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# Executive Orders

## EXECUTIVE ORDER BJ 14-04

### Executive Branch—Expenditure Freeze

WHEREAS, pursuant to the provisions of Article IV, Section 5 of the Louisiana Constitution of 1974, as amended, and Act 14 of the 2013 Regular Session of the Louisiana Legislature, the Governor may issue executive orders which limit the expenditure of funds by the various agencies in the executive branch of State government (hereafter "expenditure freeze"); and

WHEREAS, underlying assumptions and needs in the development of the current year's state budget would be altered by a decline in the State's revenues and the interests of the citizens of our State are best served by implementing fiscal management practices to ensure that appropriations will not exceed actual revenues; and

WHEREAS, in preparation of the budget challenges in the ensuing year, Executive Order BJ 2014-1 Limited Hiring Freeze issued on January 15, 2014, is updated periodically, is related to the Expenditure Category of Personal Services, therefore Personal Services Expenditures will not be addressed in this Executive Order; and

WHEREAS, to ensure that the State of Louisiana will not suffer a budget deficit due to fiscal year 2013-2014 appropriations exceeding actual revenues and that the budget challenges in the ensuing fiscal year are met, prudent money management practices dictate that the best interests of the citizens of the State of Louisiana will be served by implementing an expenditure freeze throughout the executive branch of state government;

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

SECTION 1: All departments, agencies, and/or budget units of the executive branch of the State of Louisiana as described in and/or funded by appropriations through Acts 14 and 44 of the 2013 Regular Session of the Louisiana Legislature (hereafter "Acts"), shall freeze expenditures as provided in this Executive Order.

SECTION 2: No department, agency, and/or budget unit of the executive branch of the State of Louisiana, unless specifically exempted by a provision of this Order or with the approval of the Commissioner of Administration, shall make any expenditure of funds related to the Expenditure Categories of Travel, Operating Services, Supplies, Professional Services, Other Charges, Interagency Transfers, Acquisitions, and Major Repairs.

#### SECTION 3:

A. The budget activities funded by the Acts which are exempt from the prohibitions set forth in Section 2 of the Order are as follows:

1. All budget activities directly related to declared emergencies;

2. All budget activities directly necessary for a statewide elected official to perform his or her constitutional functions;

3. All essential budget activities which are expressly and directly mandated by the constitution, existing court orders, existing cooperative endeavor agreements, or existing bona fide obligations;

4. All contracts associated with the transformation of state government that lead to future savings;

5. All essential budget activities of statewide control agencies;

6. All essential budget activities directly required for collection of state general fund revenues recognized by the Revenue Estimating Conference; and

7. All budget activities which are financed by Federal Funds directly.

B. Other budget activities funded by the Acts are exempt from the prohibitions set forth in Section 2 of this Order to the following degree:

1. Essential field travel, and supplies for incarceration, rehabilitation, diagnostic and health services, transportation of offenders, and probation and parole services related to adult corrections as well as positions and field travel for the Board of Pardons and Parole in the Department of Public Safety and Corrections, Corrections Services;

2. Essential field travel, and supplies for juvenile secure care facilities and the Field Services Program in the Department of Public Safety and Corrections, Youth Services;

3. Essential field travel and supplies related to direct patient care;

4. Essential State Police commissioned trooper expenses and cadet classes - not including personnel expenses - as well as data processing, communications, and crime lab positions in Public Safety Services, field travel for public safety and regulatory activities of the State Police, as well as automotive, aviation, and forensic supplies for the State Police;

5. Essential Wildlife and Fisheries commissioned agent expenses and cadet classes - not including personnel expenses - as well as data processing, and communications, field travel for public safety and regulatory activities of the Enforcement Division, as well as automotive, watercraft and aviation, supplies for the Enforcement Division;

6. Essential instructional and residential expenses - not including personnel expenses - field travel, and supplies deemed to be absolutely critical for the operations of Special Schools, Recovery School District, Special School District #1, and Youth Challenge;

7. Essential expenses for the State Military Department - not including personnel expenses - associated with the deployment for backfilling for active duty national guard personnel, and installation management and force protection;

8. Essential expenses related to the housing of state adult and juvenile offenders in local correctional or detention facilities or work release programs.

C. The budget activities funded by the Acts which are exempt from the portion of the provisions of Section 2 of this Order that prohibits the expenditure of funds for travel are as follows:

1. Essential travel associated with promoting or marketing the state of Louisiana and/or its products by:

a) the Office of Tourism within the Department of Culture, Recreation and Tourism; or

b) the Department of Economic Development;

2. Essential field travel for the Mental Health Advocacy Service and the Louisiana Public Defender Board;

3. Essential field travel required for the Office of Legal Affairs, district managers and roving motor vehicle workers in the Office of Motor Vehicles, and inspectors and arson investigators of the Office of the State Fire Marshal in the Department of Public Safety and Corrections, Public Safety Services;

4. Essential field travel for the Municipal Fire and Police Civil Service and the State Police Commission deemed to be essential;

5. Essential travel for the Board of Elementary and Secondary Education for board meetings;

6. Essential field travel associated with Minimum Foundation Program internal auditors and field travel associated with the accountability initiatives and monitoring local teacher assessments.

D. The budget activities funded by the Acts which are exempt from the portions of the provisions of Section 2 of this Order that prohibits the expenditure of funds for supplies are as follows:

1. Essential expenditures of all departments, agencies, offices, boards, and commissions for supplies that total no more than seventy-five (75) percent of the initial

appropriation for supplies for the department, agency, office, board or commission from State General Fund (direct) or State General Fund Equivalent for supplies expenditures;

2. Essential supplies for the Office of State Parks within the Department of Culture, Recreation and Tourism for maintenance and household needs to maintain state parks and commemorative areas;

3. Essential instructional supplies for post-secondary education;

4. Essential automotive supplies for travel exempted in Section 3.

SECTION 4: The Commissioner of Administration is authorized to develop additional guidelines as necessary to facilitate the administration of this Order.

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

SECTION 6: This Order is effective upon signature and shall remain in effect through June 30, 2014, unless amended, modified, terminated, or rescinded prior to that date.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 4th day of April, 2014.

Bobby Jindal  
Governor

ATTEST BY  
THE GOVERNOR  
Tom Schedler  
Secretary of State  
1404#086

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Boll Weevil Eradication Commission

Boll Weevil Eradication (LAC 7:XV.123 and Chapter 3)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the enabling authority of R.S. 3:1604.1, R.S. 3:1652, and R.S. 3:1655, notice is hereby given that the Department of Agriculture and Forestry is adopting these emergency regulations establishing a fee for the inspection and certification of cotton for the presence of the boll weevil, and to define the established fee as a “maintenance inspection fee”. This Declaration of Emergency deletes the term “assessment” and replaces it with “maintenance inspection fee”, deletes reference to both the 2003 referendum and voter eligibility in any referendum, and replaces wording, modifies sentence structure, verbiage, and sentence location to provide clarity regarding the context of the regulation.

This Declaration of Emergency will also amend these rules and regulations to add the boll weevil to the plant pest/disease and host materials listing. Other additions to this listing include Asian citrus psyllid, citrus greening, citrus canker, Texas Phoenix decline, and the respective hosts of these pests or diseases. Sugarcane pests/diseases also are amended in the listing. These changes are necessary to address additional pests and diseases threatening Louisiana agriculture.

In 2003, the cotton producers and the landlords of cotton producers agreed, by a 90 percent favorable vote, to participate in and fund the Boll Weevil Eradication Program. By the end of 2011, the boll weevil was successfully eradicated in the state of Louisiana. Currently, over \$170,000,000 have been spent on boll weevil eradication (\$77.6 million by the state, \$25,000,000 by the United States Department of Agriculture, and \$68,000,000 by the cotton producers).

This Declaration of Emergency is required because the October 2013 Louisiana Supreme Court ruling in *Krielow v. Louisiana Department of Agriculture and Forestry*, which declared R.S. 3:3534 and R.S. 3:3544, statutes that allow a voting majority of rice producers to levy an assessment on all producers, to be unconstitutional, calls into question the constitutionality of the current boll weevil assessment voted on by referendum of the cotton producers. This Declaration of Emergency is further required in order to provide for cotton producers in the state of Louisiana a means to continue their support of the program and protect the huge investment that has been made, thus insuring the

marketability of Louisiana cotton in commerce while maintaining Louisiana’s boll weevil-free status.

Louisiana’s Boll Weevil Eradication Program is essential to the health, safety and welfare of the citizens of this state. The program has significantly reduced the amount of insecticides applied to cotton (by as much as 70 percent) resulting in a slower buildup of insect resistance to insecticides, increases in the numbers of beneficial insects in cotton, and increases in the utilization of integrated pest management practices. In addition to these environmental benefits, Louisiana’s cotton producers have experienced an average increase in yield of approximately 50 percent since the inception of the program, resulting in an average economic benefit of \$231 per acre per year from eradication.

Moreover, this Declaration of Emergency will allow program personnel to continue to inspect, monitor and certify that all cotton in this state and any equipment and regulated articles moving into and out of the state are free of boll weevils. Failure to adopt and amend these rules would have long-lasting detrimental effects on the Louisiana cotton industry, and could require crop quarantines restricting interstate shipment of cotton to mills, restrict interstate movement of equipment and regulated articles, and adversely affect the implementation of integrated pest management practices which help protect the environment. Further, failure to adopt and amend these rules would jeopardize the more than \$170,000,000 investment made to successfully eradicate the boll weevil in Louisiana by restricting or preventing inspection mechanisms currently in place aimed at detecting any boll weevil re-introduction or re-infestation.

For these reasons, the re-introduction or re-infestation of the boll weevil poses an imminent peril to the health and welfare of the Louisiana’s citizens and the state’s commercial cotton industry. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by establishing the maintenance inspection fee set out in these regulations.

This Rule shall have the force and effect of law five days after its promulgations in the official journal of the state of Louisiana and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry or until permanent rules are promulgated in accordance with law.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XV. Plant Protection and Quarantine

#### Chapter 1. Crop Pests and Diseases

#### Subchapter A. General Plant Quarantine Provisions

#### §123. Host Materials

A. The following materials are declared to be host materials for the plant pests or diseases indicated.

Plant pest/disease	Host materials
	* * *
D. All sugarcane pests and diseases	Sugar cane plants, stalks, cuttings and seed; maize.
	* * *
K. Asian citrus psyllid <i>Diaphorina citri</i>	All plants and plant parts, including but not limited to nursery stock, cuttings, and budwood, except seed and fruit, of: <i>Aegle marmelos</i> , <i>Aeglopsis chevalieri</i> , <i>Afraegle gabonensis</i> , <i>Afraegle paniculata</i> , <i>Amyris madrensis</i> , <i>Atalantia</i> spp. (including <i>Atalantia monophylla</i> ), <i>Balsamocitrus dawei</i> , <i>Bergera</i> (=Murraya) <i>koenigii</i> , <i>Calodendrum capense</i> , <i>Choisya ternata</i> , <i>Choisya arizonica</i> , X <i>Citroncirus webberi</i> , <i>Citropsis articulata</i> , <i>Citropsis gillettiana</i> , <i>Citrus madurensis</i> (= X <i>Citrofortunella microcarpa</i> ), <i>Citrus</i> spp., <i>Clausena anisum-olens</i> , <i>Clausena excavata</i> , <i>Clausena indica</i> , <i>Clausena lansium</i> , <i>Eremocitrus glauca</i> , <i>Eremocitrus</i> hybrid, <i>Esenbeckia berlandieri</i> , <i>Fortunella</i> spp., <i>Limonia acidissima</i> , <i>Merrillia caloxylon</i> , <i>Microcitrus australasica</i> , <i>Microcitrus australis</i> , <i>Microcitrus papuana</i> , X <i>Microcitronella</i> spp., <i>Murraya</i> spp., <i>Naringi crenulata</i> , <i>Pamburus missionis</i> , <i>Poncirus trifoliata</i> , <i>Severinia buxifolia</i> , <i>Swinglea glutinosa</i> , <i>Tetradium ruticarpum</i> , <i>Toddalia asiatica</i> , <i>Triphasia trifolia</i> , <i>Vepris</i> (= <i>Toddalia</i> ) <i>lanceolata</i> , and <i>Zanthoxylum fagara</i> .
L. Citrus greening (Huanglongbing) <i>Candidatus Liberibacter asiaticus</i>	All plants and plant parts, including but not limited to nursery stock, cuttings, budwood, and propagative seed (but excluding fruit), of: <i>Aegle marmelos</i> , <i>Aeglopsis chevalieri</i> , <i>Afraegle gabonensis</i> , <i>Afraegle paniculata</i> , <i>Amyris madrensis</i> , <i>Atalantia</i> spp. (including <i>Atalantia monophylla</i> ), <i>Balsamocitrus dawei</i> , <i>Bergera</i> (=Murraya) <i>koenigii</i> , <i>Calodendrum capense</i> , <i>Choisya ternata</i> , <i>Choisya arizonica</i> , X <i>Citroncirus webberi</i> , <i>Citropsis articulata</i> , <i>Citropsis gillettiana</i> , <i>Citrus madurensis</i> (= X <i>Citrofortunella microcarpa</i> ), <i>Citrus</i> spp., <i>Clausena anisum-olens</i> , <i>Clausena excavata</i> , <i>Clausena indica</i> , <i>Clausena lansium</i> , <i>Eremocitrus glauca</i> , <i>Eremocitrus</i> hybrid, <i>Esenbeckia berlandieri</i> , <i>Fortunella</i> spp., <i>Limonia acidissima</i> , <i>Merrillia caloxylon</i> , <i>Microcitrus australasica</i> , <i>Microcitrus australis</i> , <i>Microcitrus papuana</i> , X <i>Microcitronella</i> spp., <i>Murraya</i> spp., <i>Naringi crenulata</i> , <i>Pamburus missionis</i> , <i>Poncirus trifoliata</i> , <i>Severinia buxifolia</i> , <i>Swinglea glutinosa</i> , <i>Tetradium ruticarpum</i> , <i>Toddalia asiatica</i> , <i>Triphasia trifolia</i> , <i>Vepris</i> (= <i>Toddalia</i> ) <i>lanceolata</i> , and <i>Zanthoxylum fagara</i> .
M. Citrus canker <i>Xanthomonas axonopodis</i> pv <i>citri</i>	All plants or plant parts, including fruit and seeds, of any of the following: All species, clones, cultivars, strains, varieties, and hybrids of the genera <i>Citrus</i> and <i>Fortunella</i> , and all clones, cultivars, strains, varieties, and hybrids of the species <i>Clausena lansium</i> , and <i>Poncirus trifoliata</i> , and <i>Swinglea glutinosa</i> . The most common of these are: lemon, pummelo, grapefruit, key lime, persian lime, tangerine, satsuma, tangor, citron, sweet orange, sour orange, mandarin, tangelo, ethrog, kumquat, limequat, calamondin, trifoliata orange, tabog, and wampi.
N. Texas Phoenix decline A phytoplasma disease	All <i>Phoenix</i> spp. palms, queen palm <i>Syagrus romanzoffiana</i> and cabbage palm <i>Sabal palmetto</i> .
O. Boll weevil <i>Anthonomus grandis</i> Boheman	All parts of cotton and wild cotton plants of the genus <i>Gossypium</i> , seed cotton, cottonseed, cotton lint, gin trash, used cotton harvesting equipment, and any other farm products, equipment, means of conveyance and any other articles which may serve as host materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:319 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 16:294 (April 1990), LR 18:701 (July 1992), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 40:

### Chapter 3. Boll Weevil

#### §301. Maintenance Inspection Fee

A. In accordance with R.S. 3:1655(D), the state entomologist is authorized to assess fees to defray the costs of inspections or the issuance of certificates or permits for the shipment of agricultural products, commodities, packaging, or equipment. There is hereby established a fee for the inspection and certification of cotton for the presence of the boll weevil to ensure the marketability of cotton in commerce and maintain Louisiana's boll weevil-free status. The fee shall be \$6 per acre for each acre of cotton planted in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, amended LR 40:

#### §303. Definitions Applicable to Boll Weevil

A. ...

B. The following words and terms are defined for the purposes of this Chapter.

\* \* \*

*Boll Weevil Eradication Program*—a program which includes the survey, inspection, and monitoring of all regulated articles for the presence of boll weevil, and the subsequent activities, which include but are not limited to the issuance of certificates or permits, required to maintain Louisiana's boll weevil-free status and eradicate the boll weevil should one or more be detected.

\* \* \*

*Maintenance Inspection Fee*—the fee paid by cotton producers to finance, in whole or in part, a program to inspect cotton for the presence of the boll weevil in the state and to issue certificates or permits in accordance with R.S. 3:1655(D). The charge to the producer is calculated at the rate of \$6 per acre for each acre of cotton planted in the state.

*Penalty Fee*—the fee assessed against a cotton producer for late reporting of acreage, underreporting of acreage, or late payment of maintenance inspection fees. It does not refer to penalty or fine assessed for any violation of the regulations.

\* \* \*



AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011), LR 40:

**§307. Conditions Governing Movement and Handling of Regulated Articles**

A. - B. ...

1. The commissioner may issue certificates for the movement of regulated articles-when such articles:

a. - b. ...

c. have been grown, manufactured, stored or handled in such a manner that, in the judgment of the commissioner, no infestation would be transmitted; or

d. have been examined by the commissioner and found to be free from infestation.

2. The commissioner may issue permits for the movement of noncertified regulated articles in order to allow movement of such articles into, within or from the state of Louisiana, in accordance with procedures approved by the commissioner, when the commissioner has determined that movement will not result in the spread of the boll weevil.

C. ...

1. The commissioner may grant a certificates, permit or written waiver. Any person who claims movement under the terms of a certificate, permit or written waiver shall have the burden of proof as to the issuance of any such certificate, permit or written waiver and any other related matter.

