LR 51:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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 rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules 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 authority? 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 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, November 9, 2024, to Tavares A. Walker, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Tavares A. Walker, 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.

Tavares A. Walker
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Special Education**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule change. The proposed rule change aligns Board of Elementary and Secondary Education (BESE) policy with the following Acts of the 2024 RS. Act 198: early resolution process, Act 512: Individual Education Plan (IEP) scheduling and due process, and Act 689: tutorship. Further changes address recommendations from the Louisiana Legislative Audit on Risk-Based Monitoring and include updates in response to

public comments received during the Notice of Intent process regarding timelines for special education services.

The proposed revisions codify shifts being made to Department of Education (LDOE) processes for monitoring and dispute resolution, and will not result in additional costs. The tutorship information to be distributed is being incorporated into the parent handbook given at IEP meetings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs or economic benefits to directly affected persons, small business, or nongovernmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule change.

Beth Scioneaux
Deputy Superintendent
2410#053

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Emissions Inventory
(LAC 33:III.919) (AQ399)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.919 (AQ399).

This Rule change removes a requirement to receive a written release from reporting in order to discontinue submittal of emissions inventories when a facility is not required by an effective permit and no longer meets the reporting thresholds established by the regulations. The basis and rationale for this proposed Rule are to remove an unnecessary burden on the regulated community. A written release from reporting is no longer needed as a means to distinguish between facilities that failed to report an emissions inventory and those that no longer meet the requirements under the Rule. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.B(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

**Environmental Quality
Part III. Air**

Chapter 9. General Regulations on Control of Emissions and Emission Standards

§919. Emissions Inventory

A. - A.3. ...

4. No facility classes or categories are exempted from emissions inventory reporting.

- B. - C. ...
- D. Reserved.
- E. - F.1.c. ...

d. Both the emissions inventory and the certification statement required by Subparagraph F.1.c of this Section shall be submitted to the administrative authority by April 30 of each year (for the reporting period of the previous calendar year that coincides with period of ownership or operatorship), unless otherwise directed by the department. Any subsequent revisions shall be accompanied by a certification statement.

i. The owner or operator of any facility located in a parish designated by EPA as a nonattainment area or within a nonattainment area after June 1, 2011, and that meets the applicability criteria in Subparagraph A.1.a of this Section, shall submit both an emissions inventory and the certification statement required by Subparagraph F.1.c of this Section to the administrative authority by April 30 of the year following the first full calendar year of the nonattainment designation by EPA, unless otherwise directed by the department.

ii. The owner or operator of any facility located in a parish that adjoins a parish designated by EPA as a nonattainment area or within a nonattainment area after June 1, 2011, and that meets the applicability criteria in Subparagraph A.1.a of this Section, shall submit both an emissions inventory and the certification statement required by Subparagraph F.1.c of this Section to the administrative authority by April 30 of the year following the first full calendar year of the nonattainment designation by EPA, unless otherwise directed by the department.

F.1.d.iii. - I. ...

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), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:184 (February 1993), repromulgated LR 19:485 (April 1993), amended LR 19:1418 (November 1993), LR 20:1101 (October 1994), LR 22:339 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 32:241 (February 2006), LR 33:2084 (October 2007), LR 37:3222 (November 2011), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 43:2137 (November 2017), amended by the Office of the Secretary, Legal Affairs Division, LR 51:

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.

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:974.1 - 974.8.

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 AQ399. Such comments must be received no later than December 3, 2024, at 4:30 p.m., and should be sent to William Little, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, P.O. Box 4302, Baton Rouge, LA 70821-4302, by fax (225) 219-4068, or by E-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of the proposed regulation can be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ399. The proposed regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on November 26, 2024, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend in person or via Zoom at <https://deqlouisiana.zoom.us/j/95229352496?pwd=byma6joAExV5bhy3tGr2utEaNNsg5U.1> or by telephone by dialing (646) 255-1997 using the meeting ID 952 2935 2496, passcode 067940. Should individuals with a disability need an accommodation in order to participate, contact Doug Bordelon at the address given below or at (225) 219-1325.

The proposed regulation is available for inspection at the following LDEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 508 Downing Pines Road, 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.

Aurelia S. Giacometto
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Emissions Inventory

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule change removes a requirement to receive a written release from reporting in order to discontinue submittal of emissions inventories when a facility is not required by an effective permit and no longer meets the reporting thresholds established by the regulations. The cost and workload adjustments are negligible.

There are no anticipated implementation costs or savings to state or local governmental units as a result of this proposed rule change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated effects on revenue collections for state or local governmental units as a result of this proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

Small businesses that no longer meet the regulatory applicability will no longer need to request and receive approval to discontinue reporting. This will reduce their need to submit one letter/form to the department. Instead, they can simply stop reporting.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment as a result of this proposed rule change.

Aurelia S. Giacometto
Secretary
2410#046

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Professional Services Program
Reimbursement Methodology
(LAC 50:IX.15113)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:IX.15113 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, proposes to amend the provisions governing reimbursement methodology in the Professional Services Program in order to allow coverage of physician-administered biosimilar drugs in Mary Bird Perkins Cancer Centers and establish the reimbursement methodology for their use.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15113. Reimbursement Methodology

A - M. ...

N. Effective for dates of service on or after January 20, 2025, the department allows for the coverage of certain physician administered drugs (specifically biosimilars) by all Mary Bird Perkins (MBP) Cancer Center locations throughout Louisiana. Coverage of biosimilar medications will be made for CPT codes listed on the Louisiana Medicaid MBP biosimilars fee schedule and reimbursement will be determined using the following methodology.

1. Reimbursement and periodic updates to the rates shall be made in accordance with the approved Louisiana Medicaid State Plan provisions governing physician-administered drugs in a physician office setting:

a. average sales price (ASP) plus 6 percent, for drugs appearing on the Medicare file;

b. reimbursement rates for drugs that do not appear on the Medicare file shall be determined utilizing the following alternative methods:

i. the wholesale acquisition cost (WAC) of the drug, if available;

ii. if there is no WAC available, the reimbursement rate will be 100 percent of the provider's current invoice for the dosage administered.

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 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:3300, 3301 (December 2013), LR 41:541 (March 2015), LR 41:1119 (June 2015), LR 41:1291 (July 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:62 (January 2018), amended by the Department of Health, Bureau of Health Services Financing, LR 44:62 (January 2018), LR 47:477 (April 2021), LR 47:887 (July 2021), LR 48:1100 (April 2022), LR 51:

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 facilitate easier access to cancer treatments and medications.

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 it will facilitate easier access to cancer treatments and medications.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is expected that this proposed Rule will have no impact on small businesses.

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 or 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 it provides reimbursement for physician administered drugs that were not previously covered.

Public Comments

Interested persons may submit written comments to Kimberly Sullivan, JD, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Sullivan is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on November 29, 2024.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on, November 11, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 26, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 11, 2024. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Michael Harrington, MBA, MA
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Professional Services Program Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$869,430 for FY 24-25, \$2,312,157 for FY 25-26, and \$2,358,400 for FY 26-27. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

This proposed rule amends the provisions governing reimbursement methodology in the Professional Services Program in order to allow coverage of physician administered biosimilar drugs in Mary Bird Perkins Cancer Centers and establish the reimbursement methodology for their use.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase federal revenue collections by approximately \$2,989,306 for FY 24-25, \$9,215,463 for FY 25-26, and \$9,399,772 for FY 26-27. It is anticipated that \$270 will be collected in FY 24-25 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, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing reimbursement methodology in the Professional Services Program in order to allow coverage of physician administered biosimilar drugs in Mary Bird Perkins Cancer Centers and establish the reimbursement methodology for their use. This is anticipated to be a positive impact on beneficiaries it will facilitate easier access to cancer treatments and medications. Providers will benefit from implementation of this proposed rule, since it is anticipated to increase Medicaid payments to specified hospitals by approximately \$3,858,196 for FY 24-25, \$11,527,619 for FY 25-26, and \$11,758,172 for FY 26-27.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule has no known effect on competition and employment.

Kimberly Sullivan, JD
Medicaid Executive Director
2410#064

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Health Standards Section

Ambulatory Surgical Center
Licensing Standards
(LAC 48:I.4531)

The Department of Health, Health Standards Section, proposes to amend LAC 48:I.4531 as authorized by R.S. 36:254 and R.S. 40:2131-2141. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The department proposes to amend the provisions governing the licensing of ambulatory surgical centers (ASCs) to provide consistency throughout the regulations that ASCs are required to obtain a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 45. Ambulatory Surgical Center

Subchapter B. Administration and Organization

§4531. Governing Body

A. - C. ...

D. The governing body of an Ambulatory Surgical Center (ASC) shall:

1. ...

2. ensure that the ASC is adequately funded and fiscally sound which entails a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$100,000.

a. - b. Repealed.

3. - 15.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:1740 (September 2017), amended by the Department of Health, Health Standards Section, LR 51:

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.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have an indeterminable impact on the direct or indirect cost to small businesses.

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 have an indeterminable impact on the direct or indirect cost to the provider and 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 Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 4, 2024.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on November 12, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 3, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 12, 2024. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Michael Harrington, MBA, MA
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ambulatory Surgical Center**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed Rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 24-25. It is anticipated that \$324 will be expended in FY 24-25 for the state’s administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections as this measure has no impact on Ambulatory Surgical Center (ASC) licensing fees.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends provisions governing ASCs to provide consistency in the regulations that ASCs are required to obtain a line of credit from a federally insured, licensed lending institution in the amount of at least \$100,000. It is anticipated that implementation of this proposed rule may result in an indeterminable amount of costs to ASCs in FY 24-25, FY 25-26, and FY 26-27.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2410#072

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Health Standards Section**

Facility Need Review
(LAC 48:I.Chapter 125)

The Department of Health, Health Standards Section proposes to amend LAC 48:I.Chapter 125, as authorized by R.S. 36:254 and R.S. 40:2116 et seq. 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, Health Standards Section proposes to amend the provisions governing facility need review (FNR) in order to require residential substance abuse treatment providers, except those that provide services to women, adolescents, or both to be subject to FNR.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter A. General Provisions

§12501. Definitions

A. Definitions. When used in this Chapter the following terms and phrases shall have the following meanings unless the context requires otherwise.

* * *

Behavioral Health Services Provider (BHSP)—a facility, agency, institution, person, society, corporation, partnership, unincorporated association, group, or other legal entity that provides behavioral health services or, presents itself to the public as a provider of behavioral health services. For the purposes of this Rule, FNR shall be applied to providers or applicants who elect to provide the following services:

- 1. psychosocial rehabilitation services;
- 2. community psychiatric support and treatment services;
- 3. residential substance abuse treatment services, except those that provide services to women, adolescents, or both; and/or
- 4. opioid treatment program services licensed under a BHSP license.

* * *

Residential Substance Abuse Treatment Services—behavioral health services utilizing residential treatment

programs as defined in Chapter 56, and provided in a residential setting. For the purposes of this Rule, FNR shall be applied to residential substance abuse treatment services, providers, programs, or beds except those that provide services to women, adolescents, or both.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40: 2116 et seq.

HISTORICAL NOTE: Promulgated Department of Health, Health Standards Section, LR 50:221 (February 2024), amended LR 50:984 (July 2024), LR 51:

§12503. General Information

A. - B.8.c. ...

C. The FNR committee will conduct an FNR to determine if there is a need for additional providers, facilities, or beds to be licensed by LDH and/or enrolled to participate in the Title XIX program for the following healthcare facility types, as defined under this Chapter:

1. - 4. ...

5. behavioral health services providers (BHSP) of psychosocial rehabilitation (PSR) services, community psychiatric support and treatment (CPST) services, and residential substance abuse treatment services; and

C.6. - H.4. ...

I. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers of RC, PCA, SIL, or MIHC services, ICFs/DD, hospice providers, PDHC providers, or BHSPs that meet one of the following conditions:

1. - 6. ...

7. behavioral health services providers that are licensed to provide OTP services, or that have submitted a complete application for licensure as a BHSP that includes OTP services prior to January 1, 2024;

8. behavioral health services providers that fall within the provisions of Act 33 of the 2017 Regular Session of the Louisiana Legislature, commonly referred to as accredited mental health rehabilitation providers, that submit a completed BHSP licensing application by December 1, 2017 and become licensed by April 1, 2018; or

9. behavioral health services providers that are licensed to provide residential substance abuse treatment, or that have submitted a complete application for licensure as a BHSP that includes residential substance abuse treatment services, prior to August 1, 2024.

J. - J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:223 (February 2024), amended LR 50:985 (July 2024), LR 51:

Subchapter B. Determination of Bed, Unit, Facility, or Agency Need

§12525. Behavioral Health Services Providers (PSR, CPST, and/or Residential Substance Abuse Treatment, Only)

A. Except as otherwise provided in this Chapter, no BHSP or applicants seeking to provide psychosocial rehabilitation (PSR), community psychiatric support and treatment (CPST), and/or residential substance abuse treatment services shall be eligible to apply for licensure to provide PSR, CPST, and/or residential substance abuse treatment services unless the FNR committee has granted

FNR approval for the issuance of a BHSP license for such services. Once the FNR approval is granted, a BHSP is eligible to apply for a BHSP license to provide PSR, CPST, and/or residential substance abuse treatment services.

B. - B.4. ...

* * *

C. Determination of Need/Approval

1. The FNR committee shall review the FNR application to determine if there is a need for additional BHSPs to provide PSR, CPST, and/or residential substance abuse treatment services in the geographic service area.

2. The FNR committee shall approve the FNR application only if the data contained in the application and other evidence effectively establishes the probability of serious, adverse consequences to recipients' ability to access behavioral health PSR, CPST, and/or residential substance abuse treatment services if the provider is not allowed to be licensed.

3. In reviewing the application, the FNR committee may consider, but is not limited to, evidence showing:

a. the number of other BHSPs providing PSR, CPST, and/or residential substance abuse treatment services in the same geographic service area and servicing the same population;

b. the number of members that the BHSP is able to provide PSR, PST, and/or residential substance abuse treatment services to; and

c. allegations involving issues of access to behavioral health PSR, CPST, and/or residential substance abuse treatment services.

4. The burden is on the applicant to provide data and evidence to effectively establish the probability of serious, adverse consequences to recipients' ability to access behavioral health PSR, CPST, and/or residential substance abuse treatment services if the provider is not granted approval to be licensed. The FNR committee shall not approve an FNR application if it fails to provide such data and evidence.

D. Applications for approvals of BHSPs of PSR, CPST, and/or residential substance abuse treatment services submitted under these provisions are bound to the description in the application with regard to the type of services proposed, as well as to the physical location and/or geographic service area as defined in the application. Facility need review approval of such providers shall expire if these aspects of the application are altered or changed.