2. The commissioner may cancel any certificate, permit or written waiver good cause, including but not limited to, a determination that the holder thereof has failed to comply with any condition for the use of such certificate, permit, written waiver or with any terms or conditions of a compliance agreement or has obtained a certificate, permit or written waiver on falsified information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:18 (January 1995), amended LR 40:

**§309. Compliance Agreements**

A. The commissioner may, as a condition of issuance of a certificates, permits or written waivers, require a compliance agreement stipulating one or more expressed conditions of the certificate, permit or written waiver, as required by the commissioner, which may include but are not limited to:

1. - 4. ...

B. The commissioner may cancel any compliance agreement for good cause, including but not limited to a finding that the holder has failed to comply with any conditions of the agreement, and the commissioner may do so summarily and *ex parte* if he finds that public health, safety or welfare requires emergency action. The commissioner may cancel or void any compliance agreement upon a determination that the compliance agreement is no longer consistent with the purposes of the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:18 (January 1995), amended LR 40:

**§311. Inspection, Movement and Enforcement**

A. The commissioner is authorized to stop any person and inspect any regulated article or means of conveyance moving into, within or from the state of Louisiana when he has reason to believe that such regulated article or means of conveyance is infested with the boll weevil. The commissioner is authorized to issue a stop order on, seize or treat any regulated article found to be infested with the boll weevil moving in violation of the boll weevil eradication law or this Chapter and may destroy or otherwise dispose of any infested cotton where the destruction of the cotton is necessary to effectuate the purposes of the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:18 (January 1995), amended LR 40:

**§313. Purchase and Destruction of Cotton to Effectuate Program Objectives**

A. ...

1. The written determination to purchase shall contain the reasons for the determination, the purchase price, and shall be mailed to or served upon the cotton producer. The purchase price shall be determined by appraisal, the appraisal shall have been completed within 72 hours of the mailing or issuance for service of the written determination to purchase, and the appraisal shall, to the extent practical, utilize the ASCS farm-established yield for the current year.

2. The cotton producer shall promptly take all steps necessary to convey title to the commissioner. In the event that the cotton producer fails to take all steps necessary to convey title to the commissioner within 10 days of receipt of a written determination to purchase, the commissioner may destroy the cotton, compensating the cotton producer for the purchase price less the loss of the resale price and cost of destruction.

3. ...

B. Whenever the commissioner has reason to believe that the destruction of cotton is necessary to effectuate the purposes of the boll weevil eradication program, he shall make a written determination of destruction.

1. The written determination of destruction shall contain the reason for the destruction, the payment to the cotton producer, if applicable, and shall be mailed to or served upon the cotton producer. The cotton producer shall take all steps necessary to cooperate with the commissioner in the destruction of the cotton. In the event that the cotton producer fails to take all steps necessary to cooperate in the destruction of the cotton, the cotton producer shall be in violation of this Chapter.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1610.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:19 (January 1995), amended LR 40:

### **§315. Quarantine: Authority and Procedures**

A. - E. ...

F. All persons and all parties affected by a quarantine shall cooperate in the affectation of the quarantine and shall do nothing to cause a breach of the terms of the quarantine order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:19 (January 1995), amended LR 40:

### **§319. Reporting of Cotton Acreage**

A. All cotton producers growing cotton in the state of Louisiana shall certify their planted cotton acreage by the later of July 15 or at final certification of the current growing season at the FSA office responsible for the parish or parishes in which they produce cotton. The certification shall be filed for each year of the program and shall include the actual acreage and location of cotton planted during the current growing season.

B. All cotton producers growing cotton in the state of Louisiana shall, for each year of the program, also complete and sign a cotton acreage reporting and payment form provided by the commissioner and return the signed and completed form to the department along with FSA Form 578 at the time that the maintenance inspection fee is paid to the department.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1607, 1609, and 1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011), LR 40:

### **§321. Maintenance Inspection Fees, Payment and Penalties**

A. The annual maintenance inspection fee on cotton producers in the Louisiana eradication zone shall be \$6 per acre for each acre of cotton planted in the state. Each cotton producer shall pay his annual maintenance inspection fee directly to the department no later than July 15 or final certification with the FSA for that growing season, whichever is later. The signed and completed cotton acreage reporting and payment form with FSA Form 578 attached shall be submitted with the annual payment of the maintenance inspection fee.

B. A cotton producer may request a waiver of all or part of the maintenance inspection fee for any crop year in which he plants cotton in accordance with the following procedure. The decision to grant a waiver of all or part of any maintenance inspection fee for a crop year is within the discretion of the commission.

1. A cotton producer who requests a waiver of the maintenance inspection fee for a crop year must submit a written request for a waiver to the commission.

2. The commission must receive the written request, through mail, fax or other form of actual delivery, on or before 4:30 p.m. central time on August 1 of the crop year for which the waiver is requested. A written request for a waiver will be deemed to be timely when the papers are mailed on or before the due date. Timeliness of the mailing

shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. A fax will be deemed to be timely only upon proof of actual receipt of the transmission.

3. ...

4. Each cotton producer who has filed a timely request for a waiver with the commission shall be notified of the date, time and place that the commission is scheduled to consider the request for a waiver at least 10 days prior to the commission meeting. The commission shall not consider an untimely written request.

5. A cotton producer, whose timely request for a waiver is denied by the commission, shall be entitled to pay his maintenance inspection fee without imposition of a per acre penalty fee if he pays the maintenance inspection fee within 30 days after receiving written notification of the commission's decision.

6. The commission has the authority to inspect any cotton field in which a cotton producer has claimed to have destroyed the cotton crop. Failure of the cotton producer to allow inspection shall be a violation of this Chapter.

C. Any cotton producer planting a fraction of an acre shall be assessed at a prorated maintenance inspection fee rate for that fractional acre.

D. Any cotton producer failing to certify his planted cotton acreage by the later of July 15 or the date of final certification of the current growing season shall, in addition to the maintenance inspection fee and other applicable penalties, be subject to a penalty fee of \$2 per acre.

E. Any cotton producer failing to pay all maintenance inspection fees by the later of July 15 or the date of final certification of the current growing season shall, in addition to the maintenance inspection fee and other applicable penalties, be subject to a penalty fee of \$1.50 per acre.

F. Reserved.

G. Failure to pay all program costs, including maintenance inspection fees and penalty fees, shall be a violation of this Chapter. Any cotton growing on a cotton producer's acreage which is subject to the maintenance inspection fee shall be subject to destruction by the commissioner should the cotton producer fail to pay all program costs, including maintenance inspection fees and penalty fees, within 30 days of notification of the default.

H. The commissioner shall have the right to collect some or all of the program costs, including maintenance inspection fees and penalty fees, by contracting with another entity, public or private, for collection. The commissioner shall provide notification of any such decision to all affected parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1609, 1610, 1612, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999), LR 29:859 (June 2003), LR 30:1142 (June 2004), LR 30:2443 (November 2004), LR 37:2583 (September 2011), LR 40:

### **§323. Program Participation**

**[Formerly §327]**

A. All cotton producers growing cotton in Louisiana shall participate in the boll weevil eradication program in

accordance with the Louisiana Boll Weevil Eradication Law and these regulations.

B. Cotton producers shall destroy cotton stalks in every field planted in cotton, on or before December 31 of each crop year. Cotton stalk destruction shall consist of shredding or disking in a manner that destroys standing cotton stalks. Cotton stalks that come up in a failed field must also be destroyed by December 31 of the crop year. Failure to destroy stalks by December 31 of each crop year shall be a violation of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, and 1612.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 27:280 (March 2001), amended LR 30:2444 (November 2004), LR 40:

### §325. Voter Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:21 (January 1995), repealed LR 40:

### §327. Program Participation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, 1612, and 1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 27:280 (March 2001), amended LR 30:2444 (November 2004), repealed LR 40:

Mike Strain, DVM  
Commissioner

1404#014

## DECLARATION OF EMERGENCY

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

Horticulture and Quarantine Programs (LAC 7:XV.127)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and the authority of the state entomologist under the provisions of R.S. 3:1652, and in order to avoid a lapse in coverage until the permanent Rule is in effect, notice is hereby given that Department of Agriculture and Forestry is extending these previously adopted emergency regulations establishing a quarantine for the following citrus pests: citrus greening disease (CG), also known as Huanglongbing disease of citrus, caused by the bacterial pathogen *Candidatus Liberibacter* spp.; Asian citrus psyllid (ACP), *Diaphorina citri* Kuwayama; and citrus canker disease (CC) caused by the bacterial pathogens *Xanthomonas axonopodis* pv. *citri* and *Xanthomonas axonopodis* pv. *aurantifolii*. The state entomologist has determined that CG, ACP and CC have been found in this state and may be prevented, controlled, or eradicated by quarantine. The effective date of this Rule is March 21, 2014.

CG, ACP and CC pose an imminent peril to the health and welfare of the Louisiana commercial citrus industry due to their ability to infest rutaceous plants. This industry has a

farm value of \$2.4-\$5 million in southeastern Louisiana in the form of citrus nursery stock, and \$5.1 million in the form of commercial citrus fruit in the state. CG renders the fruit unmarketable and ultimately causes the death of infested plants. The ACP moves CG from one plant to another, thereby infesting new plants and spreading CG. CC causes premature leaf and fruit drop, twig dieback and tree decline in citrus trees and is spread by wind-driven rain or through the movement of infected plants. Failure to prevent, control, or eradicate these pests threatens to destroy Louisiana's commercial citrus industry and the growing and harvesting of citrus by citizens of Louisiana for their own private use.

Louisiana's commercial citrus industry adds \$7.5-\$10 million dollars to the state's agriculture economy each year. Sales of citrus trees and plants by nursery stock dealers to private individuals also are important to the state's economy. The loss of the state's commercial citrus industry and privately owned citrus trees and fruit would be devastating to the state's economy and to its private citizens. The quarantines established by these emergency regulations are necessary to prevent the spread of CG, ACP and CC to citrus production areas in Louisiana that are outside of the current areas where these pests have been found.

For these reasons the outbreak of CG, ACP and CC in Louisiana present an imminent peril to the health, safety and welfare of Louisiana's citizens and the state's commercial and private citrus industry. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

This Rule shall have the force and effect of law five days after its promulgation in the official journal of the state and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry or until permanent rules are promulgated in accordance with law.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XV. Plant Protection and Quarantine

##### Chapter 1. Crop Pests and Diseases

##### Subchapter B. Nursery Stock Quarantines

#### §127. Citrus Nursery Stock, Scions and Budwood

A. - C.6. ...

D. Citrus Greening Disease Quarantine

1. The department issues the following quarantine because the state entomologist has determined that citrus greening disease (CG), also known as huanglongbing disease of citrus, caused by the bacterial pathogen *Candidatus liberibacter* spp., has been found in this state and may be prevented, controlled, or eradicated by quarantine.

2. Quarantined Areas

a. The quarantined areas in this state are the parishes of Orleans and Washington, and any other areas found to be infested with CG. The declaration of any other specific parishes or areas shall be published in the official journal of the state and in the *Louisiana Register*.

3. Regulated Materials. The following materials are hosts of CG and their movement is prohibited from CG-quarantined areas due to the presence of CG:

a. all plants and plant parts, including but not limited to nursery stock, cuttings, budwood, and propagative

seed (but excluding fruit), of: *Aegle marmelos*, *Aeglopsis chevalieri*, *Afraegle gabonensis*, *Afraegle paniculata*, *Amyris madrensis*, *Atalantia* spp. (including *Atalantia monophylla*), *Balsamocitrus dawei*, *Bergera* (=Murraya) *koenigii*, *Calodendrum capense*, *Choisya ternata*, *Choisya arizonica*, X *Citroncirus webberi*, *Citropsis articulata*, *Citropsis gillettiana*, *Citrus madurensis* (= X *Citrofortunella microcarpa*), *Citrus* spp., *Clausena anisum-olens*, *Clausena excavata*, *Clausena indica*, *Clausena lansium*, *Eremocitrus glauca*, *Eremocitrus* hybrid, *Esenbeckia berlandieri*, *Fortunella* spp., *Limonia acidissima*, *Merrillia caloxylon*, *Microcitrus australasica*, *Microcitrus australis*, *Microcitrus papuana*, X *Microcitronella* spp., *Murraya* spp., *Naringi crenulata*, *Pamburus missionis*, *Poncirus trifoliata*, *Severinia buxifolia*, *Swinglea glutinosa*, *Tetradium ruticarpum*, *Toddalia asiatica*, *Triphasia trifolia*, *Vepris* (=Toddalia) *lanceolata*, and *Zanthoxylum fagara*;

b. any other products, materials, articles, or means of conveyance, if an inspector determines that it presents a risk of spreading CG, and after the inspector provides written notification to the person in possession of the products, materials, articles, or means of conveyance that it is subject to the restrictions of the regulations.

#### E. Asian Citrus Psyllid Quarantine

1. The department issues the following quarantine because the state entomologist has determined that Asian citrus psyllid (ACP), *Diaphorina citri* kuwayama, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

##### 2. Quarantined Areas

a. The United States Department of Agriculture (USDA) has quarantined the entire state of Louisiana for interstate movement of regulated materials.

b. The department has quarantined the following areas within this state for intrastate movement of regulated materials: the parishes of Jefferson, Orleans, Lafourche, Plaquemines, St. Bernard, St. Charles, St. James, St. Tammany, Tangipahoa, Terrebonne, and any other areas found to be infested with ACP. The declaration of any other specific parish or areas shall be published in the official journal of the state and in the *Louisiana Register*.

3. Regulated Materials. The following materials are hosts of ACP and the interstate and intrastate movement of these materials is prohibited from the ACP-quarantined areas listed in Paragraph E.2 due to the presence of ACP:

a. all plants and plant parts, including but not limited to nursery stock, cuttings, and budwood, except seed and fruit, of: *Aegle marmelos*, *Aeglopsis chevalieri*, *Afraegle gabonensis*, *Afraegle paniculata*, *Amyris madrensis*, *Atalantia* spp. (including *Atalantia monophylla*), *Balsamocitrus dawei*, *Bergera* (=Murraya) *koenigii*, *Calodendrum capense*, *Choisya ternata*, *Choisya arizonica*, X *Citroncirus webberi*, *Citropsis articulata*, *Citropsis gillettiana*, *Citrus madurensis* (=X *Citrofortunella microcarpa*), *Citrus* spp., *Clausena anisum-olens*, *Clausena excavata*, *Clausena indica*, *Clausena lansium*, *Eremocitrus glauca*, *Eremocitrus* hybrid, *Esenbeckia berlandieri*, *Fortunella* spp., *Limonia acidissima*, *Merrillia caloxylon*, *Microcitrus australasica*, *Microcitrus australis*, *Microcitrus papuana*, X *Microcitronella* spp., *Murraya* spp., *Naringi crenulata*, *Pamburus missionis*, *Poncirus trifoliata*, *Severinia buxifolia*, *Swinglea glutinosa*, *Tetradium*

*ruticarpum*, *Toddalia asiatica*, *Triphasia trifolia*, *Vepris* (=Toddalia) *lanceolata*, and *Zanthoxylum fagara*;

b. any other products, materials, articles, or means of conveyance, if an inspector determines that it presents a risk of spreading ACP, and after the inspector provides written notification to the person in possession of the products, materials, articles, or means of conveyance that it is subject to the restrictions of the regulations;

c. regulated materials originating from ACP-quarantined areas are prohibited entry into or through free areas of Louisiana, except as provided in Subparagraph d of this Paragraph;

d. exceptions. To be eligible to move from quarantined areas, regulated materials must meet the following requirements.

i. Fruit may move interstate with no additional requirements. Fruit may move intrastate from areas quarantined for ACP to citrus-producing areas not under quarantine for ACP if cleaned using normal packinghouse procedures.

ii. Regulated culinary and decorative materials such as fresh curry leaves (*Bergera* (=Murraya) *koenigii*) intended for consumption, (instead of the treatments specified in Subparagraph b of this Paragraph), or mock orange leaves (*Murraya paniculata*) incorporated into leis or floral arrangements, must be treated prior to interstate or intrastate movement in accordance with the Animal and Plant Health Inspection Service's (APHIS) treatment schedule T101-n-2 (methyl bromide fumigation treatment for external feeding insects on fresh herbs) at the times and rates specified in the treatment manual and must be safeguarded until movement. As an alternative to methyl bromide fumigation, regulated materials originating from an area not quarantined for CG may be irradiated in accordance with 7 CFR 305.

iii. Nursery stock of regulated plants listed in Subparagraph 3.a may be moved in accordance with the following requirements.

(a). Nursery stock of regulated plants may be moved interstate if moved in accordance with all requirements of 7 CFR 301.76 and the citrus nursery stock protocol. Persons wishing to move nursery stock interstate must enter into a compliance agreement with APHIS to move regulated materials. Compliance agreements may be arranged by contacting the Louisiana State Plant Health Director, PPQ-APHIS-USDA, at 4354 South Sherwood Blvd., Suite 150D, Baton Rouge, LA 70816 or telephone (225) 298-5410.

(b). Nursery stock of regulated plants may be moved intrastate from ACP quarantined areas to non-quarantined areas of Louisiana if moved in accordance with conditions set forth in a departmental compliance agreement. Any person engaged in the business of growing or handling regulated materials must enter into a compliance agreement with the department if the regulated materials are to be moved to ACP-free areas of Louisiana.

#### F. Citrus Canker Disease Quarantine

1. The department issues the following quarantine because the state entomologist has determined that citrus canker disease (CC), caused by the bacterial pathogen *Xanthomonas axonopodis* pv. *citri* (Xac A, A\* and AW) with synonyms *X. citri* pv. *citri*, or *X. citri* subspp. *citri* or *X.*

*campestris* pv. *citri* or *X. smithii* subsp. *citri*; and *X. axonopodis* pv. *aurantifolii* (Xac B and C) with a synonym *X. fuscans* subsp. *aurantifolii*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

2. No regulated materials as defined in this Subsection shall be moved out of any area of this state that is listed in this subsection as a quarantined area for CC, except as provided in this Subsection.

3. Any person violating this quarantine shall be subject to imposition of the remedies and penalties provided for in R.S. 3:1653 for any violation of this quarantine.

4. Quarantined areas in this state include:

a. the entire parish of Orleans;

b. the portions of Jefferson, Plaquemines and St. Charles Parishes bounded by a line beginning at the intersection of the Orleans and Plaquemines Parish line located in the center of the Mississippi River near St. Bernard State Park; then moving west, following the Orleans Parish line to the intersection of the Orleans Parish line with River Road; then moving west on River Road and following River Road parallel to the western border of the Mississippi River to the point where River Road becomes Highway 11; then following Highway 11 until it reaches the point immediately east of East Walker Road; then moving west following East Walker Road and crossing Highway 23 to the intersection of Highway 23 and Walker Road; then moving west following Walker Road to the intersection of East Bayou Road; then moving north following East Bayou Road to the intersection of the service road servicing the intracoastal waterway west closure complex; then moving west-southwest along an imaginary line that intersects with the Jefferson Parish line running through Lake Salvador; then moving northeast, following the Jefferson Parish line to the intersection of the parish line with Highway 18; then moving southwest following Highway 18 (River Road) to the intersection of Interstate Highway 310; then moving north following Interstate Highway 310 across the Mississippi River and continuing on to the Interstate Highway 310/Interstate Highway 10 interchange; then moving east following Interstate Highway 10 to its intersection with the Jefferson Parish line; then moving north following the Jefferson Parish line until reaching the south shoreline of Lake Ponchartrain; then moving east following the south shoreline of Lake Ponchartrain until its intersection with the Orleans Parish line; then moving south following the Orleans Parish line and following said parish line to the point of beginning;

c. a declaration of quarantine for CC covering any other specific parishes or areas of this state shall be published in the official journal of the state and in the *Louisiana Register*.

5. Regulated materials are hosts of CC and their movement is prohibited from quarantined areas due to the presence of CC. Regulated materials include:

a. all plants or plant parts, including fruit and seeds, of any of the following: all species, clones, cultivars, strains, varieties, and hybrids of the genera *Citrus* and *Fortunella*, and all clones, cultivars, strains, varieties, and hybrids of the species *Clausena lansium*, and *Poncirus trifoliata*, and *Swinglea glutinosa*. The most common of these are: lemon,

pummelo, grapefruit, key lime, persian lime, tangerine, satsuma, tangor, citron, sweet orange, sour orange, mandarin, tangelo, ethrog, kumquat, limequat, calamondin, trifoliata orange, tabog, and wampi;

b. all containerized citrus nursery stock plants of all types listed in Subparagraph 3.a above;

c. grass, plant, and tree clippings;

d. any other product, article, or means of conveyance, of any character whatsoever, not covered by Subparagraph a of this Paragraph, when it is determined by an inspector that it presents a risk of spread of citrus canker and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the provisions of this CC quarantine.

6. To be eligible to move from quarantined areas to non-quarantined areas within or outside of Louisiana, regulated materials must meet the following requirements.

a. Regulated fruit may be moved intrastate from a quarantined area for processing into a product other than fresh fruit if all of the following conditions are met.

i. The regulated fruit is accompanied by a document that states the location of the grove in which the regulated fruit was produced, the variety and quantity of regulated fruit being moved intrastate, the address to which the regulated fruit will be delivered for processing, and the date the intrastate movement began.

ii. The regulated fruit and any leaves and litter are completely covered, or enclosed in containers or in a compartment of a vehicle, during the intrastate movement.

iii. The vehicles, covers, and any containers used to carry the regulated fruit intrastate are treated in accordance with federal requirements before leaving the premises where the regulated fruit is unloaded for processing.

iv. All leaves, litter, eliminations, and culls collected from the shipment of regulated fruit at the processing facility are either incinerated at the processing facility or buried at a public landfill that is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs.

b. Regulated fruit may be moved intrastate from a quarantined area for packing, either for subsequent interstate movement with a limited permit or for export from the United States, if all of the following conditions are met.

i. The regulated fruit is accompanied by a document that states the location of the multi-block identification in which the regulated fruit was produced, the variety and quantity of regulated fruit being moved intrastate, the address to which the regulated fruit will be delivered for packing, and the date the intrastate movement began.

ii. The regulated fruit and any leaves and litter are completely covered, or enclosed in containers or in a compartment of a vehicle, during the intrastate movement.

iii. The vehicles, covers, and any containers used to carry the regulated fruit intrastate are treated in accordance with federal requirements before leaving the premises where the regulated fruit is unloaded for packing.

iv. Any equipment that comes in contact with the regulated fruit at the packing plant is treated in accordance with federal requirements before being used to handle any

fruit eligible for interstate movement to commercial citrus-producing areas.

v. All leaves and litter collected from the shipment of regulated fruit at the packing plant are either incinerated at the packing plant or buried at a public landfill that is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs. All culls collected from the shipment of regulated fruit are either processed into a product other than fresh fruit, incinerated at the packing plant, or buried at a public landfill that is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs. Any culls moved intrastate for processing must be completely covered, or enclosed in containers or in a compartment of a vehicle, during the intrastate movement, and the vehicles, covers, and any containers used to carry the regulated fruit must be treated in accordance with federal requirements before leaving the premises where the regulated fruit is unloaded for processing.

c. Regulated fruit produced in a quarantined area or moved into a quarantined area for packing may be moved interstate with a certificate issued and attached in accordance with federal requirements if all of the following conditions are met.

i. The regulated fruit was packed in a commercial packinghouse whose owner or operator has entered into a compliance agreement with USDA-APHIS-PPQ in accordance with federal requirements.

ii. The regulated fruit was treated in accordance with federal requirements.

iii. The regulated fruit is practically free of leaves, twigs, and other plant parts, except for stems that are less than 1 inch long and attached to the fruit.

iv. If the fruit is repackaged after being packed in a commercial packinghouse and before it is moved interstate from the quarantined area, the person that repackages the fruit must enter into a compliance agreement with USDA-APHIS-PPQ and must issue and attach a certificate for the interstate movement of the fruit in accordance with federal requirements.

d. Regulated fruit that is not eligible for movement under Clause iii of this Section may be moved interstate only for immediate export. The regulated fruit must be accompanied by a limited permit issued in accordance with federal requirements and must be moved in a container sealed by USDA-APHIS-PPQ directly to the port of export in accordance with the conditions of the limited permit.

e. Grass, tree, and plant clippings may be moved intrastate from the quarantined area for disposal in a public landfill, for composting in a recycling facility, or treatment at a treatment facility, including livestock feed heat treatment facilities, if all of the following conditions are met.

i. The public landfill, recycling facility, or treatment location is located within the quarantined area.

ii. The grass, tree, or plant clippings are completely covered during the movement from the quarantined area to the public landfill, recycling facility, or treatment facility.

iii. Any public landfill used is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs.

f. All vehicles, equipment, and other articles used in providing inspection, maintenance, harvesting, or related services in any grove containing regulated plants or regulated trees, or in providing landscaping or lawn care services on any premises containing regulated plants or regulated trees, must be treated in accordance with federal requirements upon leaving the grove or premises. All personnel who enter the grove or premises to provide these services must be treated in accordance with federal requirements upon leaving the grove or premises.

g. Regulated nursery stock may be moved intrastate or interstate from a quarantined area if all of the following conditions are met.

i. The nursery in which the nursery stock is produced has entered into a compliance agreement in which it agrees to meet the relevant construction standards, sourcing and certification requirements, cleaning, disinfecting, and safeguarding requirements, labeling requirements, and recordkeeping and inspection requirements specified in federal regulations. The compliance agreement may also specify additional conditions under which the nursery stock must be grown, maintained, and shipped, as determined by regulatory officials, to prevent the dissemination of citrus canker. The compliance agreement will also specify that regulatory officials may amend the agreement.

ii. An inspector has determined that the nursery has adhered to all terms and conditions of the compliance agreement.

iii. The nursery stock is accompanied by a certificate issued in accordance with federal regulations.

iv. The nursery stock is completely enclosed in a sealed container that is clearly labeled with the certificate and is moved in that container.

v. A copy of the certificate is attached to the consignee's copy of the accompanying waybill.

h. Regulated nursery stock produced in a nursery located in a quarantined area that is not eligible for movement under this section may be moved intrastate or interstate only for immediate export. The regulated nursery stock must be accompanied by a limited permit issued in accordance with federal regulations and must be moved in a container sealed by USDA-APHIS-PPQ directly to the port of export in accordance with the conditions of the limited permit.

i. Regulated seed may be moved intrastate or interstate from a quarantined area if all of the following conditions are met.

i. The source plants are not from an area quarantined for citrus greening.

ii. During the two years before the movement date, no plants or plant parts infected with or exposed to citrus canker were found in the grove or nursery producing the fruit from which the regulated seed was extracted.

iii. The regulated seed was treated in accordance with federal regulations.

iv. The regulated seed is accompanied by a certificate issued in accordance with federal regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences,

LR 11:320 (April 1985), amended by the Department of Agricultural and Forestry, Office of Agricultural and Environmental Sciences, LR 40:

Mike Strain DVM  
Commissioner

1404#002

## DECLARATION OF EMERGENCY

### Department of Children and Family Services Division of Programs Licensing Section

#### Licensing Class "A" and "B" Regulations for Child Care Centers (LAC 67:III.Chapter 73)

The Department of Children and Family Services (DCFS), Division of Programs, Licensing Section, in accordance with provisions of the Administrative Procedure Act, R.S. 49:953(B), proposes to amend LAC 67:III, Subpart 21, Child Care Licensing, Chapter 73, Sections 7302, 7317, 7355, and 7372. This Emergency Rule shall be effective on March 12, 2014, and shall remain in effect for a period of 120 days.

The department finds it necessary to adopt this Emergency Rule to correct the unintended consequences on the child care industry that may have resulted from the inadvertent change to the naptime supervision requirements and the implementation of a retroactive timeframe for which a fine may be imposed.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Economic Stability

#### Subpart 21. Child Care Licensing

#### Chapter 73. Day Care Centers

#### Subchapter A. Licensing Class "A" Regulations for Child Care Centers

#### §7302. Authority

A. - I.2. ...

3. In assessing a fine, any violation of one or more of the above categories which occur during any 24-month period after the adoption of this Section shall be counted in determining whether multiple violations have occurred. For purposes of establishing a history of non-compliance, any violation of one or more of the above categories which occur during any 24-month period shall be counted in determining whether multiple violations have occurred.

I.4.a. - J.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1107 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2755 (December 2007), amended LR 36:332 (February 2010), LR 36:847 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:811 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013), LR 40:243 (February 2014), effective March 1, 2014, LR 40:

#### §7317. Supervision

A. - D. ...

E. Children ages one year and above may be grouped together at rest time with one staff in each room supervising the resting children. If two rooms share a common doorway, one staff may supervise the resting children. If the view of the staff supervising the children is obstructed by an object such as a low shelving unit, children shall be checked by sight by staff continually circulating among the resting children.

F. - H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1116 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2764 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:252 (February 2014), effective March 1, 2014, LR 40:

#### Subchapter B. Licensing Class "B" Regulations for Child Care Centers

#### §7355. Authority

A. - I.2. ...

3. In assessing a fine, any violation of one or more of the above categories which occur during any 24 month period after the adoption of this Section shall be counted in determining whether multiple violations have occurred. For purposes of establishing a history of non-compliance, any violation of one or more of the above categories which occur during any 24-month period shall be counted in determining whether multiple violations have occurred.

I.4.a - J.4. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1635 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:333 (February 2010), LR 36:849 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013), LR 40:254 (February 2014), effective March 1, 2014, LR 40:

#### §7372. Supervision

A. - D. ...

E. Children ages one year and above may be grouped together at rest time with one staff in each room supervising the resting children. If two rooms share a common doorway, one staff may supervise the resting children. If the view of the staff supervising the children is obstructed by an object such as a low shelving unit, children shall be checked by sight by staff continually circulating among the resting children.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1430 et seq.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:263 (February 2014), effective March 1, 2014, LR 40:

Suzy Sonnier  
Secretary

1404#001

## DECLARATION OF EMERGENCY

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

#### Use of TANF Benefits (LAC 67:III.1259 and 5351)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III, Subpart 2, Family Independence Temporary Assistance Program (FITAP), Chapter 12, Subchapter B, Section 1259 and Subpart 13, Kinship Care Subsidy Program (KCSP), Chapter 53, Subchapter B, Section 5351. This Emergency Rule shall be effective April 21, 2014 and shall remain in effect for a period of 120 days.

Sections 1259 and 5351 are being amended to prevent the use of cash assistance provided under the FITAP and KCSP programs from being used in any electronic benefit transfer (EBT) transaction at certain types of retailers and establishments or at any retailer for the purchase of jewelry.

The department considers emergency action necessary to facilitate the expenditure of TANF funds. This action is aimed at preventing TANF transactions at certain types of retailers or establishments determined to be inconsistent with the purpose of TANF, which is to provide cash assistance to eligible families to help pay for ongoing basic needs, such as food, shelter, and clothing. The authorization to promulgate Emergency Rules to facilitate the expenditure of TANF funds is contained in Act 14 of the 2013 Regular Session of the Louisiana Legislature.

#### Title 67

#### SOCIAL SERVICES

#### Part III. Economic Stability

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

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

#### Subchapter B. Conditions of Eligibility

#### §1259. Use of FITAP Benefits

A. FITAP benefits shall not be used in any electronic benefit transfer transaction in:

1. any liquor store;
2. any gambling casino or gaming establishment;
3. any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment purposes, any adult bookstores, any adult paraphernalia store, or any sexually oriented business;
4. any tattoo, piercing, or commercial body art facility;
5. any nail salon;
6. any jewelry store;

7. any amusement ride, amusement attraction, or video arcade;
8. any bail bonds company;
9. any night club, bar, tavern, or saloon;
10. any cruise ship;
11. any psychic business; or
12. any establishment where persons under age 18 are not permitted.

B. FITAP benefits shall not be used in any electronic benefit transfer transaction at any retailer for the purchase of:

1. an alcoholic beverage as defined in R.S. 14.93.10(3);
  2. a tobacco product as defined in R.S. 14.91.6(B);
  3. a lottery ticket as defined in R.S. 47:9002(2);
- or
4. jewelry.

C. For purposes of this Section, the following definitions and provisions apply.

1. The term *liquor store* is defined as any retail establishment that sells exclusively or primarily intoxicating liquor. It does not include a grocery store that sells both intoxicating liquor and groceries, including staple foods.

2. The terms *gambling casino* and *gaming establishment* do not include a grocery store that sells groceries, including staple foods, and that also offers, or is located within the same building or complex as casino, gambling, or gaming activities, or any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

3. The term *electronic benefit transfer transaction* means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.

4. The term *commercial body art facility* is defined as any location, place, area, or business whether permanent or temporary, which provides consumers access to personal services workers who for remuneration perform any of the following procedures:

a. tattooing or the insertion of pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce an indelible mark or figure visible under the skin;

b. body piercing or the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration; but does not for the purposes of this Part, include piercing an ear with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear; or

c. the application of permanent cosmetics or pigments under the skin of a human being for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

5. *Adult paraphernalia store* is defined as an establishment having a substantial or significant portion of its stock, including but not limited to, clothing, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement.



6. *Nail salon* is defined as a commercial establishment that provides nail services of any kind including, but not limited to trimming, filing, decorating, shaping, sculpting, or in any way caring for the nails and skin of another person's hands or feet together with massaging the hands, arms, legs, and feet.

7. *Jewelry* is defined as consisting of precious stones and/or precious metals worn as adornment or apparel. This includes costume *jewelry*.

8. *Amusement attraction* is defined as any building or structure which provides amusement, pleasure, thrills, or excitement. This includes movie theaters and video arcades. *Amusement attraction* does not include any enterprise principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts.

9. *Amusement ride* is defined as any mechanized device or combination of devices which carries passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. This includes inflatables.

10. *Bail* is defined as security given by a person to assure his appearance, or a third-party's, before the proper court whenever required.

11. *Bar* is defined as business that holds a class A-general retail permit and the primary purpose of such business is to serve alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets, as further defined by R.S. 1300:253.

12. *Cruise ship* is defined as any commercial ship used for the domestic or international carriage of passengers.

13. *Psychic* is defined as any person or establishment engaged in the occupation of occult science including a fortune-teller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader, prophet, *psychic* or advisor or who in any other manner claims or pretends to tell fortunes or claims or pretends to disclose mental faculties of individuals for any form of compensation.

D. The FITAP case of a FITAP recipient who is determined to have violated the provisions of this Section shall be closed for the following time periods:

1. 12 months for the first offense;
2. 24 months for the second offense; and
3. permanently for the third offense.

AUTHORITY NOTE: Promulgated in accordance with P.L. 112-96.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 39:3061 (November 2013), amended LR 40:

### **Subpart 13. Kinship Care Subsidy Program (KCSP)**

#### **Chapter 53. Application, Eligibility, and Furnishing Assistance**

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

##### **§5351. Use of KCSP Benefits**

A. KCSP benefits shall not be used in any electronic benefit transfer transaction in:

1. any liquor store;
2. any gambling casino or gaming establishment;
3. any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an

unclothed state for entertainment purposes, any adult bookstores, any adult paraphernalia store, or any sexually oriented business;

4. any tattoo, piercing, or commercial body art facility;

5. any nail salon;

6. any jewelry store;

7. any amusement ride, amusement attraction, or video arcade;

8. any bail bonds company;

9. any night club, bar, tavern, or saloon;

10. any cruise ship;

11. any psychic business; or

12. any establishment where persons under age 18 are not permitted.

B. KCSP benefits shall not be used in any electronic benefit transfer transaction at any retailer for the purchase of:

1. an alcoholic beverage as defined in R.S. 14.93.10(3);

2. a tobacco product as defined in R.S. 14.91.6(B);

3. a lottery ticket as defined in R.S. 47:9002(2); or

4. jewelry.