E. Except as provided in the Subparagraphs below, FNR approvals for behavioral health PSR, CPST, and/or residential substance abuse treatment applicants are non-transferrable and are limited to the location and the name on the original license.

1. A BHSP of PSR, CPST, and/or residential substance abuse treatment services undergoing a change of physical location in the same licensed geographic service area shall submit a written attestation of the change of physical location, including the license number, state ID, current address and new address, and the department shall re-issue the FNR approval with the name and new physical location. A BHSP undergoing a change of physical location outside of the licensed geographic service area shall submit a new completed FNR application and required fee and undergo the FNR approval process.

2. A BHSP of PSR, CPST, and/or residential substance abuse treatment services undergoing a change of ownership shall submit a new completed application and required fee to the department's FNR program, requesting a transfer of the FNR approval to the new owner. Facility need review approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, provided that the legal change of ownership documents require the seller's or transferor's written relinquishment of the FNR approval.

3. Facility need review approval of a licensed BHSP of PSR, CPST, and/or residential substance abuse treatment services shall automatically expire if the provider is moved or transferred to another party, entity, or physical location without application to and approval by the FNR program.

4. Facility need review approved BHSPs of PSR, CPST, and/or residential substance abuse treatment shall become licensed no later than one year from the date of the FNR approval. Failure to meet this timeframe shall result in an automatic expiration of the FNR approval of the BHSP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2116 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:232 (February 2024), amended LR 51:

Subchapter F. Exception Criteria for Facility Need Review Bed Approvals

§12549. Declared Disasters and Emergency Events

A. The FNR approvals for a licensed and Medicaid certified NF, ICF/DD, ARCP, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services, located in an area or areas that have been affected by an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766, shall remain in effect and shall not be terminated, revoked, or considered to have expired for a period not to exceed two years for a NF or ARCP, and one year for an ICF/DD, a hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services, following the original date of such executive order or proclamation, provided that the following conditions are met:

1. The NF, ICF/DD, ARCP, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or and HCBS provider of RC, PCA, SIL, or MIHC services, 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 NF, ICF/DD, ARCP, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services, has experienced an interruption in the provision 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 NF, ICF/DD, ARCP, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services or, an HCBS provider of RC, PCA, SIL, or MIHC services, intends to resume operation as a NF, ICF/DD, ARCP, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS

provider of RC, PCA, SIL, or MIHC services, in the same geographic service area;

i. if the ICF/DD was approved through a request for proposal (RFP), the ICF/DD shall conform to the requirements of the RFP as defined by the department;

c. - d. ...

2. An NF, ICF/DD, ARCP, hospice, PDHC, BHSP provider of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services resumes operating as an NF, ICF/DD, ARCP, hospice, PDHC, BHSP provider of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services in the same geographic service area, within two years for an NF or ARCP and within one year for an ICF/DD, a hospice, PDHC, BHSP provider of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services of the original executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;

3. The NF, ICF/DD, ARCP, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services, continues to submit licensure required documentation and information to the department, as requested;

4. - 5. ...

B. For good cause shown, the department may, in its sole discretion, grant two extensions of six months each, for a total of twelve additional months, to a facility described in Subsection A of this Section, during which time the FNR approvals shall remain in effect and not be terminated, revoked, or considered to have expired, provided that the following conditions are met:

1. A NF, ICF/DD, ARCP, hospice, PDHC, BHSP provider of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services submits a written extension request to the department 30 days prior to the expiration of the original time period established in Subsection A of this Section or the expiration of the first extension granted under these provisions.

a. - b. ...

2. The facility resumes operating as a NF, ICF/DD, ARCP, hospice, PDHC, BHSP provider of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services in the same geographic service area, within the time period of the extension(s).

3. ...

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

1. a NF, ICF/DD, ARCP, hospice, PDHC, BHSP provider of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services that has voluntarily surrendered its FNR bed approval; or

2. a NF, ICF/DD, ARCP, hospice, PDHC, BHSP provider of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services that fails to resume operations as a NF, ICF/DD, ARCP, hospice, PDHC, BHSP provider of

CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services in the same service area, within two years for a NF or ARCP and within one year for an ICF/DD, hospice, PDHC, BHSP provider of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services or within the deadlines of any extensions granted thereto, of the original executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766.

D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:238 (February 2024), amended LR 51:

§12551. Non-Declared or Other Emergency Events

A. ...

B. The FNR approvals for a licensed and Medicaid certified NF, ARCP, ICF/DD, hospice, PDHC, BHSP provider of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services that is rendered unable to provide services to the public because of an emergency situation or disaster, including, but not limited to, fire, flood, tornado, or other condition that the provider is not primarily responsible, shall remain in effect and shall not be terminated, revoked, or considered to have expired for a period not to exceed two years for a NF and ARCP, and one year for an ICF/DD, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment and OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services, following the date of such emergency situation or disaster, provided that the following conditions are met:

1. the NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment and OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services shall submit written notification to the HSS within 30 calendar days of the date of the emergency situation or disaster that:

a. the NF, ARCP, ICF/DD, hospice, PDHC, BHSP provider of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services has experienced an interruption in the provisions of services as a result of conditions that are described in §12551.B;

b. the NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services intends to resume operation as a NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services in the same service area;

b.i. - c. ...

2. the NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services resumes operating in the same geographic service area, within two years for a NF or ARCP, and within one year for an ICF/DD, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an

HCBS provider of RC, PCA, SIL, or MIHC services of the non-declared emergency or disaster; and

3. the NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services continues to submit the required documentation and information to the department, as requested.

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

1. a NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services that has voluntarily surrendered its FNR bed approval; or

2. a NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services that fails to resume operations in the same geographic service area, within two years for a NF or ARCP, and within one year for an ICF/DD, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services of the non-declared emergency or disaster.

F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:239 (February 2024), amended LR 51:

§12553. Temporary Inactivation Due to Major Alterations

A. A NF, ARCP, ICF/DD, hospice, PDHC, or BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services that is undergoing major alterations to its physical plant may request a temporary inactivation of a certain number of the facility's FNR bed approvals provided that:

1. the NF, ARCP, ICF/DD, hospice, PDHC, or BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services submits a written request to the licensing agency of the department seeking temporary inactivation of a certain number of its FNR bed approvals. Such written request shall include the following:

a. a statement that the NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services is undergoing major alterations to ensure or enhance the health, safety, and welfare of the residents;

b. a statement that the major alterations to the NF, ARCP, ICF/DD, hospice, PDHC, or BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services will cause a certain number of beds to be de-licensed and dis-enrolled;

c. - f. ...

2. upon receipt of a completed written request by a facility for temporary inactivation of FNR approvals for a NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services, the department shall issue a notice of temporary inactivation of a

certain number of the facility's FNR bed approvals;

3. ...

4. the FNR bed approvals capacity, after major alterations are completed, shall not exceed the FNR bed approvals capacity of the NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services at the time of the request to temporarily inactivate a certain number of its FNR bed approvals prior to the major alterations.

5. the provisions of this Subsection shall not apply to:

a. a NF, ARCP, ICF/DD, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services, that has voluntarily surrendered its license or has voluntarily dis-enrolled the facility's beds from Medicaid; or

b. a NF, ARCP, ICF/DD, hospice, PDHC, or BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services that fails to resume operations in the same geographic service area, within two years for a NF or ARCP, and within one year for an ICF/DD, hospice, PDHC, BHSP of CPST, PSR, residential substance abuse treatment or OTP services, or an HCBS provider of RC, PCA, SIL, or MIHC services.

6. - 7. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health, Health Standards Section, LR 50:240 (February 2024), amended LR 50:988 (July 2024), LR 51:

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.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have an indeterminable impact on the direct or indirect cost to small businesses.

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 have an indeterminable impact on the direct or indirect cost to the provider and 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 Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 4, 2024.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on November 12, 2024. If the criteria set forth in R.S. 49:961(B)(1) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 3, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 12, 2024. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Michael Harrington, MBA, MA
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Facility Need Review

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 24-25. It is anticipated that \$864 will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule may result in an indeterminable increase in state revenue collections in FY 24-25, FY 25-26, and FY 26-27, as behavioral health services providers (BHSPs) who choose to provide additional behavioral health services will be required to pay a nonrefundable application fee.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends provisions governing facility need review (FNR) in order to require residential substance abuse treatment providers, except those that provide services to women, adolescents, or both to be subject to FNR in accordance with Act 692 of the 2024 Regular Session of the Louisiana Legislature. It is anticipated that implementation of this proposed rule may result in an indeterminable amount of costs to BHSPs in FY 24-25, FY 25-26, and FY 26-27, since BHSPs who choose to provide additional behavioral health services will be required to pay a nonrefundable application fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule has no known effect on competition and employment.

NOTICE OF INTENT

Department of Health Health Standards Section

Free-Standing Birth Centers
Licensing Standards
(LAC 48:I.Chapter 67)

The Department of Health, Health Standards Section, proposes to amend LAC 48:I.Chapter 67 as authorized by R.S. 36:254 and R.S. 40:2180.21 – 2189.28. 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, Health Standards Section proposes to amend the provisions governing the licensing of free-standing birth centers (FSBC) providers in order to comply with the requirements of the following Acts of the 2024 Regular Session of the Louisiana Legislature: Act 122 that requires FSBC providers to, prior to discharge following birth, provide the mother and her family members information about post-birth warning signs, including symptoms and available resources; and Act 624 that requires FSBC providers to implement workplace violence mitigation initiatives.

In compliance with Acts 122 and 624, the Department of Health, Health Standards Section hereby proposes to amend the provisions governing the licensing of FSBCs in order to update general provisions for licensure, requirements for policies and procedures, and client discharge processes. The Department of Health, Health Standards Section also proposes to amend the provisions governing the licensing of FSBC providers in order to update requirements for provisional licensure and deemed status.

Title 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 67. Free-Standing Birth Centers

Subchapter A. General Provisions

§6713. Types of Licenses and Expiration Dates

A. The department shall have the authority to issue the following types of licenses.

1. ...
2. Provisional Initial License. The department may issue a provisional initial license for a period not to exceed six months to an FSBC when the initial licensing survey finds that the FSBC 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 clients. A provisional license may also be issued after an initial licensing survey to allow the FSBC to become accredited.

a. At the discretion of the department, the provisional license may be extended for an additional period not to exceed twelve months in order for the FSBC to reach accreditation status.

3. - 4.j. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2110 (August 2022), amended by the Department of Health, Health Standards Section, LR 51:

§6717. Renewal of License

A. - E. ...

F. A CHOW of the FSBC shall not be submitted at the time of renewal of the FSBC's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2111 (August 2022), amended LR 49:482 (March 2023), amended by the Department of Health, Health Standards Section, LR 51:

§6719. Deemed Status

A. - H. ...

I. An FSBC approved for deemed status is subject to and shall comply with all provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2112 (August 2022), amended by the Department of Health, Health Standards Section, LR 51:

Subchapter B. Administration and Organization

§6737. Policies and Procedures

A. - G. ...

H. The FSBC shall have written policies and procedures approved by the governing body, which shall be implemented and followed, that address, at a minimum, the following:

1. - 12. ...

13. hours outside of stated usual and customary operation, including, but not limited to early closures, extended business hours, and holidays;

14. conditions for coverage, if applicable; and

15. preventing, responding to, reporting, and mitigating instances of healthcare workplace violence in accordance with R.S. 40:2199.12(3), or current law.

I. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2116 (August 2022), amended by the Department of Health, Health Standards Section, LR 51:

Subchapter D. Service Delivery

§6761. Discharges

A. - C. ...

D. Upon discharge, the FSBC shall:

1. provide each client and their family member(s) with written discharge instructions, including available resources and written guidelines detailing how the client may get emergency assistance for herself and her newborn;

2. - 3.g....

4. ensure that all clients and their family member(s) are informed, either in advance of their delivery or prior to leaving the FSBC, of the following:

a. - c. ...

E. The FSBC shall ensure that each client has a discharge order signed by the licensed healthcare practitioner;

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40: 2180.21-2180.28.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 48:2120 (August 2022) amended by the Department of Health, Health Standards Section, LR 51:

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.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule may have an indeterminable impact on small businesses that are sanctioned for failing to comply with the requirements for addressing workplace violence.

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, will have no impact on the provider's ability to provide the same level of service as described in HCR 170, but may have an indeterminable impact on businesses that are sanctioned for failing to comply with the requirements for addressing workplace violence.

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 4, 2024.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on November 12, 2024. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on November 12, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after December 3, 2024. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which

is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Michael Harrington, MBA, MA
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Free-Standing Birth Centers Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 24-25. It is anticipated that \$864 will be expended in FY 24-25 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections as this measure has no impact on Free-Standing Birth Center (FSBC) licensing fees, since the cost for a provisional license and full licensure are identical.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends provisions governing FSBC in order to update general provisions for licensure, requirements for policies and procedures, and client discharge procedures in accordance with Acts 122 and 624 of the 2024 Regular Session of the Louisiana Legislature. The proposed rule also amends the provisions governing the licensing of FSBC providers in order to update requirements for provisional licensure and deemed status. It is anticipated that implementation of this proposed rule will not result in costs to FSBC in FY 24-25, FY 25-26, and FY 26-27.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2410#071

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Health Standards Section

Healthcare Facility Sanctions
(LAC 48:I.4603)

The Department of Health, Health Standards Section, proposes to amend LAC 48:I.4603 as authorized by R.S. 36:254, R.S. 40:2009.11, 40:2009.23, 40:2199, and 40:2199.1. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The department proposes to amend the provisions governing healthcare facility sanctions in order to define the terms sanction and repeat violation definitions.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 46. Healthcare Facility Sanctions

Subchapter A. General Provisions

§4603. Definitions

* * *

Repeat Violation—either of the following:

1. the existence of the violation is established as of a particular date, and it is one that may be reasonably expected to continue until corrective action is taken. The department may elect to treat the cited continuing violation as a repeat violation subject to appropriate sanction for each day following the date on which the initial violation is established until such time as there is evidence that the violation has been corrected; or

2. the existence of a violation is established and another violation that is the same or substantially similar to the cited violation occurs within 18 months. The second and all similar violations occurring within an 18 month time period will be considered as repeat violations and sanctioned accordingly.

Sanction—any adverse action imposed on a facility by the department pursuant to its statutory or regulatory authority for a violation of a statute, law, rule, or regulation. For purposes of this Rule, sanction does not include the following:

1. any adverse action that may be applied to a facility by the statewide management organization, the department’s program integrity section or its successor, or by a contracted coordinated care network with the Healthy Louisiana program, or its successor;

2. any adverse action that may be applied to a facility by an agency of the federal government or another state agency;

3. a deficiency; or

4. an immediate jeopardy determination.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.11, 40:2009.23, 40:2199 and 40:2199.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3077 (November 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 49:1215 (July 2023), amended by the Department of Health, Health Standards Section, LR 51:

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.

Small Business Analysis

In compliance with the Small Business Protection Act, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a no impact on small businesses.

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 Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on December 4, 2024.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on November 12, 2024. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on December 3, 2024 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after November 12, 2024. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Michael Harrington, MBA, MA
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Healthcare Facility Sanctions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 24-25. It is anticipated that \$432 will be expended in FY 24-25 for the state’s administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections as this measure has no impact on licensing or Healthcare Facility Sanctions (HFS) fees.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends provisions governing HFS in order to define the terms sanction and repeat violation. It is anticipated that implementation of 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 providers to provide the same level of service, and will have no impact on the providers' ability to provide the same level of service.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2410#073

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT
Department of Health
Office of Public Health

Commercial Body Art (LAC 51:XXVIII.107)

Under the authority of R.S. 40:4 and 40:5 and 40:2831 et seq., 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), intends to amend Part XXVIII (Commercial Body Art) of Title 51. These amendments are being proposed to comply with the provisions of Act 365 of the 2024 Regular Legislature.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part XXVIII. Commercial Body Art

Chapter 1. Commercial Body Art Regulation

§107. Practice Standards; Restrictions

[Formerly Paragraph 28:004]

A. [Formerly Paragraph 28:004-1] Prior to any body art procedure, a consent form shall be completed and signed by each client. This consent form shall include a prominent statement regarding the regulatory status of any inks being used for the procedure (i.e., whether those inks are regulated or approved by the state of Louisiana or the federal Food and Drug Administration). Aftercare instructions shall be given to the client both verbally and in writing after every service. The written care instructions shall advise the client to consult the body art operator or a qualified health care professional at the first sign of abnormal inflammation/swelling or possible infection.

B. - M. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4, R.S. 40:5, and 40:2833.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1458 (June 2002), amended LR 51:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons 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 children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

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;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 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 on the proposed Rule. Such comments must be received no later than Monday, November 11, 2024 at COB, 4:30 p.m., and should be addressed to Tiffany Meche, Director, Sanitarian Services, P.O. Box 4489, Baton Rouge, LA 70821.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on Monday, November 11, 2024. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 10 a.m. on Monday, December 2, 2024, in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first

call Allen Enger at (225) 342-1342 after Monday, November 11, 2024. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Ralph Abraham
Surgeon General
and
Michael Harrington, MBA, MA
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Commercial Body Art**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Besides the cost of publishing, the proposed rule change is anticipated to result in implementation costs or savings. The cost of rulemaking is anticipated to increase expenditures for the Office of Public Health (OPH) by approximately \$266 in FY 24-25 for the publication of the proposed rule. It is not anticipated that any other state or local governmental units will incur costs or savings as a result of this rule change.

The proposed rule amends the requirements for a commercial body art consent form as required by Act 365 of the 2024 Regular Legislative Session of the Louisiana Legislature.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that this proposed rule will add a nominal cost to the business owners of commercial body art establishments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The adoption of this proposed rule should not engender or have any effect on competition among commercial body art facility owners.

Tonya Joiner
Assistant Secretary
2410#051

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Office of Public Health**

Registration of Foods, Drugs, Cosmetics and
Prophylactic Devices (LAC 49:I.Chapter 5)

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), intends to reenact and amend certain sections of Chapter 5 (Registration of Foods, Drugs, Cosmetics and Prophylactic Devices) of Title 49 (Public Health—Food, Drugs, and Cosmetics) of the *Louisiana Administrative Code*. The LDH/OPH finds it necessary to make changes to the *Louisiana Administrative Code* as a consequence of changes made to hemp regulations under Act No. 752 of the 2024 Louisiana Legislature. The following changes will modify the requirements to properly register these items, inspect firms that manufacture such items for human consumption, and conduct oversight of labeling, which could affect the health of Louisiana's citizens and visitors.

This Rule amends §501 and §§517-535 of Chapter 5 of Title 49—Public Health—Food, Drugs, and Cosmetics. §§517, 519, 533, and 535 are recodified with new requirement language and §§527-531 are deleted in accordance with the new statutory prohibition on the sale of hemp flower. New language is implemented in the current §§517-535 to enact new requirements from the 2024 legislation. Changes to §501 amend existing definitions and add new definitions.

**Title 49
PUBLIC HEALTH—FOOD, DRUGS, AND
COSMETICS
Part I. Regulations
Chapter 5. Registration of Foods, Drugs, Cosmetics
and Prophylactic Devices**

§501. Definitions

[Formerly 49:2.2100]

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter of Title 49, and all other Chapters of Title 49 which are adopted or may be adopted, are defined for the purposes thereof as follows.

* * *

Adult-Use Consumable Hemp Product—Repealed.

* * *

Consumable Hemp Product—any product derived from industrial hemp that contains any cannabinoid, including cannabidiol or THC, and is intended for consumption or topical use. This special class of products includes, but is not limited to, the following: food, animal foods or feed, and pet products.

Consumable Hemp Products Database—repository of information on products and firms that are registered with the Cannabis Program of LDH/OPH that fall into the category of consumable hemp products.

* * *

Department—for the purposes of this Chapter, the Office of Public Health, Louisiana Department of Health.

* * *

Distillate—the product of condensation of an evaporated substance to produce a highly-concentrated solution.

* * *

Industrial Hemp-Derived Cannabidiol Products (IHDCP)—Repealed.

Industrial Hemp-Derived Cannabidiol Products Database—Repealed.

* * *

Liquid Concentrate—concentrated water-soluble liquid containing THC components derived from consumable hemp that can be consumed directly or added to a food or beverage.

* * *

Package—container or wrapping in which any consumer commodity is enclosed for the purposes of display or delivery to retail purchasers; in the context of consumable hemp products, this term refers to a group of individual servings offered together as a single unit.

* * *

Serving—total quantity of discrete units or of liquid in a package a processor recommends for consumption at one time; in the context of consumable hemp products, this term refers to discrete (i.e., separate and completely unattached to other servings) pieces of a solid substance, containers of a beverage, or one milliliter of a tincture, extract or distillate designed for oral or sublingual use.

* * *

THC—any combination of tetrahydrocannabinol, THC components, and tetrahydrocannabinolic acid.

* * *

THC Components—any isomer, analog or derivative of the tetrahydrocannabinol molecule.

Tincture—an extract of plant material produced using an organic solvent, frequently mixed with a carrier oil and optional flavorants to generate a finished product; this category does not include liquid concentrates, which are prohibited.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483(L), R.S. 40:4(A)(13), R.S. 40:5(A)(8)(17) and R.S. 40:604.

HISTORICAL NOTE: Adopted by the State Board of Health, September 1968, amended by the Department of Health, Office of Public Health, LR 46:358 (March 2020), LR 47:479 (April 2021), LR 48:1290 (May 2022), LR 48:2982 (December 2022), LR 49:1940 (November 2023), LR 51:

§517. Registration of Consumable Hemp Products

A. The manufacturers or distributors of consumable hemp products must register each separate and distinct product with the department—annually and initially within 90 days of the effective date of these regulations or prior to marketing the products in the state of Louisiana, whichever comes first.

B. ...

C. In lieu of the annual examination and administration charge normally collected under R.S. 40:628(B), the applicant for a consumable hemp product registration must provide (both initially and on or before January 1 of each subsequent year) the department with a packet that includes:

1. - 7. ...

8. for each separate and distinct product, a detailed written description of how individual servings will be packaged and marketed for sale. A product whose label fails to comply with §533 of this Chapter will not be registered. A product packaged, labeled, or marketed in a manner that physically or functionally combines individual servings, resulting in a functional or suggested product serving size that exceeds 5 milligrams of total THC per serving, shall not be registered and shall be subject to revocation of registration pursuant to §518 of this Chapter.

D. ...

E. No person is authorized to distribute any consumable hemp product in the state of Louisiana unless such product is currently registered and entered into the consumable hemp products database by the department, except that if a firm submits product labeling and supporting documentation for review to the department and does not receive a written response within 60 business days of that initial submission, the product may be sold after the sixtieth business day by any permitted wholesaler or retailer until the submitting party receives notice in writing from the department that the product in question is accepted or rejected for registration. Upon the expiration of the 60 business days, the department will send written notice, via electronic mail only, confirming the “pending” status of any application and, if known, a date by which a final determination will be made.

F. Any firm may apply with the department for the designation of its products as “Louisiana Hemp Products,” provided that those products are produced from hemp grown in Louisiana and are processed at a Louisiana-based manufacturer. These items will be designated with a special mark on the department’s list of registered products once they have been registered with the department.

G. No consumable hemp product shall be registered if one or more of the following conditions concerning dosage vehicles apply:

1. it is explicitly or clearly intended or characterized as being for inhalation, or to facilitate same;

2. it is explicitly or clearly intended or characterized as being for subcutaneous or transdermal use, or to facilitate same;

3. it is explicitly or clearly intended or characterized as being for intravenous or intramuscular infusion or injection, or to facilitate same;

4. it is explicitly or clearly intended or characterized as being for rectal or vaginal insertion, including, but not limited to, vaginal or anal suppositories; this prohibition shall not apply to products that are topical personal lubricants; or

5. it includes floral hemp material, or constitutes a vape cartridge, vape pen, e-cigarette or a substantially similar item designed to facilitate inhalation;

6. it is a liquid concentrate; or

7. it is an alcoholic beverage as defined in R.S. 26:2.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1483(L) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:359 (March 2020), amended, LR 47:479 (April 2021), LR 48:1290 (May 2022), LR 48:2982 (December 2022), LR 49:1940 (November 2023), LR 51:

§519. Consumable Hemp Products Labeling

Requirements: Certificate of Analysis

A. Consumable hemp products must bear labeling that includes a scannable bar code, QR code, or a web address linked to a document or website containing the certificate of analysis for that product.

B. - C.4. ...

5. a cannabinoid profile for the finished product listing all major cannabinoid constituents by percentage of dry weight;

6. - 10.d. ...

11. a cannabinoid profile for the “active ingredient” (cannabinoid-containing distillate or isolate used in formulating the finished product) listing all major cannabinoid constituents by percentage of dry weight.

D. Repealed.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1483(L) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:359 (March 2020), amended, LR 47:480 (April 2021), LR 48:1290 (May 2022), LR 48:2982 (December 2022), LR 49:1940 (November 2023), LR 51:

§527. Consumable Hemp Products Labeling Requirements: Marketing for Inhalation Prohibited

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1482(J) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 47:480 (April 2021), amended LR 48:1291 (May 2022), repealed LR 51:

§529. Consumable Hemp Products Packaging Requirements: Hemp Flower Packaging

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483(J) and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:1291 (May 2022), repealed LR 51:

§531. Consumable Hemp Products Labeling Requirements: Adult-Use Products

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1483 and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:2983 (December 2022), repealed LR 51:

§533. Consumable Hemp Products Labeling and Packaging Requirements: Serving Sizes, Packaging Limits, and THC Content

A. Labeling must clearly indicate the amount of THC per serving in a product, the serving size, and the number of servings per package.

B. Consumable hemp beverages must meet the following requirements.

1. A serving must be 12 fluid ounces or greater.
2. A serving must not include more than 5 mg THC.
3. A container may not contain more than one serving.
4. A container must be tamper-evident.
5. A package may not include more than four containers.

C. Consumable hemp tinctures must meet the following requirements:

1. A serving must be one milliliter and may not contain more than one milligram of THC.
2. A container may not exceed 30 mL.
3. Containers must include a dropper that readily dispenses precisely one serving.
4. must be oil-based and may not include any concentrated water-soluble liquid that can be consumed directly or added to any food or beverage
5. Packaging must be child-resistant by design.

D. Products other than beverages and tinctures must meet the following requirements.

1. An individual serving must not include more than 5 mg THC.

2. A package must not contain more than 40 mg THC.

3. Packaging must be child-resistant by design.

E. Packaging of consumable hemp products may not be designed explicitly to appeal to children by means of the employment of naming, branding, or use of a logo bearing a substantial similarity to that of conventional food or beverage products already on the market.

F. Labeling on THC-containing products must bear a disclaimer that consumption of such products may cause the user to fail a pre-employment or routine drug screen.

G. Nonedible topical consumable hemp products shall not be subject to the requirements of this Section.

H. Products registered prior to the effective date of this rule that do not meet the requirements of this Section may be sold until January 1, 2025.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1483 and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:2982 (December 2022), LR 49:1940 (November 2023), LR 51:

§535. Penalties for Violations of Requirements to Register Consumable Hemp Products [Formerly §531]

A. Any person who violates the provisions requiring registration of consumable hemp products is subject to the penalties provided for by R.S. 3:1482 and other sanctions as provided for by the State Food, Drug, and Cosmetic Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(13), R.S. 3:1483 and R.S. 40:604.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:359 (March 2020), amended, LR 47:480 (April 2021), LR 48:1290 (May 2022), LR 48:2982 (December 2022), LR 49:1940 (November 2023), LR 51:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons 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 children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

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;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 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 on the proposed Rule. Such comments must be received no later than Monday, November 11, 2024 at COB, 4:30 p.m., and should be addressed to Tiffany Meche, Director, Sanitarian Services, P.O. Box 4489, Baton Rouge, LA 70821.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on Monday, November 11, 2024. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 10 am on Monday, December 2, 2024, in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after Monday, November 11, 2024. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Ralph Abraham
Surgeon General
and
Michael Harrington, MBA, MA
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Registration of Foods, Drugs, Cosmetics and Prophylactic Devices**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Besides the cost of publishing, the proposed rule change is anticipated to result in implementation costs or savings. The cost of rulemaking is anticipated to increase expenditures for the Office of Public Health (OPH) by approximately \$905 in FY 24-25 for the publication of the proposed rule. It is not anticipated that any other state or local governmental units will incur costs or savings as a result of this rule change.

The proposed rule amends the requirements for regulating consumable hemp product manufacturing and distribution as required by Act 752 of the 2024 Louisiana Legislature.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that this proposed rule will significantly constrict the market in terms of what products may be available to consumers and this will have a detrimental impact on industry stakeholders.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The adoption of this proposed rule will have an effect on competition because it limits the number of retailers which would affect competition.