C. For purposes of this Section, the following definitions and provisions apply.

1. The term *liquor store* is defined as any retail establishment that sells exclusively or primarily intoxicating liquor. It does not include a grocery store that sells both intoxicating liquor and groceries, including staple foods.

2. The terms *gambling casino* and *gaming establishment* do not include a grocery store that sells groceries, including staple foods, and that also offers, or is located within the same building or complex as casino, gambling, or gaming activities, or any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

3. The term *electronic benefit transfer transaction* means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.

4. The term *commercial body art facility* means any location, place, area, or business whether permanent or temporary, which provides consumers access to personal services workers who for remuneration perform any of the following procedures:

a. tattooing or the insertion of pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, to produce an indelible mark or figure visible under the skin;

b. body piercing or the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration; but does not for the purposes of this Part, include piercing an ear with a disposable, single use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear; or

c. the application of permanent cosmetics or pigments under the skin of a human being for the purpose of permanently changing the color or other appearance of the skin, including but not limited to permanent eyeliner, eye shadow, or lip color.

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Board of Pharmacy

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

5. *Adult paraphernalia store* is defined as an establishment having a substantial or significant portion of its stock, including, but not limited to, clothing, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement.

6. *Nail salon* is defined as a commercial establishment that provides nail services of any kind including, but not limited to trimming, filing, decorating, shaping, sculpting, or in any way caring for the nails and skin of another person's hands or feet together with massaging the hands, arms, legs, and feet.

7. *Jewelry* is defined as consisting of precious stones and/or precious metals worn as adornment or apparel. This includes costume jewelry.

8. *Amusement attraction* is defined as any building or structure which provides amusement, pleasure, thrills, or excitement. This includes movie theaters and video arcades. *Amusement attraction* does not include any enterprise principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts.

9. *Amusement ride* is defined as any mechanized device or combination of devices which carries passengers along, around, or over a fixed or restricted course for the purpose of giving its passengers amusement, pleasure, thrills, or excitement. This includes inflatables.

10. *Bail* is defined as security given by a person to assure his appearance, or a third-party's, before the proper court whenever required.

11. *Bar* is defined as business that holds a class A-general retail permit and the primary purpose of such business is to serve alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages, including but not limited to, taverns, nightclubs, cocktail lounges, and cabarets, as further defined by R.S. 1300:253.

12. *Cruise ship* is defined as any commercial ship used for the domestic or international carriage of passengers.

13. *Psychic* is defined as any person or establishment engaged in the occupation of occult science including a fortune-teller, palmist, astrologist, numerologist, clairvoyant, craniologist, phrenologist, card reader, spiritual reader, tea leaf reader, prophet, *psychic* or advisor or who in any other manner claims or pretends to tell fortunes or claims or pretends to disclose mental faculties of individuals for any form of compensation.

D. The KCSP case of a KCSP recipient who is determined to have violated the provisions of this Section shall be closed for the following time periods:

1. 12 months for the first offense;
2. 24 months for the second offense; and
3. permanently for the third offense.

AUTHORITY NOTE: Promulgated in accordance with P.L. 112-96.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 39:3061 (November 2013), amended LR 40:

Suzu Sonnier  
Secretary

1404#004

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

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

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

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

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The original Declaration of Emergency was effective January 31, 2013 and was re-published on May 29, September 29, and February 6, 2014. Although the board has initiated the promulgation process necessary to finalize the proposed Rule, it is necessary to re-issue the Emergency

Rule to provide the necessary time to complete the promulgation process. Therefore, the board has re-issued the Declaration of Emergency, effective April 4, 2014. The Emergency Rule shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LIII. Pharmacists**

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

**Subchapter C. Compounding of Drugs**

**§2535. General Standards**

A. - C. ...

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

1. - 3. ...

4. a pharmacy may prepare such products not to exceed 10 percent of the total number of drug dosage units dispensed and distributed by the pharmacy on an annual basis.

E. ...

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

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

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

G. Labeling of Compounded Products

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

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

a. pharmacy's name, address, and telephone number;

b. practitioner's name;

c. name of preparation;

d. strength and concentration;

e. lot number;

f. beyond use date;

g. special storage requirements, if applicable;

h. assigned identification number; and

i. pharmacist's name or initials.

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

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

Malcolm J. Broussard  
Executive Director

1404#028

**DECLARATION OF EMERGENCY**

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

Behavioral Health Services  
Physician Reimbursement Methodology  
(LAC 50:XXXIII.1701)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amends LAC 50:XXXIII.1701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to implement a coordinated behavioral health services system under the Medicaid Program, called the Louisiana Behavioral Health Partnership (LBHP), to provide adequate coordination and delivery of behavioral health services through the utilization of a statewide management organization (*Louisiana Register*, Volume 38, Number 2).

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health promulgated an Emergency Rule which amended the provisions governing the reimbursement of physician services rendered in the LBHP in order to establish a distinct payment methodology that is independent of the payment methodology established for physicians in the Professional Services Program (*Louisiana Register*, Volume 39, Number 4). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for certain physician services provided under the LBHP to exclude these services from the January 2013 Medicare rate changes (*Louisiana Register*, Volume 39, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2013 Emergency Rule. This action is being taken to protect the public health and welfare of Medicaid recipients who rely on behavioral health services by ensuring continued provider participation in the Medicaid Program.

Effective May 1, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amend the provisions governing the reimbursement methodology for certain behavioral health services rendered in the Medicaid Program.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part XXXIII. Behavioral Health Services**

**Subpart 2. General Provisions**

**Chapter 17. Behavioral Health Services**  
**Reimbursements**

**§1701. Physician Payment Methodology**

A. - B. Reserved.

C. Effective for dates of service on or after September 1, 2013, the reimbursement for procedure codes 90791, 90792,

90832, 90834 and 90837 shall be excluded from the January 2013 Medicare rate changes and shall remain at the Medicaid fee schedule on file as of December 31, 2012.

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

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

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

Kathy H. Kliebert  
Secretary

1404#068

## DECLARATION OF EMERGENCY

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

Behavioral Health Services  
Statewide Management Organization  
LaCHIP Affordable Plan Benefits Administration  
(LAC 50:XXXIII.103)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amend LAC 50:XXXIII.103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to implement a coordinated behavioral health services system under the Louisiana Medicaid Program to provide services through the utilization of a Statewide Management Organization that is responsible for the necessary administrative and operational functions to ensure adequate coordination and delivery of behavioral health services (*Louisiana Register*, Volume 38, Number 2).

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health promulgated an Emergency Rule which amended the February 2012 Rule in order to include the administration of behavioral health services covered under the LaCHIP Affordable Plan (Phase 5) (*Louisiana Register*, Volume 38, Number 12). LaCHIP Affordable Plan benefits, including behavioral health services, were administered by the Office of Group Benefits. The administration of these services was transferred to the Statewide Management Organization under

the Louisiana Behavioral Health Partnership. This Emergency Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs, and to promote the health and welfare of LaCHIP Affordable Plan recipients.

Effective April 30, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing behavioral health services coordinated by the Statewide Management Organization to include recipients covered under the LaCHIP Affordable Plan.

### Title 50

## PUBLIC HEALTH—MEDICAL ASSISTANCE

### Part XXXIII. Behavioral Health Services

#### Subpart 1. Statewide Management Organization

#### Chapter 1. General Provisions

#### §103. Recipient Participation

A. The following Medicaid recipients shall be mandatory participants in the coordinated behavioral health system of care:

1. - 6. ...

7. Title XXI SCHIP populations, including:

a. LaCHIP Phases 1 - 3; and

b. LaCHIP Affordable Plan (Phase 5).

B. ...

C. Notwithstanding the provisions of §103.A above, the following Medicaid recipients are excluded from enrollment in the PIHP/SMO:

1. - 7. ...

8. recipients who receive services through the Program of All-Inclusive Care for the Elderly (PACE);

9. recipients enrolled in the Low Income Subsidy Program;

10. participants in the TAKE CHARGE Family Planning Waiver; and

11. recipients enrolled in the LaMOMS Program.

12. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:361 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 40:

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

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

Kathy H. Kliebert  
Secretary

1404#067

## DECLARATION OF EMERGENCY

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

Behavioral Health Services  
Supplemental Payments  
(LAC 50:XXXIII.Chapter 161)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health adopts LAC 50:XXXIII.Chapter 161 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to implement a coordinated behavioral health services system under the Medicaid Program which provides coverage of behavioral health services to children and adults through the Louisiana Behavioral Health Partnership (*Louisiana Register*, Volume 38, Number 2).

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health promulgated an Emergency Rule which amended the provisions governing behavioral health services in order to establish supplemental Medicaid payments for state-owned and operated behavioral health providers (*Louisiana Register*, Volume 39, Number 2). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging continued provider participation in the Medicaid Program and to ensure recipient access to behavioral health services.

Effective May 19, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health adopt provisions to establish supplemental Medicaid payments for state-owned and operated behavioral health providers.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXXIII. Behavioral Health Services

##### Subpart 17. Supplemental Payments

#### Chapter 161. General Provisions

##### §16101. Qualifying Criteria

A. Effective for dates of service on or after January 20, 2013, providers of behavioral health services may qualify for supplemental payments for services rendered to Medicaid recipients. To qualify for the supplemental payment, the behavioral health provider must be:

1. licensed as necessary by the state of Louisiana;
2. enrolled as a Medicaid provider; and
3. a government-owned and operated entity or a quasi-governmental entity.

B. Providers of the following services shall be eligible to receive supplemental payments:

1. providers furnishing services thru a statewide management organization;
2. children's mental health services;
3. behavioral health services;
4. home and community-based waiver services;
5. psychiatric residential treatment facility services;
6. therapeutic group home services;
7. substance abuse services; and
8. local government juvenile justice programs.

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 and the Office of Behavioral Health, LR 40:

##### §16103. Payment Methodology

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

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

B. The behavioral health provider shall periodically furnish satisfactory data for calculating the community rate as requested by the department.

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

1. The Medicare to community rate conversion factor shall be recalculated at least every three years.

D. The supplemental payments shall be made on a quarterly basis.

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

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

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

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to [MedicaidPolicy@la.gov](mailto:MedicaidPolicy@la.gov). Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Secretary

1404#069

## DECLARATION OF EMERGENCY

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

Coordinated Care Network  
LACHIP Affordable Plan Benefits Administration  
(LAC 50:I.3103)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.3103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions which implemented a coordinated system of care in the Medicaid Program designed to improve performance and health care outcomes through a healthcare delivery system called coordinated care networks, also known as the BAYOU HEALTH Program (*Louisiana Register*, Volume 37, Number 6).

The department promulgated an Emergency Rule which amended the provisions governing the coordinated care networks in order to include health care services provided to LaCHIP Affordable Plan recipients in the BAYOU HEALTH Program (*Louisiana Register*, Volume 38, Number 12). These services were administered by the Office of Group Benefits. The administration of these services were transferred to the health plans participating in the BAYOU HEALTH Program. This Emergency Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs and to promote the health and welfare of recipients enrolled in the LaCHIP Affordable Plan.

Effective April 30, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing coordinated care networks in order to include Affordable Plan recipients in the BAYOU HEALTH Program.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part I. Administration

#### Subpart 3. Medicaid Coordinated Care

#### Chapter 31. Coordinated Care Network

#### §3103. Recipient Participation

A. The following Medicaid recipients shall be mandatory participants in coordinated care networks:

1. - 1.c. ...

d. uninsured women under the age of 65 who have been screened through the Centers for Disease Control National Breast and Cervical Cancer Early Detection Program and identified as being in need of treatment for breast and/or cervical cancer, including pre-cancerous conditions and early stage cancer, and are not otherwise eligible for Medicaid;

e. ...

f. children under the age of 19 enrolled in the LaCHIP Affordable Care Plan (Phase 5); and

A.2. - B.1.b.v. ...

NOTE. Repealed.

C. ...

D. Participation Exclusion

1. The following Medicaid and/or CHIP recipients are excluded from participation in a CCN and cannot voluntarily enroll in a CCN. Individuals who:

a. - g. ...

h. are participants in the Take Charge Family Planning Waiver Program;

i. are eligible through the Tuberculosis Infected Individual Program; or

j. are enrolled in the Louisiana Health Insurance Premium Payment (LaHIPP) Program.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1573 (June 2011), amended LR 40:

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

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

Kathy H. Kliebert  
Secretary

1404#070

## DECLARATION OF EMERGENCY

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

Coordinated Care Network  
Physician Services  
Reimbursement Methodology  
(LAC 50:I.3307 and 3509)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.3307 and §3509 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions which implemented a coordinated system of care in the Medicaid Program designed to improve quality of care and health care

outcomes through a healthcare delivery system called coordinated care networks, also known as the BAYOU HEALTH Program (*Louisiana Register*, Volume 37, Number 6).

The Patient Protection and Affordable Care Act (PPACA) requires states to reimburse certain physician services (if they were covered) at an increased rate. In compliance with PPACA and federal regulations, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services rendered by health plans in the coordinated care networks to increase the reimbursement rates (*Louisiana Register*, Volume 39, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule. This action is being taken to avoid federal sanctions and to secure enhanced federal funding.

Effective April 30, 2014 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for physician services rendered by health plans in the coordinated care networks.

## **Title 50**

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

#### **Part I. Administration**

#### **Subpart 3. Medicaid Coordinated Care**

#### **Chapter 33. Coordinated Care Network Shared Savings Model**

#### **§3307. Reimbursement Methodology**

A. - F.3.1. ...

m. durable medical equipment and supplies;

n. orthotics and prosthetics; and

o. payments made to providers for purposes of complying with section 1932(f) of the Social Security Act and 42 CFR 438.6(c)(5)(vi).

4. - 8. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1581 (June 2011), amended LR 40:

#### **Chapter 35. Coordinated Care Network Managed Care Organization Model**

#### **§3509. Reimbursement Methodology**

A. - A.5. ...

6. A CCN-P shall be reimbursed payments in order to comply with Section 1932(f) of the Social Security Act and 42 CFR 439.6(c)(5)(vi) on a quarterly basis or other period specified by DHH.

a. For calendar years 2013 and 2014 the CCN-P shall make payments to designated physicians consistent with 42 CFR Part 447, Subpart G, at least equal to the amounts set forth and required under Part 447, Subpart G, and the provisions of this Chapter, consistent with 42 CFR 438.5 and 438.804 as approved by CMS and as specified in the terms and conditions of the contract between DHH and the CCN-P.

B. - J.2. ...

a. Repealed.

3. For calendar years 2013 and 2014, the CCN-P shall make payments to designated physicians consistent with 42 CFR Part 447, Subpart G, at least equal to the amounts set forth and required under Part 447, Subpart G, and the provisions of this Chapter, as specified in the terms and

conditions of the contract between DHH and the CCN-P. The CCN-P shall also provide documentation to the state sufficient to enable the state and CMS to ensure that provider payments increase as required by paragraph 42 CFR 438.6(c)(5)(vi)(A) of this Section.

a. The term *member* shall include the patient, parent(s), guardian, spouse or any other legally responsible person of the member being served.

4. The CCN-P may enter into alternative payment arrangements with its network providers or potential providers with prior approval by the department.

a. The CCN-P shall not enter into alternative payment arrangements with federally qualified health centers or rural health clinics as the CCN-P is required to reimburse these providers according to the published FQHC/RHC Medicaid prospective payment schedule rate in effect on the date of service, whichever is applicable.

M. - N.2.a. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:1587 (June 2011), amended LR 40:

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

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

Kathy H. Kliebert  
Secretary

1404#071

### **DECLARATION OF EMERGENCY**

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

Disproportionate Share Hospital Payments  
Non-Rural Community Hospitals  
(LAC 50:V.2701)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.2701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing disproportionate share hospital (DSH) payments to non-rural community hospitals

to eliminate the community hospital psychiatric DSH pool (*Louisiana Register*, Volume 30, Number 1). These provisions will be promulgated in a final Rule published in the April 20, 2014 edition of the *Louisiana Register* along with other provisions governing DSH payments.

The department has now determined that the February 1, 2013 Emergency Rule and subsequent April 20, 2014 final Rule inadvertently repealed the provisions governing DSH payments to public, non-rural community hospitals. Therefore, the department now proposes to amend the provisions governing DSH payments in order to re-establish the provisions governing payments to public, non-rural community hospitals. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services. It is estimated that implementation of this Emergency Rule will have no fiscal impact to the Medicaid Program in state fiscal year 2013-14.

Effective March 30, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments in order to adopt provisions for payments to public, non-rural community hospitals.

#### **Title 50**

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

## **Part V. Medical Assistance Program—Hospital Services**

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

#### **Chapter 27. Qualifying Hospitals**

#### **§2701. Non-Rural Community Hospitals**

##### **A. Definitions**

*Non-Rural Community Hospital*—a non-state, non-rural hospital that may be either publicly or privately owned. Psychiatric, rehabilitation and long term hospitals may also qualify for this category.

B. DSH payments to a public, non-rural community hospital shall be calculated as follows.

1. Each qualifying public, non-rural community hospital shall certify to the Department of Health and Hospitals its uncompensated care costs. The basis of the certification shall be 100 percent of the hospital's allowable costs for these services, as determined by the most recently filed Medicare/Medicaid cost report. The certification shall be submitted in a form satisfactory to the department no later than October 1 of each fiscal year. The department will claim the federal share for these certified public expenditures. The department's subsequent reimbursement to the hospital shall be in accordance with the qualifying criteria and payment methodology for non-rural community hospitals included in Act 18 and may be more or less than the federal share so claimed. Qualifying public, non-rural community hospitals that fail to make such certifications by October 1 may not receive Title XIX claim payments or any disproportionate share payments until the department receives the required certifications.

C. Hospitals shall submit supporting patient specific data in a format specified by the department, reports on their efforts to collect reimbursement for medical services from patients to reduce gross uninsured costs, and their most current year-end financial statements. Those hospitals that fail to provide such statements shall receive no payments and any payment previously made shall be refunded to the department. Submitted hospital charge data must agree with

the hospital's monthly revenue and usage reports which reconcile to the monthly and annual financial statements. The submitted data shall be subject to verification by the department before DSH payments are made.

D. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose.

E. The DSH payment shall be made as an annual lump sum payment.

F. Hospitals qualifying as non-rural community hospitals in state fiscal year 2013-14 may also qualify in the federally mandated statutory hospital category.

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

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

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

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

Kathy H. Kliebert  
Secretary

1404#013

## **DECLARATION OF EMERGENCY**

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

### **Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
Children's Choice—Allocation of Waiver  
Opportunities for Chisholm Class Members  
(LAC 50:XXI.Chapter 111, 11301-11303 and Chapter 115)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.Chapter 111, §§11301-11303 and Chapter 115 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amended the provisions governing the children's choice waiver to clarify the provisions of the waiver and to adopt provisions for a self-



direction initiative which will allow participants and their families to receive coordination of children's choice services through a direct support professional rather than a licensed enrolled provider agency (*Louisiana Register*, Volume 39, Number 9).

The department promulgated an Emergency Rule which amended the provisions of the children's choice waiver to provide for the allocation of waiver opportunities to Medicaid eligible children identified in the *Melanie Chisholm, et al vs. Kathy Kliebert* class action litigation (hereafter referred to as Chisholm class members) who have a diagnosis of pervasive developmental disorder or autism spectrum disorder, and are in need of applied behavioral analysis (ABA) services. This Emergency Rule also adopted criteria governing the provision of ABA services to Chisholm class members (*Louisiana Register*, Volume 39, Number 10).

The department subsequently amended the provisions of the September 19, 2013 Emergency Rule governing the Children's Choice Waiver in order to clarify the provisions for the allocation of waiver opportunities and the criteria governing the provision of ABA services to eligible Chisholm class members (*Louisiana Register*, Volume 39, Number 10). In March 2014, the department promulgated an Emergency Rule to assure compliance with the technical requirements of R.S. 49:953, and to continue the provisions of the October 20, 2013 Emergency Rule governing the children's choice waiver which clarified the provisions governing ABA services for eligible Chisholm class members (*Louisiana Register*, Volume 40, Number 3).

Subsequent to the publication of the February 22, 2014 Emergency Rule, the Behavior Analyst Practice Act (R.S. 37:3701 et seq.) became enforceable thereby making it a misdemeanor for any individual not licensed, state certified, or registered by the Louisiana Behavior Analyst Board to engage in the practice of behavior analysis. As a result, certain providers authorized to provide ABA services under the provisions of this Emergency Rule may no longer provide services without being in violation of the Behavior Analyst Practice Act, thus necessitating an amendment to these provisions. Therefore, the department now proposes to amend the provisions of the February 22, 2014 Emergency Rule to ensure that these provisions are consistent with the intent of the regulations governing certain providers who perform services under the authority of the Behavior Analyst Practice Act.

This action is being taken to comply with the judge's order that ABA services be provided to Chisholm class members, and to avoid imminent peril to the public health and welfare of Chisholm class members who are in immediate need of ABA services until such time as a 1915(i) Medicaid state plan or other Medicaid state plan service is approved by the Centers for Medicare and Medicaid Services.

Effective March 22, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions of the February 22, 2014 Emergency Rule governing the allocation of opportunities in the children's choice waiver.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part XXI. Home and Community-Based Services**  
**Waivers**

**Subpart 9. Children's Choice**

**Chapter 111. General Provisions**

**§11103. Recipient Qualifications**

A. - B. ...

C. Children who reach their nineteenth birthday while participating in the children's choice waiver will transfer into an appropriate waiver for adults as long as they remain eligible for waiver services, with the exception of the reserved waiver opportunities allocated to Chisholm class members in need of applied behavioral analysis (ABA) services who have received a children's choice waiver slot. Their name will be returned to the Developmental Disabilities Request for Services Registry with the original date of request.

D. Children's choice waiver services shall also be available to children who have been identified as Chisholm class members who are on the development disabilities request for services registry and have a clinically documented diagnosis of pervasive developmental disorder or autism spectrum disorder, and who are in need of applied behavioral analysis (ABA) services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 39:2498 (September 2013), LR 40:

**§11104. Admission Denial or Discharge Criteria**

A. - A.8.c. ...

B. Children who reach their nineteenth birthday while participating in the children's choice waiver will transfer into an appropriate waiver for adults as long as they remain eligible for waiver services. Participants in the ABA reserved capacity group will not automatically transfer into a new opportunities waiver slot for adults upon reaching their nineteenth birthday. They will return to the request for services registry with their original request date unless otherwise indicated.

C. Once ABA services are available as Medicaid state plan services, Chisholm class members who received a waiver opportunity because they were in need of ABA services will be discharged from the waiver with no right to an administrative appeal. The Chisholm class members will be transferred to the Medicaid state plan ABA services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2498 (September 2013), amended LR 40:

**§11107. Allocation of Waiver Opportunities**

A. - A.1.b. ...

c. the reserved waiver opportunities which are allocated solely to Chisholm class members in need of ABA services.

B. - C.6. Reserved.

D. Effective September 19, 2013, 165 children's choice waiver opportunities shall be reserved for Chisholm class members who have a clinically documented diagnosis of pervasive developmental disorder or autism spectrum disorder and who are in need of applied behavioral analysis services. These waiver opportunities must only be filled by a class member and no alternate may utilize a Chisholm class member waiver opportunity.

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 and the Office for Citizens with Developmental Disabilities, LR 35:1892 (September 2009), amended LR 40:539, 540 (March 2014), LR 40:

### **Chapter 113. Services**

#### **§11301. Service Cap**

A. - C. ...

D. Effective August 1, 2012, children's choice services are capped at \$16,410 per individual per plan of care year.

1. The capped amount shall not apply to ABA services provided to persons entering the waiver under the reserved slots for Chisholm class members.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1983 (September 2002), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2440 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 37:2157 (July 2011), LR 39:507 (March 2013), LR 39:2498 (September 2013), LR 40:

#### **§11303. Service Definitions**

A. - G.7.j. ...

H. Applied Behavioral Analysis-Based Therapy

1. - 2. ...

3. Services must be prior authorized.

I. - M.3.a. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1983 (September 2002), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 33:1871 (September 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), LR 39:2498 (September 2013), LR 40:67 (January 2014), LR 40:

### **Chapter 115. Providers**

#### **Subchapter A. Provider Qualifications**

##### **§11501. Support Coordination Providers and Service Providers**

A. ...

B. Service Providers. Agencies licensed to provide personal care attendant services may enroll as a provider of children's choice services with the exception of support coordination services and therapy services, including ABA services. Agencies that enroll to be a children's choice service provider shall provide family support services, and shall either provide or subcontract for center-based respite, environmental accessibility adaptations, family training, and specialized medical equipment and supplies. Families of

participants shall choose one service provider agency from those available in their region that will provide all waiver services, except support coordination, therapy services, ABA services, and family support services delivered through the self-direction model.

1. - 1.b. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, Bureau of Health Services Financing, repromulgated for LAC, LR 28:1984 (September 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013), LR 40:

#### **Subchapter B. Provider Requirements**

##### **§11523. Enrollment**

A. Both support coordination and direct services providers must comply with the requirements of this §11523 in order to participate as children choice providers, with the exception of ABA service providers who are exempt from the requirements of §11523.H. Agencies will not be added to the freedom of choice (FOC) list of available providers maintained by OCDD until they have received a Medicaid provider number.

B. - N. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1984 (September 2002), amended LR 28:2533 (December 2002), repromulgated LR 29:38 (January 2003), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013), LR 40:

##### **§11529. Professional Services Providers**

A. - H. ...

I. Applied behavioral analysis-based therapy services must be provided by persons enrolled in the Medicaid Program who:

1. meet the following licensure and/or certification requirements:

a. be a board-certified behavior analyst (BCBA) who has applied for licensure with the Louisiana Behavior Analyst Board;

b. be licensed by the Louisiana Behavior Analyst Board; or

c. be a currently Louisiana licensed psychologist whose education, training and expertise includes applied behavior analysis servicesp;

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

3. have no sanctions or disciplinary actions on BCBA or BCBA-D certification and/or state licensure;

4. have no Medicare/Medicaid sanctions and are not excluded from participation in federally-funded programs (OIG-LEIE listing, system for award management (SAM) listing and state Medicaid sanctions listings); and

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

a. Evidence of this background check shall be provided by the service provider or by his/her employer.

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

J. All unlicensed staff who provide ABA services must comply with the requirements of the Louisiana Behavior Analyst Board.

K. Providers must meet all of the following requirements:

1. covered by professional liability insurance to limits of \$1,000,000 per occurrence, \$1,000,000 aggregate through their employer or group (if not professional liability insurance, then covered under general liability insurance through their employer or group);

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

3. must have a completed criminal background check to include federal criminal, state criminal, parish criminal and sex offender reports for the state and parish in which the support staff is currently working and residing.

a. Evidence of this background check is provided by the employer. Criminal background checks must be performed at the time of hire and at least every five years thereafter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 39:2501 (September 2013), amended LR 40:

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

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

Kathy H. Kliebert  
Secretary

1404#003

## DECLARATION OF EMERGENCY

### Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services

Home and Community-Based Services Waivers  
Freedom of Choice (LAC 50:XXI.Chapter 1)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services adopt LAC 50:XXI.Chapter 1 in the Medical Assistance Program as authorized by R.S. 36:254 and

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

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services published a Notice of Intent which proposed to amend the provisions governing home and community-based services waivers in order to adopt provisions for the removal of service providers from the waiver freedom of choice list when certain departmental proceedings are pending against the provider, and to offer freedom of choice to the provider's waiver participants (*Louisiana Register*, Volume 40, Number 3). The department has now determined that it is necessary to amend the provisions governing home and community-based services waivers in order to adopt the provisions included in the March 20, 2014 Notice of Intent. This action is being taken to prevent imminent peril to the public health, safety or welfare of waiver participants by ensuring access to waiver services to participants whose providers are closing or at a high risk of closing on short notice. It is estimated that the implementation of this Emergency Rule will have no fiscal impact to the Medicaid Program for state fiscal year 2013-14.

Effective April 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing home and community-based services waivers.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXI. Home and Community Based Services

##### Waivers

##### Subpart 1. General Provisions

##### Chapter 1. Freedom of Choice

##### §101. General Provisions

A. The Department of Health and Hospitals may remove a service provider from the waiver provider freedom of choice list and offer freedom of choice to waiver participants when:

1. one or more of the following departmental proceedings are pending against a waiver participant's service provider:

a. revocation of the provider's home and community-based services license;

b. exclusion from the Medicaid Program;

c. termination from the Medicaid Program; or

d. withholding of Medicaid reimbursement as authorized by the department's surveillance and utilization review (SURS) rule (LAC 50:I.Chapter 41);

2. the service provider fails to timely renew its home and community-based services license as required by the Home and Community-Based Services Providers Licensing Standards Rule (LAC 48:I.Chapter 50); or

3. the Louisiana Attorney General's Office has seized the assets of the service 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 and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:

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

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

Kathy H. Kliebert  
Secretary

1404#062

## **DECLARATION OF EMERGENCY**

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

### **Office for Citizens with Developmental Disabilities**

Home and Community-Based Services Waivers  
Residential Options Waiver  
(LAC 50:XXI.Chapters 161-169)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend LAC 50:XXI.Chapters 161-169 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities adopted provisions establishing the Residential Options Waiver (ROW), a home and community-based services (HCBS) waiver program, to promote independence for individuals with developmental disabilities by offering a wide array of services, supports and residential options that assist individuals to transition from institutional care (Louisiana Register, Volume 33, Number 11). The department promulgated an Emergency Rule which amended the November 20, 2007 Rule to revise the provisions governing the allocation of waiver opportunities and the delivery of services in order to provide greater clarity (Louisiana Register, Volume 36, Number 4). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the Residential Options Waiver to clarify the provisions governing the annual service budget for waiver participants and to reduce the reimbursement rates for waiver services (Louisiana Register, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the May 1, 2010 Emergency Rule to incorporate the provisions of the August 1, 2010 Emergency Rule (Louisiana Register, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 20, 2010

Emergency Rule governing the allocation of waiver opportunities in order to adopt criteria for crisis diversion, to revise the provisions governing the individuals who may be offered a waiver opportunity, and to clarify the provisions governing the Developmental Disabilities Request for Services Registry (Louisiana Register, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2011 Emergency Rule. This action is being taken to comply with the provisions of the approved waiver application and to secure enhanced federal funding.

Effective May 13, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing the Residential Options Waiver.

## **Title 50**

### **PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers**

#### **Subpart 13. Residential Options Waiver**

#### **Chapter 161. General Provisions**

#### **§16101. Introduction**

A. The Residential Options Waiver (ROW), a 1915(c) home and community-based services (HCBS) waiver, is designed to enhance the long-term services and supports available to individuals with developmental disabilities. These individuals would otherwise require an intermediate care facility for persons with developmental disabilities (ICF/DD) level of care.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### **§16103. Program Description**

A. The ROW is designed to utilize the principles of self-determination and to supplement the family and/or community supports that are available to maintain the individual in the community. In keeping with the principles of self-determination, ROW includes a self-direction option which allows for greater flexibility in hiring, training and general service delivery issues. ROW services are meant to enhance, not replace existing informal networks.

B. ROW offers an alternative to institutional care that:

1. utilizes a wide array of services, supports and residential options which best meet the individual's needs and preferences;
2. meets the highest standards of quality and national best practices in the provision of services; and
3. ensures health and safety through a comprehensive system of participant safeguards.
4. Repealed.

C. All ROW services are accessed through the support coordination agency of the participant's choice.

1. The plan of care (POC) shall be developed using a person-centered process coordinated by the participant's support coordinator.

D. All services must be prior authorized and delivered in accordance with the approved POC.

E. The total expenditures available for each waiver participant is established through an assessment of individual support needs and will not exceed the approved ICF/DD ICAP rate established for that individual.

1. When the department determines that it is necessary to adjust the ICF/DD ICAP rate, each waiver participant's annual service budget shall be adjusted to ensure that the participant's total available expenditures do not exceed the approved ICAP rate.

F. No reimbursement for ROW services shall be made for a participant who is admitted to an inpatient setting.

G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### **§16105. Participant Qualifications**

A. In order to qualify for services through the ROW, an individual must be offered a ROW opportunity and meet all of the following criteria:

1. have a developmental disability as specified in the Louisiana Developmental Disability Law and determined through the developmental disabilities system entry process;

2. meet the requirements for an ICF/DD level of care which requires active treatment for developmental disabilities under the supervision of a qualified developmental disabilities professional;

3. meet the financial eligibility requirements for the Louisiana Medicaid Program;

4. be a resident of Louisiana; and

5. be a citizen of the United States or a qualified alien.

B. Assurances are required that the health, safety and welfare of the individual can be maintained in the community with the provision of ROW services.

1 - 3.c. Repealed.

C. Justification must be documented in the OCDD approved POC that the ROW services are appropriate, cost effective and represent the least restrictive environment for the individual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities, LR 40:

#### **§16106. Money Follows the Person Rebalancing Demonstration**

A. The Money Follows the Person (MFP) Rebalancing Demonstration is a federal demonstration grant awarded by the Centers for Medicare and Medicaid Services to the Department of Health and Hospitals. The MFP demonstration is a transition program that targets individuals using qualified institutional services and moves them to home and community-based long-term care services.

1. For the purposes of these provisions, a qualified institution is a nursing facility, hospital, or Medicaid enrolled intermediate care facility for people with developmental disabilities (ICF/DD).

B. Participants must meet the following criteria for participation in the MFP Rebalancing Demonstration.

1. Participants with a developmental disability must:

a. occupy a licensed, approved Medicaid enrolled nursing facility, hospital or ICF/DD bed for at least three consecutive months; and

b. be Medicaid eligible, eligible for state developmental disability services, and meet an ICF/DD level of care.

2. The participant or his/her responsible representative must provide informed consent for both transition and participation in the demonstration.

C. Participants in the demonstration are not required to have a protected date on the developmental disabilities request for services registry.

D. All other ROW provisions apply to the Money Follows the Person Rebalancing Demonstration.

E. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

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 and Office for Citizens with Developmental Disabilities, LR 40:

#### **§16107. Programmatic Allocation of Waiver Opportunities**

A. The developmental disabilities request for services registry (RFSR), hereafter referred to as "the registry," shall be used to evaluate individuals for ROW opportunities and to fill waiver opportunities for persons with developmental disabilities, except for those specific opportunities to be provided to persons who are described in Paragraph B.1-5 of this Section, who are not on the registry.

1. The next individual on the registry shall be notified in writing that a waiver opportunity is available and that he/she is next in line to be evaluated for a possible waiver assignment. The individual shall then choose a support coordination agency that will assist in the gathering of the documents needed for both the financial eligibility and medical certification process for the level of care determination.

a. - e. Repealed.

2. If the individual is determined to be ineligible, either financially or medically, that individual shall be notified in writing. The next individual on the registry shall be notified, as stated in Paragraph B.1 of this Section, and the process continues until an eligible individual is assigned the waiver opportunity.

3. A waiver opportunity shall be assigned to an individual when eligibility is established and the individual is certified. By accepting a ROW opportunity, this person's name will be removed from the registry.