Tonya Joiner
Assistant Secretary
2410#050

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Office of Public Health

Regulation of Medical Marijuana
(LAC 51:XXIX.Chapters 1, 3, 5, 7, 9, 21, 23, and 25)

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 state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH/OPH), intends to reenact and amend certain sections of Part XXIX of Title 51 of the *Louisiana Administrative Code* (also known as the *Louisiana State Sanitary Code*) and enact a new Subpart as a consequence of changes made to medical marijuana regulations under Act No. 150 and Act No. 693 of the 2024 Louisiana Legislature. The following changes will update the language in Part XXIX to address terminology changes and alter the pesticide-testing schedule to streamline product testing and approval. The new Subpart 2. Marijuana Dispensaries authorizes the LDH/OPH to transition to conducting oversight of the retail distribution of medical marijuana products through the network of approved dispensaries. Chapter 21 provides for general requirements and definitions. Chapter 23 provides for the transfer of new LDH-issued permits for dispensaries that currently hold marijuana-pharmacy permits through the Louisiana Board of Pharmacy as of November 2024 and application requirements for new applicants should a current permit-holder neglect to renew its existing permit. Chapter 25 provides for general operational requirements for marijuana dispensaries, including dispensing requirements, recommendations, home-delivery services, disposal procedures for waste products, inventory control, point-of-sale tracking systems, and general design, construction, and sanitary requirements.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part XXIX. Medical Marijuana
Subpart 1. Marijuana Manufacturers

Chapter 1. General Requirements

§101. Definitions

A. Except as may be otherwise defined in any provision of this Part, and unless the context or use thereof clearly indicates otherwise, the following words and terms used in this Part of the Sanitary Code are defined for the purposes thereof, and for purposes of any other Parts which are adopted or may hereafter be adopted, as follows.

Immature Plant—nonflowering medical marijuana (as defined below) plant that is no taller than 8 inches produced from a cutting, clipping or seedling.

Licensee—as defined in R.S. 40:1046(H)(1)(a), an entity authorized by the Louisiana Department of Health to cultivate, extract, process, produce and transport therapeutic marijuana.

* * *

Permittee—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:2976 (December 2022), amended, LR 51:

Chapter 5. Licensure

§501. Licensure of Authorized Entities

A. The department shall issue a nontransferable license to the licensees successfully completing the application process referenced in §505 of this Chapter to produce medical marijuana. Such license shall be renewable annually on July 1.

B. Only a total of two licenses may be issued for the production of medical marijuana.

C. Licensees shall comply with all applicable requirements of R.S. Title 40, Chapter 4, Part X-E (R.S. 40:1046 et seq.), including payment of all fees, allowance of all inspections, and provision of all information required thereunder. Each license is subject to an annual administration fee of \$100,000.

D. New licenses may be issued only under the following circumstances:

1. a current licensee surrenders its active license voluntarily; or

2. a current licensee fails to renew its active license in a timely fashion. A license may only be revoked in this circumstance if the licensee fails to respond to a written notification by the department with the necessary documentation and fees within a 30-day timeframe.

E. New licenses shall be awarded by means of a competitive bid process in accordance with the applicable provisions of the Louisiana Procurement Code (R.S. 39:1551 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:2976 (December 2022), amended, LR 51:

§503. Permitting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:2976 (December 2022), repealed LR 51:

§505. Application Process

A. Applications for licensure shall be made using documents supplied by the department for this purpose.

B. - B.5. ...

6. a recall plan; and

7. Repealed.

8. ...

C. As a condition of renewal of a license, the licensee shall supply the following additional information in writing to the department by January 10 of the renewal year:

1. - 3. ...

4. the total quantity of medical marijuana generated as a finished product within that year and the quantity distributed to each licensed marijuana dispensary;

5. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:2976 (December 2022), amended LR 51:

Chapter 7. Inspections and Operational Requirements

§701. Inspections

A. Licensee facilities require a preoperational or initial inspection and this shall follow review and acceptance of the plans required in §505. Inspections are designed to ensure the following:

1. - 9. ...

B. As a condition of its license, the licensee shall allow the state health officer or his/her designee(s) to review all records relevant to the operations and management of the licensed facility.

C. Routine inspections of licensed facilities to assess continued compliance shall occur no less frequently than twice per fiscal year. Complaint-based inspections may be conducted at any time during business hours and without prior notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:2976 (December 2022), amended, LR 51:

§703. Product and Site Security

A. Licensee facilities shall maintain an onsite security system that includes, at a minimum, the following components:

A.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Office of Public Health, LR 48:2976 (December 2022), amended, LR 51:

§705. Louisiana Medical Marijuana Tracking System

A. Licensee facilities shall possess and maintain required hardware and software to connect to the Louisiana Medical Marijuana Tracking System (LMMTS).

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:2976 (December 2022), amended, LR 51:

§707. Inventory Control

A. Licensee facilities shall maintain an inventory of medical marijuana, including medical marijuana waste, on their premises and update these records no less frequently than once per week.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:2976 (December 2022), amended, LR 51:

§709. Toxic Chemical Use and Storage

A. Licensee facilities shall handle and store any chemicals for direct or indirect contact with medical marijuana in accordance with its written operations plan and the manufacturer’s directions.

B. ...

C. Licensees shall maintain records of material safety data sheets (MSDS) for all chemicals currently in use at the facility.

D. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:2976 (December 2022), amended, LR 51:

§711. Transportation of Medical Marijuana

A. Licensee facilities shall generate an inventory manifest prior to transporting any medical marijuana to a licensed marijuana pharmacy, laboratory, contractor or disposal site. The manifest shall include the following items:

A.1. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:2976 (December 2022), amended, LR 51:

§713. Sampling Requirements

A. Licensees shall sample every batch of product to ensure compliance with the standards of quality outlined below. Licensees shall not release any batch of product for sale until the representative sample has been verified as compliant. Batches may be tested prior to portioning or packaging.

B. Sample verification shall be by means of the issuance of a certificate of analysis from the approved laboratory conducting the sample analysis issued to the Louisiana Department of Health and the originating facility no later than 24 hours after testing is complete.

C. Any batch with a sample failing one or more of the tests (by exceeding allowable limits for contaminants or residues) shall be remediated or destroyed, at the option of the licensee. A batch shall only be remediated once, and if subsequent sampling fails to correct the exceedance, the affected batch shall be destroyed.

D. - F.6. ...

G. Table 1. Pesticide Residue Maximum Contaminant Levels (MCL) in parts per million (ppm) by dosage form.

Name	Ingested	Inhaled
Abamectin	0.5	0.5
Acephate	0.4	0.4
Acetamiprid	0.2	0.2
Acequinocyl	2	2
Azoxystrobin	0.2	0.2
Bifentate	0.2	0.2
Bifenthrin	0.2	0.2
Boscalid	0.4	0.4
Carbaryl	0.2	0.2
Carbofuran	0.2	0.2
Chlorantraniliprole	0.2	0.2
Chlorfenapyr	1	1
Chlorpyrifos	0.2	0.2
Clofentezine	0.2	0.2
Cyfluthrin	1	1
Cypermethrin	1	1
Daminozide	1	1
DDVP (Dichlorvos)	0.1	0.1
Diazinon	0.2	0.2
Dimethoate	0.2	0.2
Ethoprophos	0.2	0.2
Etofenprox	0.4	0.4
Etoazole	0.2	0.2
Fenoxycarb	0.2	0.2
Fenpyroximate	0.4	0.4
Fipronil	0.4	0.4
Flonicamid	1	1
Fludioxonil	0.4	0.4
Hexythiazox	1	1
Imazalil	0.2	0.2
Imidacloprid	0.4	0.4
Kresoxim-methyl	0.4	0.4
Malathion	0.2	0.2
Metalaxyl	0.2	0.2
Methiocarb	0.2	0.2
Methomyl	0.4	0.4
Methyl parathion	0.2	0.2
MGK-264	0.2	0.2
Myclobutanil	0.2	0.2
Naled	0.5	0.5
Oxamyl	1	1
Paclbutrazol	0.4	0.4
Permethrins*	0.2	0.2
Phosmet	0.2	0.2
Piperonylbutoxide	2	2
Prallethrin	0.2	0.2
Propiconazole	0.4	0.4
Propoxur	0.2	0.2
Pyrethrins**	1	1
Pyradiben	0.2	0.2
Spinosad	0.2	0.2
Spiromesifen	0.2	0.2
Spirotetramat	0.2	0.2
Spiroxamine	0.4	0.4
Tebuconazole	0.4	0.4
Thiacloprid	0.2	0.2
Thiamethoxam	0.2	0.2
Trifloxystrobin	0.2	0.2

*Permethrins should be measured as cumulative residue of cis- and trans-permethrin isomers.

**Pyrethrins should be measured as the cumulative residue of pyrethrin 1, cinerin 1, and jasmolin 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Health, Office of Public Health, LR 48:2976 (December 2022), amended, LR 51:

§715. Basic Facility Requirements

A. Licensee facilities shall provide finishes to floors, walls, and ceilings that are durable, light in color, and easily cleanable.

B. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:2976 (December 2022), amended, LR 51:

Chapter 9. Approved Laboratories for Testing Medical Marijuana

§901. General Requirements

A. Licensee facilities shall only utilize approved laboratories, as defined in this Section, for testing of medical marijuana.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 48:2976 (December 2022), amended, LR 51:

Subpart 2. Marijuana Dispensaries

Chapter 21. General Requirements

§2101. Definitions

A. Except as may be otherwise defined in any provision of this Part, and unless the context or use thereof clearly indicates otherwise, the following words and terms used in this Part of the Sanitary Code are defined for the purposes thereof, and for purposes of any other Parts which are adopted or may hereafter be adopted, as follows.

Authorized Clinician—licensed health professional authorized to recommend therapeutic marijuana as defined in R.S. 40: 1046.

CFR—Code of Federal Regulations

Department—herein, unless otherwise indicated, the Louisiana Department of Health.

Dispensary—retail facility meeting the requirements of this Subpart that dispenses therapeutic marijuana to patients or caregivers.

Marijuana Product—any product containing marijuana, including raw plant material, that requires no further processing

Pharmacist—a natural person holding an active license to practice as a pharmacist issued by the Louisiana Board of Pharmacy.

Recommendation—a written or electronic communication from an authorized clinician to a dispensary indicating that in the clinician's professional judgment a patient would benefit from therapeutic marijuana.

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.

Use—to assimilate therapeutic marijuana into the body by ingestion, inhalation, topical application or any other route of administration by the patient, whether aided or unaided.

Visiting Qualifying Patient—non-resident of the state of Louisiana or person who has been a resident for fewer than 30 days who provides a Louisiana dispensary with a copy of

a medical-marijuana registry card or similar credential indicating that the patient currently receives medical marijuana in another state under that jurisdiction's medical-marijuana laws and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 51:

§2103. Marijuana Product Requirements

A. Dispensaries may only stock marijuana products obtained from in-state licensed medical marijuana manufacturing facilities. No other sources may be utilized for the supply of marijuana products to patients.

B. Dispensaries may distribute only the following acceptable dosage forms of formulated therapeutic marijuana to patients:

1. oils, extracts, tincture or sprays;
2. solid oral dosage forms (e.g., pills, capsules, tablets);
3. liquid oral dosage forms (e.g., solutions or suspensions);
4. gelatin- or pectin-based chewables;
5. topical creams, unguents, or lotions;
6. transdermal patches;
7. suppositories; or
8. metered-dose inhalers.

C. Dispensaries may also distribute edible products (intended for ingestion) and combustible forms (intended for inhalation) made from marijuana flower.

D. No therapeutic marijuana product of any kind may include or be incorporated into the following:

1. an alcoholic beverage;
2. a dietary supplement; or
3. a drug other than marijuana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 51:

Chapter 23. Permits

§2301. Transfer of Existing Board of Pharmacy-Issued Permits

A. Any firm holding a permit to operate a marijuana pharmacy issued by the Louisiana Board of Pharmacy as of November 1, 2024 shall be issued an equivalent dispensary permit by the Louisiana Department of Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 51:

§2303. Application Requirements

A. In accordance with the statutory limits provided for in R.S. 40: 1046(G), the department may issue no more than 30 permits for therapeutic marijuana dispensaries and their approved satellite locations.

B. Permits are not transferable to other locations or owners.

C. In the circumstance that one of the existing permit-holders for a primary dispensary location or its satellite chooses to surrender that permit or the facility undergoes a change-of-ownership, an applicant may submit a packet for review to include the following:

1. a completed application form provided by the department;

2. detailed plans of the facility, including a site plan and plumbing, electrical, mechanical, HVAC, and drainage schedules as well as a schedule of finishes for floors, walls, and ceilings in all areas; plans should include measures to secure the area where marijuana product is being dispensed to prevent the entry of unauthorized personnel;

3. proposed hours of operation, anticipated staffing levels, and a list of other goods and services to be provided on the premises;

4. the name and contact telephone number and email address of the registered pharmacist designated to be available to the dispensary; and

5. a notarized, sworn affidavit that the proposed location meets the separation distance requirements stipulated in R.S. 40:1040(G)(6) and that any applicable zoning requirements have been met.

D. Any plans packet that is incomplete or lacks the required supporting documentation will be returned without processing.

E. To comply with statutory population-survey requirements and as a condition of permitting, each permitted facility must supply the department with registered patient counts based on the previous 24-month period on a quarterly basis.

F. Per the provisions of R.S. 40:1046(F), each permitted facility must designate at least one registered pharmacist to be available to the primary site and its satellite locations by virtue of the pharmacist's physical presence or availability by telephone or videoconference during its hours of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 51:

§2305. Renewal, Suspension, and Revocation

A. A marijuana pharmacy/dispensary permit issued by the Louisiana Board of Pharmacy or the Louisiana Department of Health shall be subject to renewal on a calendar-year basis utilizing a form supplied by the Louisiana Department of Health.

B. Renewal packets (to include ancillary documentation required by the renewal form) must be submitted to LDH no later than December 1 to renew for the following year.

C. Permits that are not renewed by December 31 are subject to suspension until such time as the proper packet has been submitted, reviewed, and accepted by LDH.

D. Permits that have not been renewed by March 1 of the subsequent calendar year or whose holders have been documented to be in violation of any provisions of this Subpart may be subject to revocation in accordance with the applicable provisions of LAC 51:I.113.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 51:

§2307. Renovations

A. Any permitted marijuana dispensary that is undergoing substantial renovations (per LAC 51:I:101) must submit plans for review and approval to the Louisiana Department of Health. The department must approve the plans prior to the onset of construction/substantial renovations to the existing facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 51:

Chapter 25. Inspections and Operational Requirements

§2501. Inspections

A. Permitted facilities are required to be inspected at least once annually. Inspections are intended to verify compliance with the provisions of this Subpart, including §2511.

B. As a condition of its permit, the permittee shall allow the state health officer or his/her designee(s) to review all records relevant to the operations and management of the permitted facility.

C. Complaint-based inspections may be conducted at any time during business hours and without prior notice to the firm.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 51:

§2503. Product and Site Security

A. Permitted facilities shall maintain an onsite security system that includes, at a minimum, the following components:

1. secured locks on doors throughout the facility;

2. audible alarms and a system of audio and video surveillance cameras that cover points of entry and egress as well as restricted-access areas;

3. restricted-access areas denoted by suitable signage and secured by means of card-access locks where marijuana products are held and dispensed. Only those directly involved in dispensing marijuana products are to be granted access to these areas.

B. The security system shall be documented in detail in the firm's security plan and subject to review during inspection by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 51:

§2505. Inventory Control and Required POS (Point-of-Sale) System

A. Permitted facilities shall be required to maintain a point-of-sale software system that will interface with the Louisiana Medical Marijuana Tracking System to allow for seed-to-sale tracking of all medical marijuana transactions (including home deliveries and waste disposal) conducted at the facility.

B. The system shall be capable of documenting the amount of marijuana, dosage form, and amount dispensed under the active recommendation for each patient registered at the dispensary.

C. Additionally, the system shall allow the dispensing agent or pharmacist to cross-reference the patient's dispensing history in the LMMTS. A dispensary shall perform such cross-reference prior to sale, and shall refuse a sale if necessary to ensure that no patient receives more than 71 g of raw marijuana in a 14-day period or any amount of another dosage form in excess of the authorized clinician's recommendation.

D. Dispensary staff must maintain a perpetual inventory of marijuana products received, held, dispensed, and disposed of by the facility. Inventory reconciliations shall be conducted on at least a semi-annual (every six months) basis and documents related to reconciliations shall be maintained on the premises for at least two calendar years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 51:

§2507. Deliveries, Dispensing and Labeling/Packaging Requirements

A. Dispensaries may refuse delivery from a manufacturing facility of marijuana products if it is determined at receiving that the product is misbranded, adulterated, expired, or otherwise in a non-saleable condition. Such refusals shall be recorded in the POS system and the Louisiana Medical Marijuana Tracking System.

B. Marijuana products may be dispensed by appropriate dispensary staff to a patient or the patient's caregiver on the premises or by delivery to the patient's or caregiver's home address.

1. Patients or caregivers must have an authorized clinician send a paper or electronic recommendation bearing the clinician's signature directly to the dispensary prior to dispensing.

2. Recommendations must include the following information, at a minimum:

- a. the name, address, and telephone number of the authorized clinician;
- b. name, address and date-of-birth of the patient;
- c. the name of the debilitating medical condition listed in R.S. 40:1046 for which the therapeutic marijuana will act as a treatment;
- d. type of marijuana product requested;
- e. date of recommendation and expiration of the recommendation; and
- f. self-certification that the authorized clinician is registered as a therapeutic-marijuana provider with the Louisiana State Board of Medical Examiners.

3. The designated pharmacist may transfer an unexpired recommendation to a satellite or to a different dispensary at the patient's request, but no patient may have an active recommendation affiliated with multiple dispensaries simultaneously.

4. The dispensary shall provide laboratory test results for any marijuana product available for dispensing to the patient upon request.

C. Deliveries must be made available upon request at least once per month per ZIP code serviced by the dispensary; however, no delivery may be made outside the state of Louisiana.

D. Any marijuana product that is part of a delivery that is not completed must be returned to the dispensary of origin, and if the packaging integrity cannot be verified by dispensary staff, it must be disposed of by a department-approved method and that disposal documented in the firm's POS system.

E. Marijuana products, whether dispensed on- or off-premises, must be packaged in tightly-sealed and light-impermeable packaging.

F. Dispensary-affiliated pharmacists may compound marijuana products for specific patients in accordance with that patient's recommendation.

G. Dispensaries may utilize a recommendation issued by an authorized clinician to supply a patient on multiple occasions with marijuana products, provided that the dispensing is consistent with the requirements of §2505.C and that the dispensing does not exceed the amount indicated on the recommendation or consist of a dosage form not specified under §2103.B of this Subpart.

H. Provided that no marijuana product is dispensed to an out-of-state address, dispensary staff may provide marijuana products to a visiting qualifying patient in compliance with the provisions of this Section and R.S. 40:1046.1. A dispensary shall retain all documents required by R.S. 40:1046.1(C)(2) for at least three years.

I. No marijuana product may be dispensed by the dispensary unless it bears a label including the following information:

1. the name, address, and telephone number of the dispensing firm;
2. the name of the authorized clinician recommending the product;
3. the name of the patient;
4. date of dispensing;
5. transaction identification number, which shall be a unique identifier;
6. the identity of the product being dispensed;
7. quantity of product in the package;
8. directions for use; and
9. expiration date, as provided by the manufacturing facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 51:

§2509. Disposal of Marijuana Product Waste

A. If marijuana waste is generated from compounding activities or marijuana product in inventory is no longer suitable for dispensing due to deterioration, expiration or other conditions rendering the product unsaleable, it shall be stored in a temporary morgue area pending disposal. Waste products may not be held on the premises longer than 30 days.

B. Waste products must be rendered into a non-usable state by grinding and mixing with non-marijuana waste products such that the end product is at least 50 percent non-marijuana waste by volume, and this end product may then be transported from the premises and disposed of by means of the following processes:

1. composting;
2. incineration; or
3. compaction and subsurface burial.

C. Acceptable materials for mixing include yard waste; paper or cardboard waste; plastic waste; or soil.

D. Dispensary personnel must document every disposal activity in the facility's POS system, including the identifying characteristics of the waste, the quantity of waste, and the method of its disposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 51:

§2511. Basic Facility Requirements

A. Dispensaries shall provide and maintain finishes to floors, walls, and ceilings in all public areas that are smooth, light-in-color, durable, and easy-to-clean.

B. Dispensaries shall be sufficient in size to allow space for the following:

1. orderly placement of equipment and materials to minimize the possibility of contamination;
2. holding of waste products in secure storage while pending disposal;
3. storage of packages, containers, and labeling;
4. packaging and labeling operations;
5. dispensing operations; and
6. secure storage of marijuana products and compounded products pending dispensing.

C. Dispensaries shall provide lighting, ventilation, and screening (if applicable) as needed to do the following:

1. prevent contamination of products in storage with extraneous adulterants; and
2. minimize dissemination of microorganisms from one area to another.

D. Dispensaries shall provide locker rooms adequate for the storage of employee personal belongings.

E. Dispensaries shall provide a plumbing system designed and installed to meet the requirements of the Louisiana State Uniform Construction Code. Additionally the system shall include the following:

1. no cross-connections between any potable and non-potable water supply;
2. at least one hand lavatory in the dispensing and compounding areas equipped with hot-and-cold running water by means of a mixer-type faucet as well as adequate supplies of hand soap and paper towels and a suitable waste-receptacle located nearby.
3. at least one utility sink for the disposal of mop wastes; and
4. adequate means of sanitary disposal of wastewater.

F. Dispensaries shall provide adequate means of conveyance, storage, and disposal of refuse and non-medical marijuana waste products so as to minimize the development of odors, prevent waste products from becoming an attractant to and harborage for vermin, and prevent contamination of marijuana products, other products, facility surfaces, grounds, or water supplies.

G. Dispensaries shall provide toilet rooms as required by the Louisiana State Uniform Construction Code. Additionally toilet rooms shall be maintained in proper working order and in a sanitary condition. Adequate security measures shall be put into place to prevent the use of marijuana products in toilet rooms and signage shall be provided advising that such use is prohibited by law. Toilet rooms shall be equipped with self-closing doors and shall provide signage advising employees to wash hands with soap and water after using the toilet.

H. Dispensaries shall be located on premises that are maintained free from the following:

1. disused equipment, waste, debris or other materials that may serve as harborages for or attractants to vermin;
2. overgrowth of vegetation;
3. poorly-drained areas; and

4. excessively-dusty areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 51:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons 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 children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

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;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 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 on the proposed Rule. Such comments must be received no later than Monday, November 11, 2024 at COB, 4:30 pm, and should be addressed to Tiffany Meche, Director, Sanitarian Services, P.O. Box 4489, Baton Rouge, LA 70821.

Public Hearing

Interested persons may submit a written request to conduct a public hearing either by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on Monday, November 11, 2024. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 10 am on Monday, December 2, 2024, in Room

118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after Monday, November 11, 2024. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Ralph Abraham
Surgeon General
and
Michael Harrington, MBA, MA
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Regulation of Medical Marijuana

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is anticipated to increase expenditures for the Office of Public Health (OPH) by approximately \$12,428 in FY 24-25 for the publication of the proposed rule as well as increased costs for travel (\$7,200 for a car rental, \$1,500 for overnight lodging, \$300 for fuel costs, \$3,428 in publication costs). It is not anticipated that any other state or local governmental units will incur costs or savings as a result of this rule change. Ongoing costs for subsequent fiscal years will be approximately \$9,180 for travel-related expenses involved in conducting routine inspections of the 30 facilities added to the Cannabis Program's inventory.

In accordance with Acts 150 and 693 of the 2024 RLS, the proposed rule creates a regulatory framework for medical marijuana products within LDH. Specifically, this rule adds a new Subpart to Part XXIX of Title 51 of the LAC, which consists of five chapters detailing the various provisions of the regulation of medical marijuana. Chapter 1 explains definitions that are unique to this regulation. Chapter 3 specifies the enabling legislation and notes that the products regulated herein are subject to federal law. Chapter 5 describes the permitting process and operational requirements for dispensaries.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this proposed rule. These laws do not allow the department to collect any fees to fund this program. The program could end on December 31, 2029, if not renewed, but LDH has no authority to collect revenue.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

It is anticipated that this proposed rule will have no effect on costs or benefits of this program to stakeholders.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The adoption of this proposed rule should not engender or have any effect on competition among marijuana dispensaries.

Tonya Joiner
Assistant Secretary
2410#075

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation 112—Adoption of NAIC Handbooks,
Guidelines, Forms, and Instructions
(LAC 37:XIII.Chapter 161)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 112.

The purpose of the amendment to Regulation 112 is to identify and to incorporate by reference the current edition of handbooks, guidelines, forms, and instructions adopted by the National Association of Insurance Commissioners (NAIC) and referenced in the Louisiana Insurance Code.

Title 37

INSURANCE

Part XIII.Regulations

**Chapter 161. Regulation Number 112—Adoption of
NAIC Handbooks, Guidelines, Forms and
Instructions**

**§16101. NAIC Handbooks, Guidelines, Forms and
Instructions Incorporated by Reference**

A. ...

B. The following NAIC handbooks, guidelines, forms, and instructions are hereby adopted and incorporated by reference:

1. The Financial Condition Examiner's Handbook, 2023 edition.
2. The Annual and Quarterly Statement Instructions, Property and Casualty, 2023 edition.
3. The Annual and Quarterly Statement Instructions, Life, Accident, and Health, 2023 edition.
4. The Annual and Quarterly Statement Instructions, Health, 2023 edition.
5. The Annual and Quarterly Statement Instructions, Title, 2023 edition.
6. The Annual and Quarterly Statement Instructions, Fraternal, 2023 edition.
7. The Annual and Quarterly Statement Blanks, Property and Casualty, 2023 edition.
8. The Annual and Quarterly Statement Blanks, Life, Accident, and Health, 2023 edition.
9. The Annual and Quarterly Statement Blanks, Health, 2023 edition.
10. The Annual and Quarterly Statement Blanks, Title, 2023 edition.
11. The Annual and Quarterly Statement Blanks, Fraternal, 2023 edition.
12. The Accounting Practices and Procedures Manual, 2023 edition.
13. The Financial Analysis Handbook, 2023 edition.
14. The Own Risk and Solvency Assessment Guidance Manual, 2023 edition.
15. The Purposes and Procedures Manual of the NAIC Investment Analysis Office, 2023 edition.
16. The Risk-Based Capital Forecasting and Instructions, 2023 edition.
17. The Market Regulation Handbook, 2023 edition.

C. - D.3 ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 619(B), 640(B), 675, 661(A), 691.11, 691.54, and 1804.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 45:1208 (September 2019), amended LR 46:993 (July 2020), amended LR 47:1328 (September 2021), LR 48:2299 (September 2022), amended LR 49:1410 (August 2023), LR 51:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.

5. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation 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 regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, by faxing comments to (225) 342-1632, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., November 10, 2024.

Timothy J. Temple
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 112—Adoption of NAIC Handbooks, Guidelines, Forms, and Instructions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The proposed rule changes incorporate and reference the current editions of handbooks, guidelines, forms, and instructions adopted by the National Association of Insurance Commissioners (NAIC) and referenced in the Louisiana Insurance Code. The current editions of these publications serve as the most current professional guidance for entities regulated by the LA Dept. of Insurance (LDI).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR The proposed rule changes will have no impact on state or local governmental revenues.

LOCAL GOVERNMENTAL UNITS (Summary)

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will benefit persons and entities seeking to identify which handbooks or guidelines are currently being incorporated by reference that serve as professional guidance for entities under the purview of LDI. These handbooks and guidelines will be available for public viewing in hardcopy form at the offices of the LDI and Office of State Register and online at the NAIC website.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will have no impact upon competition and employment in the state.

Chris Cerniauskas
Chief of Staff
2410#008

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation 132—Louisiana Churches and Nonprofit
Religious Organizations Self-Insured Fund
(LAC 37:XIII.Chapter 201)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to promulgate Regulation 132—Louisiana Churches and Nonprofit Religious Organizations Self-Insured Fund.

The Department of Insurance is promulgating Regulation 132 to comply with Act No. 259 of the 2023 Regulation Session of the Louisiana Legislature that enacted R.S. 22:472.1 through 472.20 authorizing the creation of the Louisiana Churches and Nonprofit Religious Organizations Self-Insured Fund and giving the Department of Insurance authority over such fund. Act 259 directed the Louisiana State Law Institute to redesignate R.S. 22:472.1 through 472.20 as R.S. 12:1851 through 1870.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 201. Regulation Number 132—Louisiana
Churches and Nonprofit Religious
Organizations Self-Insured Fund**

§20101. Definitions

A. For the purposes of Regulation 125, the following terms are defined as follows:

Commissioner—the Commissioner of Insurance of the state of Louisiana.

Department—the Department of Insurance of the state of Louisiana.

Fund—the self-insurance fund established pursuant to R.S. 12:1851 et seq. to provide property insurance for churches and nonprofit religious organizations and shall be known as the Louisiana Churches and Nonprofit Religious Organizations Self-Insured Fund.