B. ROW opportunities will be offered to the following individuals:

1. persons who meet the ICF/DD level of care and are being serviced through the OCDD Host Home contracts;

2. persons who meet the ICF/DD level of care and who need HCBS due to a health and/or safety crisis situation (crisis diversion):

a. requests for crisis diversion shall be made through OCDD. To be considered for a crisis diversion

opportunity, the individual must need long-term supports, not temporary or short-term supports;

b. determination of priority for a crisis diversion ROW opportunity will be considered by OCDD for the individual who is eligible for services and meets one of the following criteria:

- i. homeless;
- ii. at imminent risk of losing current residential placement;
- iii. referred by the judicial system;
- iv. referred by child, adult, or elderly protective authorities;
- v. without a caregiver and cannot adequately care for self;
- vi. with a caregiver who can no longer provide care; or
- vii. whose needs cannot be met within a community living situation;

3. children who:

- a. are from birth to age 18;
- b. reside in a nursing facility;
- c. meet the high-need requirements for a nursing facility level of care, as well as the ROW level of care requirements;
- d. participate in the MFP Rebalancing Demonstration; and
- e. have parents or legal guardians who wish to transition them to a home and community-based residential services waiver;

4. persons who reside in a Medicaid-enrolled ICF/DD and wish to transition to a home and community-based residential services waiver through a voluntary ICF/DD bed conversion process;

5. persons who wish to transition from a supports and services center into a ROW opportunity;

6. adults in nursing facilities (NFs) who wish to transition to home and community-based residential services and who meet the level of care (LOC) that qualifies them for ROW eligibility based on their RFSR protected date on a first come, first served basis; and

7. persons residing in ICFs/DD who wish to transition to a home and community-based residential services setting and are eligible based on their RFSR protected date on a first come, first served basis.

C. The Office for Citizens with Developmental Disabilities has the responsibility to monitor the utilization of ROW opportunities. At the discretion of OCDD, specifically allocated waiver opportunities may be reallocated to better meet the needs of citizens with developmental disabilities in the State of Louisiana.

C.1. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### **§16109. Admission Denial or Discharge Criteria**

A. Admission to the ROW Program shall be denied if one of the following criteria is met.

1. The individual does not meet the financial eligibility requirements for the Medicaid Program.

2. The individual does not meet the requirements for an ICF/DD level of care.

3. The individual does not meet developmental disability system eligibility.

4. The individual is incarcerated or under the jurisdiction of penal authorities, courts or state juvenile authorities.

5. The individual resides in another state.

6. The health and welfare of the individual cannot be assured through the provision of ROW services.

7. The individual fails to cooperate in the eligibility determination process or in the development of the POC.

8. Repealed.

B. Participants shall be discharged from the ROW Program if any of the following conditions are determined:

1. loss of Medicaid financial eligibility as determined by the Medicaid Program;

2. loss of eligibility for an ICF/DD level of care;

3. loss of developmental disability system eligibility;

4. incarceration or placement under the jurisdiction of penal authorities, courts or state juvenile authorities;

5. change of residence to another state;

6. admission to an ICF/DD or nursing facility with the intent to stay and not to return to waiver services;

7. the health and welfare of the participant cannot be assured through the provision of ROW services in accordance with the participant's approved POC;

8. the participant fails to cooperate in the eligibility renewal process or the implementation of the approved POC, or the responsibilities of the ROW participant; or

9. continuity of stay for consideration of Medicaid eligibility under the special income criteria is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days;

a. continuity of stay is not considered to be interrupted if the participant is admitted to a hospital, nursing facility or ICF/DD.

i. the participant shall be discharged from the ROW if the treating physician documents that the institutional stay will exceed 90 days.

10. continuity of services is interrupted as a result of the participant not receiving ROW services during a period of 30 consecutive days.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### **Chapter 163. Covered Services**

##### **§16301. Assistive Technology and Specialized Medical Equipment and Supplies**

A. Assistive technology and specialized medical equipment and supplies (AT/SMES) are equipment, devices, controls, appliances, supplies and services which enable the participant to:

1. have life support;

2. address physical conditions;

3. increase ability to perform activities of daily living;
4. increase, maintain or improve ability to function more independently in the home and/or community; and
5. increase ability to perceive, control or communicate.

B. AT/SMES services provided through the ROW include the following services:

1. evaluation of participant needs;
2. customization of the equipment or device;
3. coordination of necessary therapies, interventions or services;
4. training or technical assistance on the use and maintenance of the equipment or device for the participant or, where appropriate, his/her family members, legal guardian or responsible representative;
5. training or technical assistance, when appropriate, for professionals, other service providers, employers, or other individuals who are substantially involved in the participant's major life functions;
6. all service contracts and warranties included in the purchase of the item by the manufacturer; and
7. equipment or device repair and replacement of batteries and other items that contribute to ongoing maintenance of the equipment or device.
  - a. Separate payment will be made for repairs after expiration of the warranty only when it is determined to be cost effective.

C. Approval of AT/SMES services through ROW is contingent upon the denial of a prior authorization request for the item as a Medicaid State Plan service and demonstration of the direct medical, habilitative or remedial benefit of the item to the participant.

1. Items reimbursed in the ROW may be in addition to any medical equipment and supplies furnished under the Medicaid State Plan.

1.a. - 7. Repealed.

D. ...

E. Service Exclusions

1. Assistive technology devices and specialized equipment and supplies that are of general utility or maintenance and have no direct medical or remedial benefit to the participant are excluded from coverage.
2. Any equipment, device, appliance or supply that is covered and has been approved under the Medicaid State Plan, Medicare or any other third party insurance is excluded from coverage.
3. For adults over the age of 20 years, specialized chairs, whether mobile or travel, are not covered.

F. Provider Participation Requirements. Providers of AT/SMES services must meet the following participation requirements. The provider must:

1. be enrolled in the Medicaid Program as a assistive devices or durable medical equipment provider and must meet all applicable vendor standards and requirement for manufacturing, design and installation of technological equipment and supplies;
2. furnish written documentation of authorization to sell, install and/or repair technological equipment and supplies from the respective manufacturer of the designated equipment and supplies; and
3. provide documentation of individual employees' training and experience with the application, use, fitting and

repair of the equipment or devices which they propose to sell or repair;

a. upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### §16303. Community Living Supports

A. Community living supports (CLS) are services provided to assist participants to achieve and maintain the outcomes of increased independence, productivity and inclusion in the community by utilizing teaching and support strategies. CLS may be furnished through self-direction or through a licensed, enrolled agency.

B. Community living supports are related to acquiring, retaining and improving independence, autonomy and adaptive skills. CLS may include the following services:

1. direct support services or self-help skills training for the performance of all the activities of daily living and self-care;
2. socialization skills training;
  - a. Repealed.
3. cognitive, communication tasks, and adaptive skills training; and
  - a. Repealed.
4. development of appropriate, positive behaviors.
  - a. - b. Repealed.

C. ...

D. Community living supports may be shared by up to three recipients who may or may not live together, and who have a common direct service provider. In order for CLS services to be shared, the following conditions must be met:

1. an agreement must be reached among all involved participants or their legal guardians regarding the provisions of shared CLS services;
2. the health and welfare of each participant must be assured though the provision of shared services;
3. services must be reflected in each participant's approved plan of care and based on an individual-by-individual determination; and
4. a shared rate must be billed.

E. - E.1. ...

2. Routine care and supervision that is normally provided by the participant's spouse or family, and services provided to a minor by the child's parent or step-parent, are not covered.
3. CLS services may not be furnished in a home that is not leased or owned by the participant or the participant's family.
4. Participants may not live in the same house as CLS staff.
5. Room and board or maintenance, upkeep and improvement of the individual's or family's residence is not covered.
6. Community living supports shall not be provided in a licensed respite care facility.

a. - d. Repealed.

7. Community living supports services are not available to individuals receiving the following services:

- a. Shared Living;
- b. Home Host; or
- c. Companion Care.

8. Community living supports cannot be billed or provided for during the same hours on the same day that the participant is receiving the following services:

- a. day habilitation;
- b. prevocational;
- c. supported employment;
- d. respite-out of home services; or
- e. transportation-community access.

F. - F.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **§16305. Companion Care**

A. Companion care services assist the recipient to achieve and/or maintain the outcomes of increased independence, productivity and inclusion in the community. These services are designed for individuals who live independently and can manage their own household with limited supports. The companion provides services in the participant's home and lives with the participant as a roommate. Companion care services may be furnished through self-direction or through a licensed provider agency as outlined in the participant's POC. This service includes:

1. providing assistance with all of the activities of daily living as indicated in the participant's POC; and
2. community integration and coordination of transportation services, including medical appointments.
3. Repealed.

B. Companion care services can be arranged by licensed providers who hire companions, or services can be self-directed by the participant. The companion is a principal care provider who is at least 18 years of age who lives with the participant as a roommate and provides services in the participant's home.

1. - 2. Repealed.

C. Provider Responsibilities

1. The provider organization shall develop a written agreement as part of the participant's POC which defines all of the shared responsibilities between the companion and the participant. The written agreement shall include, but is not limited to:

a. - c. ...

2. Revisions to this agreement must be facilitated by the provider and approved by the support team. Revisions may occur at the request of the participant, the companion, the provider or other support team members.

3. The provider is responsible for performing the following functions which are included in the daily rate:

- a. arranging the delivery of services and providing emergency services as needed;

b. making an initial home inspection to the participant's home, as well as periodic home visits as required by the department;

c. contacting the companion a minimum of once per week or as specified in the participant's POC; and

d. providing 24-hour oversight and supervision of the Companion Care services, including back-up for the scheduled and unscheduled absences of the companion.

4. The provider shall facilitate a signed written agreement between the companion and the participant.

a. - b. Repealed.

D. Companion Responsibilities

1. The companion is responsible for:

a. participating in and abiding by the POC;

b. ...

c. purchasing his/her own food and personal care items.

E. Service Limits

1. The provider agency must provide relief staff for scheduled and unscheduled absences, available for up to 360 hours (15 days) as authorized by the POC. Relief staff for scheduled and unscheduled absences is included in the provider agency's rate.

F. Service Exclusions

1. Companion care is not available to individuals receiving the following services:

a. respite care service-out of home;

b. shared living;

c. community living supports; or

d. host home.

2. - 2.d.Repealed.

G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2444 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **§16307. Day Habilitation Services**

A. Day habilitation services are aimed at developing activities and/or skills acquisition to support or further community integration opportunities outside of an individual's home. These activities shall promote independence, autonomy and assist the participant with developing a full life in his community. The primary focus of Day Habilitation services is acquisition of new skills or maintenance of existing skills based on individualized preferences and goals.

1. The skill acquisition and maintenance activities should include formal strategies for teaching the individualized skills and include the intended outcome for the participant.

2. ...

3. As an individual develops new skills, training should progress along a continuum of habilitation services offered toward greater independence and self-reliance.

B. Day habilitation services shall:

1. focus on enabling participants to attain maximum skills;



2. be coordinated with any physical, occupational or speech therapies included in the participant's POC;

3. - 4. ...

a. services are based on a one-half day unit of service and on time spent at the service site by the participant;

b. the one-half day unit of service requires a minimum of 2.5 hours;

c. two one-half day units may be billed if the participant spends a minimum of 5 hours at the service site;

d. any time less than 2.5 hours of services is not billable or payable; and

e. no rounding up of hours is allowed.

C. The provider is responsible for all transportation from the agency to all work sites related to the provision of service.

1. Transportation to and from the service site is offered and billable as a component of the day habilitation service; however, transportation is payable only when a Day Habilitation service is provided on the same day.

2. - 4.c.Repealed.

D. Participants may receive more than one type of vocational/habilitative service per day as long as the service and billing criteria are followed and as long as requirements for the minimum time spent on site are adhered to.

E. Service Exclusions

1. Time spent traveling to and from the day habilitation program site shall not be included in the calculation of the total number of day habilitation service hours provided per day.

a. Travel training for the purpose of teaching the participant to use transportation services may be included in determining the total number of service hours provided per day, but only for the period of time specified in the POC.

2. Transportation-community access will not be used to transport ROW participants to any day habilitation services.

3. Day habilitation services cannot be billed or provided during the same hours on the same day as any of the following services:

a. community living supports;

b. professional services, except those direct contacts needed to develop a behavioral management plan or any other type of specialized assessment/plan; or

c. respite care services—out of home.

F. Provider Qualifications. Providers must be licensed as an adult day care agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### §16309. Dental Services

A. Dental services are available to adult participants over the age of 21 as a component of the ROW. Covered dental services include:

1. diagnostic services;
2. preventative services;
3. restorative services;
4. endodontic services;

5. periodontal services;

6. removable prosthodontics services;

7. maxillofacial prosthetics services;

8. fixed prosthodontics services;

9. oral and maxillofacial surgery;

10. orthodontic services; and

11. adjunctive general services.

B. Service Exclusion. Participants must first access dental services covered under the Medicaid State Plan before utilizing dental services through the Residential Options Waiver.

C. Provider Qualifications. Providers must have a current, valid license to provide dental services from the Louisiana State Board of Examiners for Dentistry for the specific dental services in all specialty areas provided to the participant.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### §16311. Environmental Accessibility Adaptations

A. Environmental accessibility adaptations are physical adaptations to the participant's home or vehicle which must be specified in the POC as necessary to enable the participant to integrate more fully into the community and to ensure his/her health, welfare and safety.

1. Reimbursement shall not be paid until receipt of written documentation that the job has been completed to the satisfaction of the participant.

B. Environmental adaptation services to the home and vehicle include the following:

1. assessments to determine the types of modifications that are needed;

2. training the participant and appropriate direct care staff in the use and maintenance of devices, controls, appliances and related items;

3. repair of all equipment and/or devices, including replacement of batteries and other items that contribute to the ongoing maintenance of the adaptation(s); and

4. all service contracts and warranties which the manufacturer includes in the purchase of the item.

C. In order to accommodate the medical equipment and supplies necessary to assure the welfare of the participant, home accessibility adaptations may include the following:

1. installation of ramps and grab-bars;

2. widening of doorways;

3. modification of bathroom facilities; or

4. installation of specialized electric and plumbing systems.

D. Home accessibility adaptations may be applied to rental or leased property only under the following conditions:

1. the participant is renting or leasing the property; and

2. written approval is obtained from the landlord and OCDD.

E. - F.4.g. ...

5. Home modifications shall not be paid for in the following residential services:

- a. Host Home; or
- b. Shared Living settings which are provider owned or leased.

G. Vehicle adaptations are modifications to an automobile or van that is the waiver participant's primary means of transportation in order to accommodate his/her special needs.

1. The modifications may include the installation of a lift or other adaptations to make the vehicle accessible to the participant or for him/her to drive.

2. Repealed.

H. Service Exclusions for Vehicle Adaptations

1. Payment will not be made to:

- a. adapt vehicles that are owned or leased by paid caregivers or providers of waiver services, or
- b. to purchase or lease a vehicle.

2. - 4. ...

I. Provider Responsibilities

1. The environmental accessibility adaptation(s) must be delivered, installed, operational and reimbursed in the POC year in which it was approved.

a. - b. Repealed.

2. A written itemized detailed bid, including drawings with the dimensions of the existing and proposed floor plans relating to the modifications, must be obtained and submitted for prior authorization.

a. Repealed.

3. Vehicle modifications must meet all applicable standards of manufacture, design and installation for all adaptations to the vehicle.

4. Upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates from manufacturers.

J. Provider Qualifications. In order to participate in the Medicaid Program, providers must meet the following qualifications.

1. Providers of environmental accessibility adaptations for the home must be registered through the Louisiana State Licensing Board for Contractors as a home improvement contractor.

a. In addition, these providers must:

- i. meet the applicable state and/or local requirements governing their licensure or certification; and
- ii. comply with the applicable state and local building or housing code standards governing home modifications.

b. The individuals performing the actual service (building contractors, plumbers, electricians, carpenters, etc.) must also comply with the applicable state and/or local requirements governing individual licensure or certification.

2. Providers of environmental accessibility adaptations to vehicles must be licensed by the Louisiana Motor Vehicle Commission as a specialty vehicle dealer and accredited by the National Mobility Equipment Dealers Association under the Structural Vehicle Modifier category.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2446 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services

Financing and the Office for Citizens with Developmental Disabilities, LR 40:

**§16313. Host Home**

A. Host home services assist participants in meeting their basic adaptive living needs and offer direct support where required. Participants are afforded a welcoming, safe and nurturing family atmosphere in a family home environment in which the participant may receive supports, services and training in accordance with the POC. Host home services take into account compatibility, including individual interests, age, needs for privacy, supervision and support needs. These services are provided in a private home by a contractor of the host home agency who lives in the home, and either rents or owns the residence. The contractor utilizes specific teaching strategies to encourage independence and autonomy when required as a part of the participant's POC.

1. Repealed.

B. Host home services include:

- 1. assistance with the activities of daily living and adaptive living needs;
- 2. assistance to develop leisure interests and daily activities in the home setting;
- 3. assistance to develop relationships with other members of the household;
- 4. supports in accessing community services, activities and pursuing and developing recreational and social interests outside the home; and
- 5. teaching community living skills to achieve participant's goals concerning community and social life as well as to maintain contacts with biological families and natural supports.

C. Host home provider agencies oversee and monitor the Host home contractor to ensure the availability, quality, and continuity of services as specified in the ROW manual. Host home provider agencies are responsible for the following functions:

- 1. arranging for a host home;
- 2. making an initial and periodic inspections of the host home; and
- 3. providing 24-hour oversight and supervision of Host Home services including providing emergency services and back-up for the scheduled and nonscheduled absences of the contractor;

a. Repealed.

D. Host Home contractors are responsible for:

- 1. assisting with the development of the participant's POC and complying with the provisions of the plan;
- 2. maintaining and providing data to assist in the evaluation of the participant's personal goals;
- 3. maintaining adequate records to substantiate service delivery and producing such records upon request;
- 4. undergoing any specialized training deemed necessary by the provider agency, or required by the department, to provide supports in the Host Home setting; and
- 5. immediately reporting to the department and applicable authorities any major issues or concerns related to the participant's safety and well-being.

6. - 10. Repealed.

E. ...

F. Host home contractors serving adults are required to be available for daily supervision, support needs or emergencies as outlined in the adult participant's POC based on medical, health and behavioral needs, age, capabilities and any special needs.

1. - 1.1. ...

2. Separate payment will not be made for the following residential service models if the participant is receiving Host home services:

a. - 3. ...

#### J. Provider Qualifications

1. All agencies must:

a. have experience in delivering therapeutic services to persons with developmental disabilities;

b. have staff who have experience working with persons with developmental disabilities;

c. screen, train, oversee and provide technical assistance to the host home contractors in accordance with OCDD requirements, including the coordination of an array of medical, behavioral and other professional services appropriate for persons with developmental disabilities; and

d. provide on-going assistance to the host home contractors so that all HCBS requirements are met.

2. Agencies serving children must be licensed by the Department of Children and Family Services as a Class "A" Child Placing Agency.

3. Agencies serving adults must be licensed by the Department of Health and Hospitals as a provider of Substitute Family Care services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2447 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### §16315. Intensive Community Supports

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2448 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### §16317. Nursing Services

A. Nursing services are medically necessary services ordered by a physician and provided by a licensed registered nurse or a licensed practical nurse within the scope of the State's Nurse Practice Act. Nursing services provided in the ROW are an extension of nursing services provided through the Home Health Program covered under the Medicaid State Plan.

1. The services require an individual nursing service plan and must be included in the plan of care.

2. The nurse must submit updates of any changes to the individual's needs and/or the physician's orders to the support coordinator every 60 days.

3. Repealed.

B. Nursing consulting services include assessments and health related training and education for participants and caregivers.

1. - 2. ...

3. The health related training and education service is the only nursing service which can be provided to more than one participant simultaneously. The cost of the service is allocated equally among all participants.

C. Service Requirement. Participants over the age of 21 years must first exhaust all available nursing visits provided under the Medicaid State Plan prior to receiving services through the waiver program.

#### D. Provider Qualifications

1. In order to participate in the Medicaid Program, the provider agency must possess a current, valid license as a home health agency or, if under the ROW shared living conversion model, be an enrolled shared living services agency with a current, valid license as a supervised independent living agency.

#### E. Staffing Requirements

1. ...

2. The RN or the LPN must possess one year of service delivery experience to persons with developmental disabilities defined under the following criteria:

a. full-time experience gained in advanced and accredited training programs (i.e. masters or residency level training programs), which includes treatment services for persons with developmental disabilities;

b. paid, full-time nursing experience in specialized service/treatment settings for persons with developmental disabilities (i.e. intermediate care facilities for persons with developmental disabilities);

c. paid, full-time nursing experience in multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for persons with dual diagnosis – mental illness and developmental disabilities); or

d. paid, full-time nursing experience in specialized educational, vocational and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program).

3. Two years of part-time experience with a minimum of 20 hours per week may be substituted for one year of full-time experience.

4. The following activities do not qualify for the required experience:

a. volunteer nursing experience; or

b. experience gained by caring for a relative or friend with developmental disabilities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### §16319. One Time Transitional Services

A. One time transitional services are one-time, set-up services to assist individuals in making the transition from an ICF/DD to their own home or apartment in the community of their choice.

1. - 1.d.iii. Repealed.

B. Allowable transitional expenses may include:

1. nonrefundable security deposits that do not include rental payments;

2. set up fees for utilities;
3. essential furnishings to establish basic living arrangements, including:
  - a. bedroom and living room furniture;
  - b. table and chairs;
  - c. window blinds; and
  - d. food preparation items and eating utensils;
4. set-up/deposit fee for telephone service;
5. moving expenses; and
6. health and safety assurances including:
  - a. pest eradication; or
  - b. one-time cleaning prior to occupancy.

C. Service Limits

1. One time transitional expenses are capped at \$3,000 per person over a participant's lifetime.

D. Service Exclusions

1. One time transitional services may not be used to pay for:
  - a. housing, rent or refundable security deposits; or
  - b. furnishings or setting up living arrangements that are owned or leased by a waiver provider.
2. One time transitional services are not available to participants who are receiving host home services.
3. One time transitional services are not available to participants who are moving into a family member's home.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

**§16321. Personal Emergency Response System (PERS)**

A. Personal emergency response system (PERS) is a system connected to the participant's telephone that incorporates an electronic device which enables the participant to secure help in an emergency. The device can be worn as a portable "help" button and when activated, a response center is contacted.

B. Participant Qualifications. PERS services are available to individuals who:

1. ...
2. are unable to use other communication systems due to experiencing difficulty in summoning emergency assistance; or
3. ...

C. PERS services includes rental of the electronic device, initial installation, training the participant to use the equipment, and monthly maintenance fees.

D. Service Exclusions

1. Separate payment will not be made for shared living services.

E. Provider Qualifications

1. The provider must be authorized by the manufacturer to install and maintain equipment for personal emergency response systems.

2. The provider shall be in compliance with all applicable federal, state, and local regulations governing the operation of personal emergency response systems including staffing requirements for the response center.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2249 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

**§16323. Prevocational Services**

A. Prevocational Services are activities designed to assist participants in acquiring and maintaining basic work-related skills necessary to acquire and retain meaningful employment. Services should include real and simulated employment tasks to assist in determining their vocational potential. Overall goals include regular community inclusion and development of work skills and habits to improve the participant's employability. Services must be reflective of the participant's POC and focused toward habilitation rather than teaching a specific job skill.

1. - 2.b....

B. In the event participants are compensated while receiving prevocational services, the compensation must be in accordance with the United States Fair Labor Standards Act of 1985.

1. If participants are paid in excess of 50 percent of the minimum wage, the provider must, at a minimum:

a. - c. ...

C. The provider is responsible for all transportation from the agency to all vocational sites related to provision of services.

1. Travel training may be included in determining the number of hours of services provided per day for the period of time specified in the participant's POC.

a. Repealed.

D. Service Limits

1. Services shall be limited to no more than eight hours per day, five days per week.

2. Services are based on a one-half day unit of service and time spent at the service site by the participant.

a. the one-half day unit of service requires a minimum of 2.5 hours at the service site by the participant;

b. two one-half day units may be billed in one day if the participant spends a minimum of 5 hours at the service site;

c. any time less than 2.5 hours of service is not billable or payable; and

d. no rounding up of hours is allowed.

3. Participants may receive more than one vocational/habilitative service per day as long as the billing criteria are followed for each service and the requirements for the minimum time spent on site are adhered to.

a. - 5.a. Repealed.

E. Service Exclusions

1. Prevocational Services are not available to participants who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.

2. Multiple vocational/habilitative services cannot be provided or billed for during the same hours on the same day as the following services:

- a. community living supports;

b. professional services, except those direct contacts needed to develop a behavioral management plan or other type of specialized assessment/plan; or

c. respite care services—out of home.

3. Transportation to and from the service site is only payable when a vocational/habilitative service is provided on the same day.

4. Time spent in traveling to and from the prevocational program site shall not be included in the calculation of the total number of service hours provided per day.

a. During travel training, providers must not also bill for the transportation component as this is included in the rate for the number of service hours provided.

5. Transportation-community access shall not be used to transport ROW participants to any prevocational Services.

F. Provider Qualifications. Providers must have a current, valid license as an adult day care center.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### §16325. Professional Services

A. Professional services are direct services to participants, based on need, that may be utilized to increase the individual's independence, participation and productivity in the home, work and community. Service intensity, frequency and duration will be determined by individual need. Professional services must be delivered with the participant present and in accordance with approved POC.

1. - 8.a. Repealed.

B. Professional services include the services provided by the following licensed professionals:

1. occupational therapist;
2. physical therapist;
3. speech therapist;
4. registered dietician;
5. social worker; and
6. psychologist.

C. Professional services may be utilized to:

1. perform assessments and/or re-assessments specific to professional disciplines to accomplish the desired outcomes for the participant and to provide recommendations, treatment, and follow-up;

a. - b. Repealed.

2. provide training or therapy to a participant and/or natural and formal supports necessary to either develop critical skills that may be self-managed by the participant or maintained according to the participant's needs;

3. intervene in and stabilize a crisis situation (behavioral or medical) that could result in the loss of home and community-based services, including the development, implementation, monitoring, and modification of behavioral support plans;

a. Repealed.

4. provide consultative services and recommendations;

5. provide necessary information to the participant, family, caregivers, and/or team to assist in planning and implementing services or treatment;

6. provide caregiver counseling for the participant's natural, adoptive, foster, or host family members in order to develop and maintain healthy, stable relationships among all caregivers, including family members, to support meeting the needs of the participant;

a. emphasis is placed on the acquisition of coping skills by building upon family strengths; and

b. services are intended to maximize the emotional and social adjustment and well-being of the individual, family, and caregiver; and

7. provide nutritional services, including dietary evaluation and consultation with individuals or their care provider.

a. Services are intended to maximize the individual's nutritional health.

NOTE: Psychologists and social workers will provide supports and services consistent with person-centered practices and Guidelines for Support Planning.

#### D. Service Exclusions

1. Professional services may only be furnished and reimbursed through ROW when the services are medically necessary, or have habilitative or remedial benefit to the participant.

a. Repealed.

2. Recipients who are participating in ROW and are up to the age of 21 must access these services through the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

a. - d. Repealed.

#### E. Provider Qualifications

1. Enrollment of individual practitioners. Individual practitioners who enroll as providers of professional services must:

a. have a current, valid license from the appropriate governing board of Louisiana for that profession; and

b. possess one year of service delivery experience with persons with developmental disabilities.

c. In addition, the specific service delivered must be consistent with the scope of the license held by the professional.

2. Provider agency enrollment of professional services.

a. The following provider agencies may enroll to provide professional services:

i. a Medicare certified free-standing rehabilitation center;

ii. a licensed home health agency;

iii. a supervised independent living agency licensed by the department to provide shared living services; or

iv. a substitute family care agency licensed by the department to provide host home services.

b. Enrolled provider agencies may provide professional services by one of the following methods:

i. employing the professionals; or

ii. contracting with the professionals.

c. Provider agencies are required to verify that all professionals employed by or contracted with their agency

meet the same qualifications required for individual practitioners as stated in §16325.E.1.a-c.

3. All professionals delivering professional services must meet the required one year of service delivery experience as defined by the following:

a. full-time experience gained in advanced and accredited training programs (i.e. master's or residency level training programs), which includes treatment services for persons with developmental disabilities;

b. paid, full-time experience in specialized service/treatment settings for persons with developmental disabilities (i.e. ICFs/DD);

c. paid, full-time experience multi-disciplinary programs for persons with developmental disabilities (i.e. mental health treatment programs for persons with dual diagnosis - mental illness and developmental disability); or

d. paid, full-time experience in specialized educational, vocational, and therapeutic programs or settings for persons with developmental disabilities (i.e. school special education program);

e. two years of part-time experience with a minimum of 20 hours per week of the qualifying work experience activities may be substituted for one year of full-time experience.

4. The following activities do not qualify for the professional's required service delivery experience:

a. volunteer experience; or

b. experience gained by caring for a relative or friend with developmental disabilities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **§16327. Respite Care Services—Out of Home**

A. Respite care services—out of home are supports and services provided for the relief of those unpaid caregivers who normally provide care to participants who are unable to care for themselves. These services are furnished on a short-term basis in a licensed respite care center.

1. A licensed respite care facility shall insure that community activities are available to the participant in accordance with the approved POC, including transportation to and from these activities.

a. ...

2. While receiving respite care services, the participant's routine is maintained in order to attend school, school activities, or other community activities that he/she would typically participate in if not in the center-based respite facility.

B. Service Limits

1. Respite care services are limited to 720 hours per participant per POC year.

2. Requests for an extension of the service limit are subject to the department's established approval process and require proper justification and documentation.

C. Service Exclusions

1. ...

2. Respite care services-out of home may not be billed for participants receiving the following services:

a. shared living;

b. companion care; or

c. host home.

d. Repealed.

D. Provider Qualifications. The provider must possess a current, valid license as a respite care center issued by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **§16329. Shared Living Services**

A. Shared living services assist the participant in acquiring, retaining and improving the self-care, adaptive and leisure skills needed to reside successfully in a shared home setting within the community. Services are chosen by the participant and developed in accordance with his/her goals and wishes with regard to compatibility, interests, age and privacy in the shared living setting.

1. A shared living services provider delivers supports which include:

a. 24-hour staff availability;

b. assistance with activities of daily living included in the participant's POC;

c. a daily schedule;

d. health and welfare needs;

e. transportation;

f. any non-residential ROW services delivered by the Shared Living services provider; and

g. other responsibilities as required in each participant's POC.

2. - 3. Repealed.

B. An ICF/DD may elect to permanently relinquish its ICF/DD license and all of its Medicaid Facility Need Review approved beds from the total number of Certificate of Need (CON) beds for that home and convert it into a shared living waiver home or in combination with other ROW residential options as deemed appropriate in the approved conversion agreement.

1. In order to convert, provider request must be approved by the department and by OCDD.

2. ICF/DD residents who choose transition to a shared living waiver home must also agree to conversion of their residence.

3. If choosing ROW services, persons may select any ROW services and provider(s) based upon freedom of choice.

C. Shared Living Options

1. Shared Living Conversion Option. The shared living conversion option is only allowed for providers of homes which were previously licensed and Medicaid certified as an ICF/DD for up to a maximum of eight licensed and Medicaid-funded beds on October 1, 2009.

a. The number of participants for the shared living conversion option shall not exceed the licensed and Medicaid-funded bed capacity of the ICF/DD on October 1, 2009, or up to six individuals, whichever is less.

b. The ICF/DD used for the shared living conversion option must meet the department's operational,

programming and quality assurances of health and safety for all participants.

c. The provider of shared living services is responsible for the overall assurances of health and safety for all participants.

d. The provider of shared living conversion option may provide nursing services and professional services to participants utilizing this residential services option.

2. Shared Living Non-Conversion (New) Option. The shared living non-conversion option is allowed only for new or existing ICF/DD providers to establish a shared living waiver home for up to a maximum of three individuals.

a. The shared living waiver home must be located separate and apart from any ICF/DD.

b. The shared living waiver home must be either a home owned or leased by the waiver participants or a home owned or leased and operated by a licensed shared living provider.

c. The shared living waiver home must meet department's operational, programming and quality assurances for home and community-based services.

d. The shared living provider is responsible for the overall assurances of health and safety for all participants.

#### D. Service Exclusions

1. ...

2. Payments shall not be made for environmental accessibility adaptations when the provider owns or leases the residence.

3. Participants may receive one-time transitional services only if the participant owns or leases the home and the service provider is not the owner or landlord of the home.

a. - d. Repealed.

4. MFP participants cannot participate in ROW shared living services which serve more than four persons in a single residence.

5. Transportation-community access services cannot be billed or provided for participants receiving shared living services, as this is a component of shared living services.

6. The following services are not available to participants receiving shared living services:

a. community living supports;

b. respite care services;

c. companion care;

d. host home; or

e. personal emergency response system.

E. Provider Qualifications. Providers must be approved by the department and have a current, valid license as a supervised independent living agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### §16331. Specialized Medical Equipment and Supplies

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), repealed by the

Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### §16333. Support Coordination

A. Support coordination services are provided to all ROW participants to assist them in gaining access to needed waiver services, Medicaid State Plan services, as well as needed medical, social, educational and other services, regardless of the funding source for the services. Support coordinators provide information and assistance to waiver participants by directing and managing their services in compliance with the rules and regulations governing case management services.

1. Support coordinators shall be responsible for ongoing monitoring of the provision of services included in the participant's approved POC.

2. Support coordinators shall also participate in the evaluation and re-evaluation of the participant's POC.

B. Support coordinators are responsible for providing assistance to participants who choose the self-direction option with their review of the Self-Direction Employer Handbook and for being available to these participants for on-going support and help with carrying out their employer responsibilities.

C. Provider Qualifications. Providers must have a current, valid license as a case management agency and meet all other requirements for targeted case management services as set forth in LAC 50:XV.Chapter 105 and the Medicaid Targeted Case Management Manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### §16335. Supported Employment

A. Supported employment provides assistance in an integrated work setting to assist in the achievement and attainment of work related skills and includes on-going support to maintain employment.

1. - 3. Repealed.

B. Supported employment services include:

1. ...

2. services that assist a participant to develop and operate a micro-enterprise;

a. This service consists of:

i. assisting the participant to identify potential business opportunities;

ii. ...

iii. identification of the supports that are necessary in order for the participant to operate the business; and

iv. ...

3. enclave services which is an employment situation in competitive employment in which a group of eight or fewer workers with disabilities are working at a particular work setting. The workers with disabilities may be disbursed throughout the company and among workers without disabilities or congregated as a group in one part of the business;

4. mobile work crews which is a group of eight or fewer workers with disabilities who perform work in a

variety of locations under the supervision of a permanent employment specialist (job coach/supervisor); and

5. all transportation from the agency to all work sites related to provision of the service. The provider is responsible for furnishing the transportation.

C. Service Limits

1. The required minimum number of service hours per day per participant is as follows for:

- a. individual placement services, the minimum is one hour;
- b. services that assist a participant to develop and operate a micro-enterprise, the minimum is one hour;
- c. an enclave, the minimum is 2.5 hours; and
- d. a mobile work crew, the minimum is 2.5 hours.

2. Two half-day units may be billed if the participant spends a minimum of five hours at the service site.

3. Participants may receive more than one vocational or habilitative service per day as long as the service and billing requirements for each service are met.

4. Transportation to and from the service site is offered and billable as a component of the support employment service; however, transportation is payable only when a supported employment service is provided on the same day.

D. Service Exclusions

- 1. ...
- 2. Any time less than one hour for individual placement and micro-enterprise is not billable or payable.
- 3. - 3.c....
- 4. Any time less than 2.5 hours for enclaves and mobile crews is not billable or payable.
- 5. ...
  - a. Travel training for the purpose of teaching the recipient how to use transportation services may be included in determining the total service numbers hours provided per day, but only for the period of time specified in the POC.
- 6. - 6.c....
- 7. Services are not available to individuals who are eligible to participate in programs funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act.
- 8. No rounding up of hours is allowed.