Insolvency—the condition existing when the fund's liabilities are greater than the fund's assets as determined in accordance with generally accepted accounting principles as delineated in the fund's financial statement audited by an independent certified public accountant and calculated before a member's distribution is payable or before a dividend is declared.

Members Distribution Payable/Surplus—assets of the fund in excess of loss reserves, actual and contingent liabilities and loss development reserves in all fund years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 12:1851 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§20103. Excess Insurance or Reinsurance

A. The fund shall maintain excess insurance or reinsurance in the amount approved by the commissioner, based on an actuarially sound catastrophe model that limits the fund's exposure on any one loss occurrence to 20 percent of its members distribution payable/surplus or an amount authorized by the commissioner.

1. The fund shall submit a feasibility study prepared by a qualified actuary which analyzes the impact the specific retention on the fund.

2. No fund shall secure a retention which in the commissioner's opinion is not actuarially sound.

3. The commissioner shall deny the use of a retention if he finds that the higher retention will have a significant adverse effect on the financial condition of the fund.

B. The excess insurance or reinsurance coverage shall provide for one or more reinstatements.

C. All excess insurance or reinsurance agreements shall be approved by the department prior to execution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 12:1851 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§20105. Financial and Actuarial Reports

A. At inception and thereafter, the fund shall either:

1. Provide evidence satisfactory to the commissioner that it possesses surplus in excess of \$3,000,000, or

2. Submit a current audited financial statement, audited by an independent certified public accountant, of at least two members showing, at the inception of the fund, a combined net worth of a minimum of \$1,000,000, current financial statements of all other members, a combined ratio of current assets to current liabilities of more than one to one, a combined working capital of an amount establishing financial strength and liquidity of the members to pay normal compensation claims promptly, and showing evidence of the financial ability of the group to meet its obligations. An audited or a financial statement properly certified by an officer, owner, or partner for all members joining the fund after the inception date shall be submitted to the commissioner until such time as an audited financial statement is available for the fund as a whole. Thereafter, the filing of member financial statements with the department is no longer required. In no event shall the cumulative net worth or ratio of the current assets to current liabilities of all members be less than that required in this Subsection.

B. An annual financial statement audited by an independent certified public accountant shall be due annually within six months of the close of the fiscal year of the fund, unless an extension is granted by the commissioner.

C. Actuarial reviews shall be made by a qualified actuary. Actuarial reports shall be due and filed at the same time as the fund's annual financial statement, except as otherwise provided by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 12:1851 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§20107. Insolvencies

A. Pursuant to R.S. 12:1862(D)(1), the fund is subject to delinquency proceedings that shall be governed by the applicable provisions of R.S. 22:731, et seq., pertaining to administrative supervisions, or the applicable provisions of R.S. 22:2001, et seq., pertaining to receivership, that are not inconsistent with the provisions of R.S. 12:1851, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 12:1851 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

§20109. Cease and Desist Orders and Other Penalties

A.1 After notice and opportunity for a hearing, the commissioner may issue an order requiring a person or group to cease and desist from engaging in an act or practice found to be not in compliance with R.S. 12:1851, et seq. or with any rule promulgated by the department pursuant to the Administrative Procedure Act or order or directive issued by the department. Any cease and desist order issued under this Section may include a prohibition against the fund writing any new or renewal business.

2. After notice and opportunity for a hearing, the commissioner may suspend or revoke the certificate of authority of the fund found to be not in compliance with R.S. 12:1851, et seq. or with any rule promulgated by the department pursuant to the Administrative Procedure Act or order or directive issued by the department.

B. Upon the determination that the fund failed to comply with any provision of R.S. 12:1851 et seq., any rule or regulation promulgated by the department, or orders or directives issued by the commissioner, the department may levy a fine of up to \$2,000 for each violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 12:1851 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 51:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed regulation

should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation 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 regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, by faxing comments to (225) 342-1632, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., November 10, 2024.

Timothy J. Temple
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 132—Louisiana Churches and Nonprofit Religious Organizations Self-Insured Fund

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule is being promulgated to implement Regulation 132 to comply with Act 259 of the 2023 Regular Session of the Legislature. This authorizes the creation of the Louisiana Churches and Nonprofit Religious Organizations Self-Insured Fund.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The 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, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will provide the guidelines for the creation of the Louisiana Churches and Nonprofit Religious Organizations Self-Insurance Funds. The creation of these self-insurance funds is for the purpose of providing property insurance for local churches and religious buildings in Louisiana.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule does not affect competition and employment in the state.

Chris Cerniauskas
Chief of Staff
2410#007

Alan M. Boxberger
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of Motor Vehicles

Public Tag Agents
(LAC 55:III.1643)

In compliance with Act 357 of the 2023 legislative session, the Office of Motor Vehicles proposed to adopt Section 1643 of Part III, Chapter 16 (Public Tag Agents), Title 55 (Public Safety) of the Louisiana Administrative Code. Specifically, this Rule proposes to adopt a fine schedule for violations of R.S. 47:532.1 and R.S. 47:532.2, any rule or regulation adopted pursuant to R.S. 47:532.1 and R.S. 47:532.2, or of any violation of a contract between the Office of Motor Vehicles and the public license tag agent. The Office of Motor Vehicles intends for this Rule to be effect January 29, 2025.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 16 Public tag Agents

§1643. Administrative Penalty Assessment

A. In the event a public tag agent is found to be in violation of R.S. 32:707.2, R.S. 47:531.1 et seq., applicable administrative rules, contract terms or department policy, the Office of Motor Vehicles may impose sanctions. The sanctions shall include, but are not limited to, administrative fines; warnings; suspension or revocation of the public tag agent's license; removal of the public tag agent or its employee's departmental connectivity or restriction of security access. In determining the appropriate sanction, the Office of Motor Vehicles will consider the severity of the violation or violations, as well as previous violations of the public tag agent whether sanctions were imposed for the previous violations.

B. The following fine schedule shall be used to assess fines to persons, firms, or employees who violate the law, rules or departmental policies governing public tag agents. Penalties will be imposed to persons, firms or employees based on the classification of the offense. Other administrative penalties may also be imposed.

Schedule of Fines	
When citing specific violations, the department will set the fines within the corresponding range.	
Violation	Fine Amount
Failure to remit taxes or fees in accordance with the rules and terms of the PTA contract (§1603)	\$25 - \$250
Operating as a public tag agent without a contract for each location, with an expired contract, or without a valid surety bond on file with the office of motor vehicles.	\$25 - \$250
Issuance of more than one temporary registration, T-Marker, to a title applicant in violation of OMV rules and policies.RS 47:532.2	\$25 - \$250
Issuing a T-Marker without first collecting all taxes and fees. RS 47:532.2	\$25 - \$250
Collecting a convenience fee in excess of the amount authorized in R.S. 47:532.1	\$25 - \$250
False information provided on the public tag agent initial or renewal application (§1608)	\$25 - \$250
Allow unauthorized persons access to information regulated under the driver privacy protection act (§1615)	\$25 - \$250 (per violation)
Changing the ownership of the public tag agent and not reporting in writing to the office of motor vehicles within thirty days from the date of such change. RS 47:532.2	\$25 - \$250
Changing the officers or directors of the public tag agent and not reporting in writing to the office of motor vehicles within thirty days from the date of such change. RS 47:532.2	\$25 - \$250
The forwarding to the office of motor vehicles by a public tag agent of a document relevant to any authorized transaction that results in a material injury to the public records, or a shortfall in the collection of taxes owed when the public tag agent had knowledge of facts causing such injury or shortfall, and failed to disclose same to the office of motor vehicles. RS 47:532.2	\$25 - \$250
Operating a public tag agent from an unapproved location (§1617)	\$25 - \$250
Failure to secure exterior doors, interior doors separating co-located businesses, windows or sensitive data or materials (§1617)	\$25 - \$100
Failure to report missing or lost inventory (§1617)	\$25 - \$100
Failure to report unauthorized access to facility whether or not theft occurred (§1617)	\$25 - \$100
Failure to install or maintain monitoring service for security cameras (§1617)	\$25 - \$250
Allow unauthorized access to secure areas of the facility (§1617)	\$25 - \$250
Operating a public tag agent without a surety bond (§1621)	\$25 - \$250
Display of signage that does not indicate the status as a public tag agent (§1623)	\$25 - \$100
Advertisements or social media posts that are in poor taste or negatively reflect on the department (§1623)	\$25 - \$50
Failure to perform duties outlined in the auto title company or public tag agent contract (§1629)	\$25 - \$250
Failure to maintain professional liability/errors and omissions insurance (§1635)	\$25 - \$250
Failure to perform visual exam (§1625)	\$25 - \$250
Disposal of driver's license equipment without prior authorization (§1625)	\$25 - \$250
Dishonored or denied payments for state fees and taxes (§1639)	\$25 - \$250
Failure to scan all supporting documents for the transaction being process as required in statutory law, rules, OMV policies, or the terms of the contract	\$25 - \$100
Failure to report data breach or malware attack	\$25 - \$250
Failure to comply with audit within 90 days of the date the audit becomes final	\$25 - \$50
Failure to read and sign newly created and updated policies within 5 business days of being notified	\$25-\$100
Failure to comply with OMV policy and procedures	\$25-\$250
Failure to perform National Motor Vehicle Title Information System (NMVTIS) check prior to each title issuance on each vehicle transaction	\$25 - \$100

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:532.1. and R.S 47:532.2.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 51:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through November 14, 2024, to Stephen A. Quidd, Executive Management Officer, Office of Motor Vehicles, Louisiana Department of Public Safety and Corrections, at Mailing Address: P. O. Box 64886, Baton Rouge, LA 70896, Physical Address: 7979 Independence Blvd., Ste. 301 Baton Rouge, LA 70806, or faxed to (225)925-6303.

Public Hearing

A public hearing on the proposed Rule will be held on November 27, 2024, at the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles Headquarters, 7979 Independence Blvd., Suite 301, Baton Rouge, La. 70806, (225) 925-6281, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the above number at least seven working days in advance of the hearing. For assistance, call (225) 925-6281 (voice and TDD). Any interested person should call before coming to the public hearing as the hearing will be cancelled if the requisite number of comments, as provided in R.S.49:961(B), are not received.

Daniel Casey
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Public Tag Agents

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule is not anticipated to result in any costs or savings for the Office of Motor Vehicles (OMV).

To properly enforce contractual obligations of public tag agents, OMV proposes to adopt Section 1643 (Administrative Penalty Assessment) of Part III, Chapter 16 of Title 55 (Public Safety) of the Louisiana Administrative Code. Specifically, the proposed rule provides a fine schedule to levy against persons, firms, or employees who violate the provisions governing public tag agents.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

To the extent persons, firms, or employees violate current statute, administrative rules, contract terms, or department policy, fines collected by OMV may increase. OMV will set

fines within the corresponding range when citing the following violations:

\$25 - \$250

- Failure to remit taxes or fees in accordance with the rules and terms of the PTA contract. (§1603)
- Operating as a public tag agent without a contract for each location, with an expired contract, or without a valid surety bond on file with the office of motor vehicles.
- Issuance of more than one temporary registration, T-Marker, to a title applicant in violation of OMV rules and policies. RS 47:532.2
- Issuing a T-Marker without first collecting all taxes and fees. RS 47:532.2
- Collecting a convenience fee in excess of the amount authorized. R.S. 47:532.1
- False information provided on the public tag agent initial or renewal application. (§1608)
- Allow unauthorized persons access to information regulated under the driver privacy protection act. (§1615)
- Changing the ownership of the public tag agent and not reporting in writing to the office of motor vehicles within thirty days from the date of such change. RS 47:532.2
- Changing the officers or directors of the public tag agent and not reporting in writing to the office of motor vehicles within thirty days from the date of such change. RS 47:532.2
- The forwarding to the office of motor vehicles by a public tag agent of a document relevant to any authorized transaction that results in a material injury to the public records, or a shortfall in the collection of taxes owed when the public tag agent had knowledge of facts causing such injury or shortfall, and failed to disclose same to the office of motor vehicles. RS 47:532.2
- Operating a public tag agent from an unapproved location. (§1617)
- Failure to install or maintain monitoring service for security cameras. (§1617)
- Allow unauthorized access to secure areas of the facility. (§1617)
- Operating a public tag agent without a surety bond. (§1621)
- Failure to perform duties outlined in the auto title company or public tag agent contract. (§1629)
- Failure to maintain professional liability/errors and omissions insurance. (§1635)
- Failure to perform visual exam. (§1625)
- Disposal of driver's license equipment without prior authorization. (§1625)
- Dishonored or denied payments for state fees and taxes. (§1639)
- Failure to report data breach or malware attack.
- Failure to comply with OMV policy and procedures.

\$25 - \$100

- Failure to secure exterior doors, interior doors separating co-located businesses, windows or sensitive data or materials. (§1617)
- Failure to report missing or lost inventory. (§1617)
- Failure to report unauthorized access to facility whether or not theft occurred. (§1617)
- Display of signage that does not indicate the status as a public tag agent. (§1623)
- Failure to scan all supporting documents for the transaction being process as required in statutory law, rules, OMV policies, or the terms of the contract.

- Failure to read and sign newly created and updated policies within 5 business days of being notified.
- Failure to perform National Motor Vehicle Title Information System (NMVTIS) check prior to each title issuance on each vehicle transaction.

\$25 - \$50

- Advertisements or social media posts that are in poor taste or negatively reflect on the department. (§1623)
- Failure to comply with audit within 90 days of the date the audit becomes final.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

To the extent persons, firms, or employees violate current statute, administrative rules, contract terms, or department policy, they may incur fines ranging from \$25 to \$250 based on the classification of the offense.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed rule is not anticipated to have an effect on competition and employment.

Daniel Casey
Commissioner
2410#066

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: JAN-SEP 2024

LAC Title	Part #.Section #	Action	Location:		LAC Title	Part #.Section #	Action	Location:	
			Month	Page #				Month	Page #
4	I.101	Adopted	Apr.	516	CXV.504 CXV.511 CXV.525 CXV.901,2319 CXV.1103,1105,1111 CXV.1123 CXV.2317,2318,2319,2345 CXV.2367 CXV.3113,3703 CXXXI.103 CXXXI.303 CXXXI.303,503,505,507,511,513,521,528 CXXXI.303,507,509,511,515,519,525,527 CXXXI.331,333,507 CXXXI.517,705,711,1517,2101,2105,2305 CXXXI.529,535,537,539,541,543,545,547 CXXXI.531,535,536,1301,1305,1307,1309 CXXXI.548,550,1319, CXXXI.549,551,553,555,557,701,709,717 CXXXI.515,553,1369 CXXXI.721,723,725,1107,1109,1301,1305 CXXXI.1301 CXXXI.1307,1309,1313,1315,1317,1321 CXXXI.1311,1323,1325,1327,1329,1331 CXXXI.1323,1325,1327,1329,1331,1337 CXXXI.1345,1349,1355,1359,1360,1361 CXXXI.1365,1367,1369,1371,1503,1507 CXXXI.1505 CXXXI.1509,1519,1521,1523,1527,1529 CXXXI.1541,1543,1545,1703,2301,2303 CXXXI.1701,1909 CXXXI.2501,2503 CXXXVI.101,103,301,303,305,501,505,507 CXXXVI.701 CXXXIX.511 CXXXIX.515,2103,2501,4001,4003 CXXXIX.4001 CXXXIX.4003 CXXXIX.4003 CXXXIX.4303,4321 CXLVII.101 CXLVII.101,105,301,303,305,307,309,311 CXLVII.104 CXLVII.313,319,323,329,701,901 CLVII.303 CLVII.305 CLVII.509 CLVII.701 CLIX.101,103,301,303,305,501,503,505 CLIX.507,509 CLXI.103,709,901,903,1103,1507,1509 CLXI.1711,1721,1804,1811,1901,1917 CLXV.103,309,311,313,320,507,515	Repealed	Feb.	174	
	VII.901, 961,963	Repealed	Apr.	498		Adopted	Feb.	174	
	VII.903,907,917,937,943,965,967,969,975	Amended	Apr.	498		Adopted	Jan.	019	
	VII.918,925,982,992,995	Adopted	Apr.	498		Amended	July	971	
	VII.977,979,981,983,987,990	Amended	Apr.	498		Amended	July	946	
	XXI.103	Amended	Apr.	503		Amended	May	681	
	XXI.1101,1301,1303,1305,1307,1309,1311	Adopted	Apr.	503		Amended	Apr.	480	
	XXI.1313,1315,1317,1319,1321,1323,1325	Adopted	Apr.	503		Amended	Feb.	174	
	XXI.1327,1329,1331,1333,1335,1501,1503	Adopted	Apr.	503		Amended	Aug.	1148	
	XXI.1505,1507,1701,1703	Adopted	Apr.	503		Adopted	Jan.	019	
	XXIII.301,303,305,307,309,311,321	Adopted	Mar.	407		Repromulgated	Feb.	173	
	XXIII.901,903,905,907	Adopted	June	783		Amended	May	659	
	7	XXI.1513	Amended	Mar.		362	Amended	Jan.	019
		XXV.101	Amended	Feb.		171	Amended	Apr.	659
XXV.101,107,109,117,119,123,141,147,165		Repromulgated	June	774	Amended	May	659		
XXV.167		Repromulgated	June	774	Amended	Aug.	1150		
XXXV.103,125,127		Amended	Mar.	362	Amended	May	659		
XXXV.125		Repromulgated	Apr.	478	Repromulgated	July	974		
10		XV.2001,2003,2005,2007,2009,2011,2013	Adopted	Apr.	518	Amended	May	659	
		XV.2015	Adopted	Apr.	518	Amended	May	659	
13	I.101,103,105,107,111 I.103,107,111,115	Amended	Mar.	415	Amended	July	974		
		Amended	Mar.	410	Amended	May	659		
22	I.325	Amended	Feb.	258	Amended	May	659		
	I.331	Amended	July	1000	Amended	Jan.	019		
	V.203,211,213	Amended	Sep.	1265	Amended	May	659		
	V.204	Adopted	Sep.	1265	Amended	May	657		
	XI.301,303,307,309,501,504,510,511,513	Amended	Sep.	1267	Amended	July	946		
	XI.514	Amended	Sep.	1267	Amended	Feb.	174		
	XI.601,603,605,607	Adopted	Feb.	209	Repromulgated	June	783		
	XI.701,705,707,901,1101,1103,1501,1502	Amended	Sep.	1267	Repromulgated	Aug.	1146		
	XI.801,802,803,805,809,1301	Repealed	Sep.	1267	Amended	May	658		
	XIII.103,301,303,501,503	Amended	Sep.	1274	Amended	July	948		
	25	IX.601	Adopted	Apr.	478	Adopted	May	658	
			Adopted	Apr.	478	Amended	July	948	
28	I.1501	Amended	May	681	Amended	July	976		
	IV.301,701,703,704	Adopted	Feb.	185	Amended	Aug.	1148		
	IV.803	Amended	Feb.	185	Adopted	Feb.	174		
	IV.804	Adopted	Feb.	185	Repromulgated	July	975		
	IV.2201,2203,2205,2207,2209,2211,2213	Amended	Feb.	178	Repealed	July	954		
	IV.2501,2503,2505,2507,2509,2511,2513	Adopted	Feb.	183	Repealed	July	954		
	IV.2515	Adopted	Feb.	183	Amended	July	966		
	IX.701,703,705,707,709	Adopted	Sep.	1242	Amended	July	966		
	V.101,103,111,113,115,117,121,123,125	Adopted	Apr.	490	Amended	July	969		
	V.131,133,135,137,139,141,143,145,147	Adopted	Apr.	490	32	III.107,109	Amended	June	780
	V.201,203,211,213,215,217,221,223,225	Amended	Apr.	490		V.205,207,305,307,405,505,507	Amended	June	780
	V.231,233,235,237,239,241,243,245,247	Amended	Apr.	490	VII.101,305,701,711,721,10101	Amended	July	1101	
	VI.507,509,517	Amended	Apr.	489	33	I.2105	Amended	Jan.	032
	XI.405	Amended	July	948		I.2201	Adopted	Apr.	496
	XI.709,3503	Amended	Aug.	1145		III.506	Repealed	Jan.	031
	XI.7311	Amended	Feb.	172		III.5151	Amended	July	976
	XXXV.101,103,105,107,109,111	Amended	Aug.	1152		V.30103,30105,30117,30142,30204,30258	Amended	Sep.	1243
	XXXV.109	Amended	May	681		V.30260,30402,30417,30418,30419,30420	Amended	Sep.	1243
	XXXIX.701	Amended	May	679	V.30452,30505	Amended	Sep.	1243	
	XXXIX.901	Repromulgated	July	975	35	I.322	Adopted	May	683
	XLIII.120,152,301,322,503,504,530	Amended	Aug.	1151		III.5773	Amended	May	683
	XLV.303,405,503,505,507,743,745,747,917	Amended	May	675		XI.9905	Amended	May	684
	XLV.703,705,707,711,713,715,717,719,721	Repealed	May	675		LXI.9905	Repromulgated	June	833
	XLV.723,727,729,731,733,735,737,739	Repealed	May	675		37	I.307	Adopted	Aug.
	XLV.743,745	Amended	Jan.	019	III.302		Adopted	Mar.	364
	XCI.107	Amended	Apr.	680	XI.2303,2307,2309,2313		Amended	Apr.	526
	LXI.305,501,505,509	Amended	Apr.	489	XIII.128,131		Amended	Sep.	1281
	LXXIX.107,1309,1901	Amended	Feb.	174	XIII.201,203,205		Amended	Mar.	409
LXXIX.119,1101,1311,1501	Amended	July	972	XIII.1931	Repealed		Sep.	1282	
LXXIX.125	Repealed	Feb.	174	XIII.2101,2103,2107,2109,2111,2113	Amended		Sep.	1282	
LXXIX.1101	Amended	July	976	XIII.6501	Repealed		Aug.	1159	
LXXIX.2109,2317	Amended	Apr.	480	XIII.10909	Amended		Aug.	1159	
CXIII.903	Amended	Feb.	174						
CXV.337,339,915,1103,1127,1315,2305	Amended	Feb.	174						

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	XIII.11701,11703,11705,11707,11709	Amended	Sep.	1284		I.12515,12517,12519,12521,12523,12525	Amended	Feb.	221
	XIII.11711,11713,11715,11717,11719	Amended	Sep.	1284		I.12527,12529,12531,12533,12537,12541	Amended	Feb.	221
	XIII.11712,11721	Adopted	Sep.	1284		I.12541,12553	Amended	July	984
	XIII.19701,19703,19707,19709,19711	Adopted	Sep.	1291		I.12545,12549,12551,12553	Amended	Feb.	221
40	I.2007,2021,2113	Amended	May	692		I.12547	Repealed	Feb.	221
	I.6665,6667	Amended	June	832		I.12901,12903,12905,12907,12909,12911	Repealed	Aug.	1158
42	I.1722	Adopted	Sep.	1292		I.12913	Repealed	Aug.	1158
	III.120	Amended	Feb.	263		I.18601	Adopted	Sep.	1278
	III.501,503,505,507	Adopted	June	789		I.18703,18705,18708	Amended	Feb.	220
	III.2714	Amended	June	833		I.19305	Adopted	May	686
43	XI.3501	Amended	Jan.	035		V.16701,16901,17101,17103,17105,17301	Amended	Feb.	240
	XI.3501	Amended	Sep.	1243		V.17302,17303,17304,17305,17306,17501	Amended	Feb.	240
	XIII.101,503,507,509,513,518,1139,1705	Amended	Sep.	1243	49	V.17502,17503,17504,17701,17702,17703	Amended	Feb.	240
	XIII.1719,2113,2125,2137,2710,2713,2734	Amended	Sep.	1243		V.17704,17705	Amended	Feb.	240
	XIII.2130,2914	Adopted	Sep.	1243					
	XIII.2736,2910,2911,3311,3317,3323,3327	Amended	Sep.	1243	50	I.1501,1503,1505	Amended	July	978
	XIII.3329,3333,3335,3341,3351	Amended	Sep.	1243		I.1507,1509,1511,1513,1515,1517,1519	Adopted	July	978
	XIX.103	Amended	Jan.	036		II.10123,20001	Amended	Feb.	219
	XIX.3105	Amended	Jan.	035		III.941	Adopted	Feb.	216
	XIX.3503,3507,3509,3511	Amended	Jan.	036		V.121,123,125,127	Adopted	July	977
	XVII.3801,3803,3805,3811	Adopted	May	682		V.1301,1303	Amended	Mar.	396
46	I.307	Amended	Aug.	1154		V.2201,2203	Adopted	Aug.	1156
	I.1907	Amended	Sep.	1264		V.2503	Amended	Mar.	393
	VIII.101,102,103,104,105	Adopted	Sep.	1275		V.2721	Adopted	Mar.	393
	XI.101	Amended	Jan.	032		V.7701,7703	Adopted	Aug.	1157
	XI.901,903,905,907,909,911,913,915,917	Adopted	Jan.	032		VII.33103	Amended	Mar.	398
	XL.107,121,501	Amended	June	779		XI.7503	Amended	Mar.	392
	XL.107,121,501	Amended	Sep.	1264		XIII.801	Amended	Feb.	215
	XXXIII.313	Amended	May	684		XXI.2101,2103,2301,2703,2901	Amended	Mar.	394
	XXXIII.1611	Amended	Feb.	210		XXI.2903	Adopted	Mar.	394
	XXXVIII.101,301,303,305,306,307,501,503	Amended	Feb.	246		XXI.5301,5503,5701,5703,5705,5707,5709	Amended	Feb.	211
	XXXVIII.101,103,105,301,303,305,306,307	Repromulgated	July	988		XXI.5713,5715,5717,5721,5901,5903,6101	Amended	Feb.	211
	XXXVIII.103,105,510,515	Adopted	Feb.	246		XXI.5723,5725	Adopted	Feb.	211
	XXXVIII.308,501,503,505,507,509,510,511	Repromulgated	July	988		XXI.8101,8103,8105,8302,8305,8307,8309	Amended	June	784
	XXXVIII.505,507,509,511,513,517	Amended	Feb.	246		XXI.8313,8323,8329,8501,8601,8701,8901	Amended	June	784
	XXXVIII.513,515,517	Repromulgated	July	988		XXI.8903,9301,9303,9501	Amended	June	784
	XLIX.503	Amended	May	685		XXIII.101,103,105,301,303,305,307,501	Amended	Mar.	399
	XLIX.1103	Amended	Sep.	1276		XXIII.505	Amended	Mar.	399
	XLVII.303	Amended	Apr.	524		XXIII.701,703,705,707,711,901,903,1101	Amended	Mar.	399
	XLVII.1701,1703	Amended	Apr.	524		XXVII.325,327,331,351,353,355	Amended	Feb.	216
	LIII.105	Amended	Aug.	1155		XXVII.531	Amended	Feb.	218
	LIII.501,2901,2914	Amended	Mar.	390		XXIX.107	Amended	July	978
	LIII.1103,2501	Amended	Aug.	1156		XXXIII.2301,2303,6103,6301,6303,6305	Amended	July	983
	LIII.1107	Amended	Jan.	034		XXXIII.6307,6501	Amended	July	983
	LIII.2707,2711	Amended	Sep.	1277		XXXIII.8103	Amended	Feb.	211
	LIII.2905	Adopted	Aug.	1155	52	I.1703	Amended	Aug.	1162
	LV.101,301,303,305,307,309,311,508	Amended	Jan.	041	55	III.143,144,145,146,147,150,151,152,154	Amended	July	1003
	LV.509	Adopted	Sep.	1295		III.148,149	Repealed	July	1003
	LX.307	Amended	May	685		III.155,156,157,185,187	Amended	July	1003
	LX.803	Amended	Sep.	1281					
	LXI.2903,2905,2913	Amended	Aug.	1160	58	V.2101,2103	Adopted	June	780
	LXI.2910	Adopted	Aug.	1160		XVIII.1901,1903,1905,1907	Adopted	Apr.	517
	LXX.3205	Amended	Mar.	364					
	LXXXV.103	Amended	Apr.	653	61	I.1001	Amended	Mar.	418
	LXXXV.400,403,405,409,411,413,800,811	Amended	Aug.	1135		I.1931	Adopted	Jan.	038
	LXXXV.703,706,708,709,710,711,713,714	Repromulgated	Aug.	1140		I.1402	Adopted	May	691
	LXXXV.812,1200,1227	Amended	Aug.	1135		I.4919	Amended	Sep.	1293
	LXXXV.901,903,905,907	Repromulgated	June	772		I.5501	Adopted	Mar.	420
	LXXXV.1001,1003,1005,1009,1013,1017	Repromulgated	Apr.	654		III.201,203,205	Adopted	Mar.	421
	LXXXV.1021,1023,1029,1031,1033,1035	Repromulgated	Apr.	654		III.1549,1550	Adopted	Sep.	1292
	LXXXV.1037,1041,1045,1047,1049,1053	Repromulgated	Apr.	654		III.2503	Amended	Jan.	037
	LXXXV.1055,1059,1061,1065	Repromulgated	Apr.	654		V.304,701,703,705,905,907,1001,1007	Amended	Mar.	365
	LXXXV.1300,1301,1303,1305,1307	Repromulgated	June	773		V.1103	Amended	Mar.	365
						V.1307,1503,2503,2717,3101,3103,3105	Amended	Mar.	365
48	I.4201,4203,4205,4207,4223,4224	Amended	Mar.	403		V.3102,3107	Repealed	Mar.	365
	I.5603,5684	Amended	Mar.	406			Amended	Mar.	365
	I.5690	Adopted	Mar.	406					
	I.6101,6103,6105	Amended	May	688	67	V.1103	Amended	July	946
	I.6831,6832	Amended	Mar.	391		V.1103	Repromulgated	Aug.	1144
	I.6831,6832	Repromulgated	Apr.	521					
	I.7206	Adopted	Apr.	525	71	III.2501,2503,2505,2507	Adopted	Mar.	421
	I.7215,7275	Amended	Apr.	525					
	I.7517,7519,7521,7523,7531,7535	Amended	Sep.	1279	72	I.201,203,205,207,209,215	Adopted	Sep.	1294
	I.7533	Repealed	Sep.	1279					
	I.8531,8591	Amended	Mar.	397	73				
	I.8531,8591	Repromulgated	Apr.	523					
	I.9303,9353	Amended	Sep.	1278	76	I.101,103,105	Adopted	Apr.	527
	I.12501,12503,12505,12507,12509,12513	Amended	Feb.	221		V.131	Amended	July	1079
						VII.207	Adopted	May	691
	I.12501,12503,12505,12507,12509,12517	Amended	July	984		VII.307	Amended	June	830
	I.12508,12511,12524,12526,12535,12543	Repealed	Feb.	221		VII.363	Amended	June	831
	I.12510,12511,12512	Adopted	July	984		VII.367	Amended	Jan.	038

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	XIX.101.103,111,113,115,117	Amended	June	790		XIX.119	Adopted	June	789
	XIX.109	Adopted	July	1012					
	XIX.113	Amended	Mar.	422					

Potpourri

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Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

2024 Annual Quarantine List Supplement

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., R.S. 3:1652, R.S. 3:1732 and LAC 7:XV.107 and 109, the annual quarantine listing for 2024 is being supplemented to include the following quarantines and locations:

1.0 Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum)

(a) ...

(b) In the state of Louisiana:

1. ...

2. The properties located at the following coordinates: -91.700818, 32.095088; and any properties within a 300-yard radius of these coordinates.

Mike Strain, DVM
Commissioner

2410#062

POTPOURRI

Department of Agriculture and Forestry Office of Animal Health Services

Hunting Season Variances for Farm-Raised White-Tailed Deer

Pursuant to LAC 7:XXI.1719(A), farm-raised white-tailed deer may be harvested by killing from October 1 through January 31. LAC 7:XXI.1719(C) authorizes the commissioner of Agriculture and Forestry to establish, by written order, variances of these dates as the commissioner deems necessary to carry out the purposes of R.S. 3:3101-3108.

In light of the foregoing, and in consideration of the applications for variances, Commissioner of Agriculture and Forestry, Mike Strain, DVM, has authorized the following:

The Hardwoods Group, LLC, License No. 2082, 599 Timothy Church Rd, Springhill, LA 71075, through its owner Zach Raley, is authorized to open its hunting grounds for the purpose of harvesting white-tailed deer from September 1, 2024 through September 30, 2024.

Saints Whitetails, License No. 2084, 6674 LA Hwy 77, Fardoche, LA 70732, through its owner Dr. Michael St. Romain, is authorized to open its hunting grounds for the purpose of harvesting white-tailed deer from February 1, 2025, through February 28, 2025.

Mike Strain, D.V.M.
Commissioner

2410#049

POTPOURRI

Department of Energy and Natural Resources Oil Spill Coordinator's Office

Draft Damage Assessment and Restoration Plan and Environmental Assessment for 2004 Raphael Pass Oil Spill

Action

Notice of Availability of a Draft Damage Assessment and Restoration Plan and Environmental Assessment with a 30-day public review and comment period—2004 Raphael Pass Oil Spill.

Agencies

Louisiana Oil Spill Coordinator's Office (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Energy and Natural Resources (LDENR); Louisiana Department of Wildlife and Fisheries (LDWF); Louisiana Coastal Protection and Restoration Authority (CPRA); and the United States Department of the Interior, through the United States Fish and Wildlife Service (FWS), collectively referred to herein as the "Trustees".

Authorities

The Oil Pollution Act of 1990 (OPA), 33 USC 2701 et seq., and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA), La. R.S. 30:2451 et seq., are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to trust resources and services resulting from oil spill incidents in Louisiana. OPA implementing regulations may be found at 15 C.F.R. Part 990 and OSPRA regulations at LAC 43:XXIX. In accordance with OPA, OSPRA, and the regulations, the Trustees have conducted a Natural Resource Damage Assessment (NRDA) for the September 2004 discharge of crude oil from a storage tank in the Raphael Pass Field in the Delta National Wildlife Refuge (NWR) (the "Incident"). Gulf Production Company, Inc. (Gulf Production) was identified as the Responsible Party for the Incident.

Summary

Pursuant to 15 C.F.R. §§ 990.23, 990.55, and LAC 43:XXIX, Chapter 1, notice is hereby given that the Draft Damage Assessment and Restoration Plan and Environmental Assessment for the 2004 Raphael Pass Oil Spill (Draft DARP/EA) is available for public review and comment. The Draft DARP/EA identifies the natural resources and services that were determined to be injured by the Incident, describes the assessment procedures used to quantify injury, outlines the scaling approach and restoration alternative selection process, and presents the Trustees' proposed plan to restore natural resources or services equivalent to those lost as a basis for compensating the public for the injuries to natural resources and services resulting from the Incident. The Draft DARP/EA evaluates

restoration alternatives that the Trustees considered and identifies the Trustees' preferred restoration alternative – the Delta Bend East Crevasse-Terrace Restoration Project in the Lower Mississippi River Birdfoot Delta in the Delta NWR. After finalization of the Draft DARP/EA, the Trustees will prepare a Final Damage Assessment and Restoration Plan and Environmental Assessment (Final DARP/EA) and make it available to the public. Note: The document currently available for public review and comment also serves as a Draft Addendum to a 2014 FWS Restoration Plan for the 2005 Goodrich Barge Grounding. FWS is the sole trustee for decisions related to that incident.

Public Involvement

The Draft DARP/EA is available to the public for a 30-day comment period, which will begin on the date of this public notice announcing availability of the document for public review. The Trustees invite the public to review this document and submit comments to the mailing or email address listed below. The Trustees will consider comments received during the public comment period before finalizing the Final DARP/EA. Public review of the Draft DARP/EA is consistent with all federal and state laws and regulations that apply, including Section 1006 of OPA, 33 U.S.C. § 2706; the OPA regulations, 15 C.F.R. Part 990; Section 2480 of OSPRA, La. R.S. 30:2480; and the OSPRA regulations, LAC 43:XXIX, et. seq.

Interested members of the public are invited to view the Draft DARP/EA via the internet at <http://www.losco.state.la.us> (look under Newsflash/current news for 2004 Raphael Pass Oil Spill Draft Damage Assessment and Restoration Plan and Environmental Assessment Available) or by requesting a copy of the document at the following address:

Jennifer Beall
Louisiana Oil Spill Coordinator's Office
P.O. Box 66614
Baton Rouge, LA 70896
(225) 925-6606
jennifer.beal@la.gov

Public Comments

Comments must be submitted in writing or digitally at the above address on or before the end of the 30-day comment period. For further information, contact Jennifer Beall at (225) 925-6606 or by email at jennifer.beall@la.gov.

Supplementary Information

On August 20, 2005, the Trustees published a Notice of Intent in the *Louisiana Register* (Vol. 31, No. 08, pp. 2151-2152) to notify the public that they intended to conduct restoration planning for the Incident and develop restoration alternatives that would restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of the Incident. On May, 20, 2020, the Trustees published a Notice of Settlement Agreement for the Incident in the *Louisiana Register* (Vol. 46, No. 05, pp. 762-763).

Manuel Acosta
Oil Spill Coordinator

2410#032

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

2010 Sulfur Dioxide
National Ambient Air Quality Standards
State Implementation Plan (SIP) Revision

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2051 et seq., the secretary gives notice that the Office of Environmental Assessment, Air Planning and Assessment Division, will submit to the Environmental Protection Agency (EPA) a revision to the Louisiana State Implementation Plan (SIP) for sulfur dioxide. (2410Pot3)

On June 2, 2010, EPA strengthened the primary National Ambient Air Quality Standards (NAAQS) for SO₂. EPA revised the primary SO₂ NAAQS by establishing a new 1-hour standard at a level of 75 parts per billion (ppb). As a result, the EPA designated St. Bernard Parish as nonattainment for the new NAAQS. The SIP revision will implement standards required by the Clean Air Act for the nonattainment area.

All interested persons may submit written comments concerning the revision no later than 4:30 p.m., Tuesday November 26, 2024, to Arlys Dalton, Office of Environmental Assessment, P.O. Box 4314, Baton Rouge, LA. 70821-4314, or by E-mail at arlys.dalton@la.gov. A public hearing will be granted upon request. The deadline for requesting a public hearing is Monday, November 4, 2024. The revision is available for review via LDEQ's electronic document management service (EDMS), AI# 174156, or at LDEQ Headquarters, 602 North 5th Street, Baton Rouge, Louisiana 70802.

Aurelia S. Giacometto
Secretary

2410#005

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Exceptional Event Demonstration for Event at Port Allen
Monitor on June 12-16, 2022

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2051 et seq., the secretary gives notice that the Office of Environmental Assessment, Air Planning and Assessment Division, is accepting written comments on an exceptional event demonstration for PM_{2.5} readings at the Port Allen ambient air monitoring site on June 12-16, 2022. (2410Pot1)

All interested persons may submit written comments concerning this demonstration no later than 4:30 p.m., Wednesday, November 20, 2024, to Arlys Dalton, Office of Environmental Assessment, P.O. Box 4314, Baton Rouge, LA. 70821-4314, or by E-mail at arlys.dalton@la.gov.

The demonstration is available for review via LDEQ's electronic document management service (EDMS), AI# 174156, or at LDEQ Headquarters, 602 North 5th Street, Baton Rouge, Louisiana 70802.

Aurelia S. Giacometto
Secretary

2410#003

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Exceptional Event Demonstration for Event at Port Allen
Monitor on October 4-5, 2023

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2051 et seq., the secretary gives notice that the Office of Environmental Assessment, Air Planning and Assessment Division, is accepting written comments on an exceptional event demonstration for PM_{2.5} readings at the Port Allen ambient air monitoring site on October 4-5, 2023. (2410Pot2)

All interested persons may submit written comments concerning this demonstration no later than 4:30 p.m., Wednesday, November 20, 2024, to Arlys Dalton, Office of Environmental Assessment, P.O. Box 4314, Baton Rouge, LA. 70821-4314, or by E-mail at arlys.dalton@la.gov.

The demonstration is available for review via LDEQ's electronic document management service (EDMS), AI# 174156, or at LDEQ Headquarters, 602 North 5th Street, Baton Rouge, Louisiana 70802.

Aurelia S. Giacometto
Secretary

2410#004

POTPOURRI

Department of Health Behavior Analyst Board

Notice of Public Hearing
Substantive Changes to Proposed Rule
Behavior Analysts (LAC 46:VIII.Chapter 2)

Under the authority of Chapter 60. Behavior Analysts §3704. Powers and duties A. (4), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the executive director gives notice that the board is seeking to incorporate substantive changes to proposed regulation (LAC 46:VIII.Chapter 2), which was originally published as a Notice of Intent in the *Louisiana Register* Volume 50, No. 2 February 20, 2024, pages 301-303.

The board has proposed substantive changes to address comments received during the public comment period of proposed Rule and during the final review by the Occupational Licensing Review Commission. The changes clarify the proposed Rule language. In the interest of clarity and transparency, the board is providing public notice and

opportunity to comment on the proposed changes of the Rule in question.

A strikeout/underline/shaded version of the proposed Rule that distinguishes original language from language changed by this proposal are available on the board's website at <https://www.lababord.org> on the Rule Making page. The following changes are to be incorporated into the Notice of Intent:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part VIII. Behavior Analysts

Chapter 2. Behavior Analysis

§202. Professional Standards

A. A licensed behavior analyst is authorized to engage in the practice of applied behavioral analysis as set forth in the Practice Act and in accordance with the board's rules. A licensed behavior analyst and/or a state certified assistant behavior analyst possesses property rights.

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3703

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 50:

§204. Telehealth Standards

A. ...

B. Applied behavior analysis delivered through telehealth between a licensee and client, separated by distance shall be in compliance with R.S. 40:1223.1 et seq., known as the "Louisiana Telehealth Access Act", including any amendments thereto. Applied behavior analysis via electronic means shall be held to the same accepted standards as those in traditional (face-to-face) settings. Utilization of interactive audio without the requirement of video must be determined by the licensee to meet the same standard of care and not be compromised by the use of telehealth or violate R.S. 40:1223.1.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3703

HISTORICAL NOTE: Promulgated by the Department of Health, Behavior Analyst Board, LR 50:

Public Comments

All interested persons are also invited to submit written comments on the substantive changes to Rhonda Boe at the address given above. Persons commenting should reference this proposed regulation as Telehealth Standards. She is responsible for responding to inquiries regarding these substantive changes to the proposed Rule. The deadline for receipt of all written comments is 10 a.m. on Friday, November 15, 2024.

Public Hearing

The board will hold a public hearing on November 20, 2024 at 2 p.m. at 4334 S. Sherwood Forest Blvd., Suite C-150, Baton Rouge, Louisiana for the public to comment on the proposed changes. Interested persons are invited to attend in person. Should individuals with a disability need an accommodation in order to participate, contact Rhonda Boe at the address given above, or at 225-295-8413.

Rhonda Boe
Executive Director

2410#023

POTPOURRI

Department of Justice

Occupational Licensing Review Program
Accepting Participants for FY 2024-2025
Period of January 1, 2024 - June 30, 2026

The Department of Justice is currently accepting occupational licensing boards into the Department of Justice Occupational Licensing Review Program (OLRP) established by R.S. 49:260. This program provides for active

state supervision and was established to ensure that participating boards and board members will avoid liability under federal antitrust laws. Participants for the January 1, 2025-June 30, 2026 period will be accepted into the program through December 31, 2024. For information about participating in the program, contact Jessica Weimer, Section Chief, OLRP-Public Protection Division, Louisiana Department of Justice at olrp@ag.louisiana.gov.

Jessica Weimer
Section Chief

2410#009

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