E. Provider Qualifications. In order to enroll in the Medicaid Program, providers must have a compliance certificate from the Louisiana Rehabilitation Services as a community rehabilitation program or a current, valid license as an Adult Day Care Center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.  
HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

**§16337. Transportation-Community Access**

A. Transportation-community access services enable participants to gain access to waiver and other community services, activities and resources. These services are necessary to increase independence, productivity, community inclusion and to support self-directed employees benefits as outlined in the participant's POC. Transportation-

community access services shall be offered as documented in the participant's approved POC.

1. The participant must be present to receive this service.

2. Whenever possible, the participant must utilize the following resources for transportation:

- a. - b. ...

B. Service Limits

1. Community access trips are limited to three per day and must be arranged for geographic efficiency.

2. Greater than three trips per day require approval from the department or its designee.

- a. Repealed.

C. Service Exclusions

1. Transportation services offered through ROW shall not replace the medical transportation services covered under the Medicaid State Plan or transportation services provided as a means to get to and from school.

2. Separate payment will not be made for transportation-community access and the following services:

- a. shared living services; or
- b. community living services.

3. Transportation-community access will not be used to transport participants to day habilitation, pre-vocational, or supported employment services.

D. Provider Qualifications. Friends and family members who furnish transportation-community access services to waiver participants must be enrolled as Medicaid friends and family transportation providers.

1. In order to receive reimbursement for transporting Medicaid recipients to waiver services, family and friends must maintain:

- a. the state minimum automobile liability insurance coverage;
- b. a current state inspection sticker; and
- c. a current valid driver's license.

2. No special inspection by the Medicaid agency will be conducted.

- a. - b. Repealed.

3. Documentation of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the Medicaid agency is sought. Acceptable documentation shall be the signed statement of the individual enrolling for payment that all three requirements are met.

a. The statement must also have the signature of two witnesses.

4. Family and friends transportation providers are limited to transporting up to three specific waiver participants.

E. Vehicle Requirements. All vehicles utilized by for profit and non-profit transportation services providers for transporting waiver recipients must comply with all of the applicable state laws and regulations and are subject to inspection by the department or its designee.

- 1. - G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2454 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services



Financing and the Office for Citizens with Developmental Disabilities, LR 40:

## **Chapter 165. Self-Direction Initiative**

### **§16501. Self-Direction Service Option**

A. The self-direction initiative is a voluntary, self-determination option which allows the waiver participant to coordinate the delivery of designated ROW services through an individual direct support professional rather than through a licensed, enrolled provider agency. Selection of this option requires that the recipient utilize a payment mechanism approved by the department to manage the required fiscal functions that are usually handled by a provider agency.

B. Recipient Responsibilities. Waiver participants choosing the self-direction service option must understand the rights, risks and responsibilities of managing their own care and individual budget. If the participant is unable to make decisions independently, he must have an authorized representative who understands the rights, risks and responsibilities of managing his care and supports within his individual budget. Responsibilities of the participant or authorized representative include:

1. - 2. ...

a. Participants must adhere to the health and welfare safeguards identified by the support team, including:

i. ...

ii. compliance with the requirement that employees under this option must have criminal background checks prior to working with waiver participants;

3. ...

a. This annual budget is determined by the recommended service hours listed in the participant's POC to meet his needs.

b. The participant's individual budget includes a potential amount of dollars within which the participant, or his authorized representative, exercises decision-making responsibility concerning the selection of services and service providers.

C. Termination of Self-Direction Service Option. Termination of participation in the self-direction service option requires a revision of the POC, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

1. Voluntary Termination. The waiver participant may choose at any time to withdraw from the self-direction service option and return to the traditional provider agency management of services.

2. Involuntary termination. The department may terminate the self-direction service option for a participant and require him to receive provider-managed services under the following circumstances:

a. the health or welfare of the participant is compromised by continued participation in the self-direction service option;

b. the participant is no longer able to direct his own care and there is no responsible representative to direct the care;

c. there is misuse of public funds by the participant or the authorized representative; or

d. over three payment cycles in the period of a year, the participant or authorized representative:

i. ...

ii. fails to follow the Personal Purchasing Plan and the POC;

C.2.d.iii. - D. ...

E. Relief coverage for scheduled or unscheduled absences, which are not classified as respite care services, can be covered by other participant-directed providers and the terms can be part of the agreement between the participant and the primary Companion Care 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 and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

## **Chapter 167. Provider Participation**

### **§16701. General Provisions**

A. ...

1. meet all of the requirements for licensure and the standards for participation in the Medicaid Program as a home and community-based services provider in accordance with state laws and the rules promulgated by the department;

2. comply with the regulations and requirements specified in LAC 50:XXI, Subparts 1 and 13 and the ROW provider manual;

3. comply with all of the state laws and regulations for conducting business in Louisiana, and when applicable, with the state requirements for designation as a non-profit organization; and

4. comply with all of the training requirements for providers of waiver services.

B. Providers must maintain adequate documentation to support service delivery and compliance with the approved POC and provide said documentation upon the department's request.

C. In order for a provider to bill for services, the waiver participant and the direct service worker or professional services practitioner rendering service must be present at the time the service is rendered.

1. Exception. The following services may be provided when the participant is not present:

a. - c. ...

2. All services must be documented in service notes which describe the services rendered and progress towards the participant's personal outcomes and his/her POC.

D. If transportation is provided as part of a waiver service, the provider must comply with all of the state laws and regulations applicable to vehicles and drivers.

E. All services rendered shall be prior approved and in accordance with the POC.

F. Providers, including direct care staff, cannot live in the same residence as the participant, except Host Home contractors and Companion Care workers.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

### **§16703. Staffing Restrictions and Requirements**

A. Payments shall not be made to persons who are legally responsible for the care of the waiver participants which include:

1. parents of minor children;
2. spouses for each other;
3. legal guardians for adults or children with developmental disabilities; or
4. parents for their adult child with developmental disabilities, regardless of the legal status of the adult child.

B. In order to receive payment, relatives must meet the criteria for the provision of the service and the same provider qualifications specified for the service as other providers not related to the participant.

1. Relatives must also comply with the following requirements:

- a. become an employee of the participant's chosen waiver provider agency;
- b. become a Medicaid enrolled provider agency; or
- c. if the self-direction option is selected, relatives must:

- i. become an employee of the self-direction participant; and
- ii. have a Medicaid provider agreement executed by the fiscal agent as authorized by the Medicaid agency.

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 and the Office for Citizens with Developmental Disabilities, LR 40:

### **Chapter 169. Reimbursement**

#### **§16901. Reimbursement Methodology**

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service, which covers both the service provision and administrative costs for these services:

1. - 3.e....
  - f. registered dietician;
4. support coordination; or
5. supported employment:
  - a. individual placement; and
  - b. micro-enterprise.
6. Repealed.

B. The following services are reimbursed at the cost of the adaptation device, equipment or supply item:

1. environmental accessibility adaptations; and
  - a. upon completion of the environmental accessibility adaptations and prior to submission of a claim for reimbursement, the provider shall give the participant a certificate of warranty for all labor and installation work and supply the participant with all manufacturers' warranty certificates;
2. assistive technology/specialized medical equipment and supplies.
3. Repealed.

C. The following services are reimbursed at a per diem rate:

1. ...
2. companion cares; and
3. shared living services;

a. Per diem rates are established based on the number of individuals sharing the living service module for both shared living non-conversion and shared living conversion services.

D. The following services are reimbursed at a per one-half-day unit of service based on a minimum of 2.5 hours spent on-site by the participant:

1. day habilitation;
2. pre-vocational; and
3. supported employment:
  - a. mobile crew; and
  - b. enclave.

E. ...

F. Nursing services are reimbursed at either an hourly or per visit rate for the allowable procedure codes.

G. ...

H. Transition expenses from an ICF/DD or nursing facility to a community living setting are reimbursed at the cost of the service(s) up to a lifetime maximum rate of \$3,000.

I. - J. ...

K. Effective for dates of service on or after August 1, 2010, the reimbursement for residential options waiver services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

1. The following services shall be excluded from the rate reduction:

- a. personal emergency response services;
- b. environmental accessibility adaption services;
- c. specialized medical equipment and supplies; and
- d. support coordination services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

#### **§16903. Direct Support Staff Wages**

A. In order to maximize staffing stability and minimize turnover among direct support staff, providers of the following services furnished under the Residential Options Waiver are required to pay direct support workers an hourly wage that is at least 29 percent (\$1.50) more than the federal minimum wage in effect as of July 23, 2007 or the current federal minimum wage, whichever is higher:

1. community living supports;
2. respite services-out of home;
3. shared living;
4. day habilitation;
5. pre-vocational services; and
6. supported employment.
7. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:

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

Kathy H. Kliebert  
Secretary

1404#072

## DECLARATION OF EMERGENCY

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

Medicaid Eligibility  
Income Disregards for Children  
(LAC 50:III.10305)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.10305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a Rule promulgating the Medicaid Eligibility Manual in its entirety by reference, including Section Z-200 which addresses income disregards for children under age 19 (*Louisiana Register*, Volume 22, Number 5). The May 20, 1996 Rule was repromulgated on July 20, 1996 to make corrections to the price of the manual (*Louisiana Register*, Volume 22, Number 7). The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing eligibility income disregards to establish an income disregard that shall allow for eligibility for home and community-based services as though the individual was a resident of a nursing facility or an intermediate care facility for persons with intellectual disabilities for home and community-based services (*Louisiana Register*, Volume 38, Number 9).

The Patient Protection and Affordable Care Act of 2010 and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act) require all poverty level children between the ages of 0-18 to have the same minimum income limit to be eligible. The May 20, 1996 and July 20, 1996 Rules includes different limits disregards for children ages 0 to 5 and 6 to 18. In compliance with the Affordable Care Act, the department promulgated an Emergency Rule which amended the provisions governing income disregards to establish equal income limits for children under age 19 (*Louisiana Register*, Volume 40, Number 1). This Emergency Rule is being promulgated to continue the provisions of the December 31, 2013 Emergency Rule. This action is being taken to avoid federal sanctions.

Effective May 1, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid financial eligibility.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part III. Eligibility

##### Subpart 5. Financial Eligibility

#### Chapter 103. Income

##### §10305. Income Disregards

A. - B.5. ...

C. Effective December 31, 2013, the income of children ages 6 to 19 from 100 percent up to 142 percent of the Federal Poverty Level shall be disregarded.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1629 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), LR 40:

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

Kathy H. Kliebert  
Secretary

1404#073

## DECLARATION OF EMERGENCY

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

Medicaid Eligibility  
Income Disregards for Pregnant Minors  
(LAC 50:III.10305)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.10305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated a final Rule which repealed the provisions of the June 20, 2003 Rule governing income disregards for low income pregnant women in order to adopt more restrictive eligibility standards (*Louisiana Register*, Volume 39, Number 12). As a result of the Medicaid eligibility changes for January 2014, these income disregard provisions were determined to no longer be applicable to the financial eligibility determination for Medicaid coverage of low income pregnant women in the LaMOMS Program.

The Patient Protection and Affordable Care Act of 2010 and Education Reconciliation Act of 2010 (collectively referred to as the Affordable Care Act) require all poverty level children between the ages of 0-18 to have the same minimum income limit to be eligible. The May 20, 1996 and July 20, 1996 Rules includes different income disregards for children ages 0 to 5 and 6 to 18. In compliance with the Affordable Care Act, the department promulgated an Emergency Rule which amended the provisions governing income disregards to establish an equal income disregard for children under age 19 (*Louisiana Register*, Volume 40, Number 1).

In compliance with the Patient Protection and Affordable Care Act of 2010, the department promulgated an Emergency Rule which amended the provisions governing the Medicaid eligibility group for pregnant unmarried minors (PUMs) by disregarding the income of parents when determining eligibility for pregnant women up to age 18 (*Louisiana Register*, Volume 40, Number 1). This Emergency Rule is being promulgated to continue the provisions of the December 31, 2013 Emergency Rule. This action is being taken to avoid federal sanctions and to promote the health and well-being of pregnant minors by maintaining their access to health care services.

Effective May 1, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing Medicaid financial eligibility.

#### **Title 50**

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

#### **Part III. Eligibility**

#### **Subpart 5. Financial Eligibility**

#### **Chapter 103. Income**

#### **§10305. Income Disregards**

A. - B.5. ...

C. Reserved.

D. Effective December 31, 2013, the income of parents or siblings of pregnant unmarried minors (PUMs) or pregnant minor unmarried mothers (MUMs) will not be included when determining Medicaid eligibility for a PUM or pregnant MUM.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1629 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), LR 40:

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

Kathy H. Kliebert  
Secretary

1404#060

## **DECLARATION OF EMERGENCY**

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

Medicaid Eligibility  
Modified Adjusted Gross Income  
(LAC 50:III.2327, 2529, 10307, and 10705)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.10705 and adopts §2327, §2529 and §10307 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Section 1004(a)(2) of the Patient Protection and Affordable Care Act (ACA) of 2010 and Section 36B (d)(2)(B) of the *Internal Revenue Code* mandate that Medicaid eligibility use the modified adjusted gross income (MAGI) methodology for eligibility determinations for certain eligibility groups. In compliance with the ACA and *Internal Revenue Code*, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule to amend the provisions governing Medicaid eligibility to adopt the MAGI eligibility methodology (*Louisiana Register*, Volume 40, Number 1). The department also adopted provisions which allow qualified hospitals to make determinations of presumptive eligibility for individuals who are not currently enrolled in Medicaid.

The department now proposes to amend the provisions of the December 31, 2013 Emergency Rule in order to make technical revisions to ensure that these provisions are appropriately promulgated in a clear and concise manner. The provisions governing the MAGI eligibility changes for the State Children's Health Insurance Program are being removed from this Emergency Rule and repromulgated independently.

This action is being taken to avoid federal sanctions. It is expected that implementation of this Emergency Rule will not have programmatic costs for state fiscal year 2013-2014.

Effective April 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the December 31, 2013 Emergency Rule governing Medicaid eligibility which adopted the modified adjusted gross income methodology.

#### **Title 50**

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

#### **Part III. Eligibility**

#### **Subpart 3. Eligibility Groups and Factors**

#### **Chapter 23. Eligibility Groups and Medicaid Programs**

#### **§2327. Modified Adjusted Gross Income (MAGI) Groups**

A. For eligibility determinations effective December 31, 2013 eligibility shall be determined by Modified Adjusted

Gross Income (MAGI) methodology in accordance with Section 1004(a)(2) of the Patient Protection and Affordable Care Act (ACA) of 2010 and Section 36B (d)(2)(B) of the Internal Revenue Code, for the following groups:

1. parents and caretakers relatives group which includes adult individuals formerly considered for low income families with children as parents or caretaker relatives;

2. pregnant women;

3. child related groups; and

4. other adult related groups including breast and cervical cancer, tuberculosis (TB) and family planning.

B. A MAGI determination will be necessary for each individual in the home for whom coverage is being requested. The MAGI household resembles the tax household.

1. MAGI Household. The individual's relationship to the tax filer and every other household member must be established for budgeting purposes. The MAGI household is constructed based on whether an individual is a:

a. tax filer;

b. tax dependent; or

c. non-filer (neither tax filer or tax dependent).

2. For the tax filer the MAGI household includes the tax filer and all claimed tax dependents.

a. Whether claimed or not, the tax filer's spouse, who lives in the home, must be included.

b. If a child files taxes and is counted as a tax dependent on his/her parent's tax return, the child is classified as a tax dependent not a tax filer.

3. When taxes are filed for the tax dependent the MAGI household consists of the tax filer and all other tax dependents unless one of the following exceptions is met:

a. being claimed as a tax dependent by a tax filer other than a parent or spouse (for example, a grandchild, niece, or tax filer's parent);

b. children living with two parents who do not expect to file a joint tax return (including step-parents); or

c. children claimed as a tax dependent by a non-custodial parent.

4. For individuals who do not file taxes nor expect to be claimed as a tax dependent (non-filer), the MAGI household consists of the following when they all live together:

a. for an adult:

i. the individual's spouse; and

ii. the individual's natural, adopted, and step-children under age 19; and

b. for a minor:

i. the individual's natural, adoptive, or step-parents; and

ii. the individual's natural, adopted, and step-siblings under age 19.

C. Parents and Caretaker Group

1. A caretaker relative is a relative of a dependent child by blood, adoption, or marriage with whom the child is living, and who assumes primary responsibility for the child's care. A caretaker relative must be one of the following:

a. parent;

b. grandparent;

c. sibling;

d. brother-in-law;

e. sister-in-law;

f. step-parent;

g. step-sibling;

h. aunt;

i. uncle;

j. first cousin;

k. niece; or

l. nephew.

2. The spouse of such parents or caretaker relatives may be considered a caretaker relative even after the marriage is terminated by death or divorce.

3. The assistance/benefit unit consists of the parent and/or caretaker relative and the spouse of the parent and/or caretaker relative, if living together, of child(ren) under age 18, or is age 18 and a full-time student in high school or vocational/technical training. Children are considered deprived if income eligibility is met for the Parents and Caretaker Relatives Group. Children shall be certified in the appropriate children's category.

D. Pregnant Women Group.

1. Eligibility for the pregnant women group may begin:

a. at any time during a pregnancy; and

b. as early as three months prior to the month of application.

2. Eligibility cannot begin before the first month of pregnancy. The pregnant women group certification may extend through the calendar month in which the 60-day postpartum period ends.

3. An applicant/enrollee whose pregnancy terminated in the month of application or in one of the three months prior without a surviving child shall be considered a pregnant woman for the purpose of determining eligibility in the pregnant women group.

4. Certification shall be from the earliest possible month of eligibility (up to three months prior to application) through the month in which the 60-day postpartum period ends.

5. Retroactive eligibility shall be explored regardless of current eligibility status.

a. If the applicant/enrollee is eligible for any of the three prior months, she remains eligible throughout the pregnancy and 60-day postpartum period. When determining retroactive eligibility actual income received in the month of determination shall be used.

b. If application is made after the month the postpartum period ends, the period of eligibility will be retroactive but shall not start more than three months prior to the month of application. The start date of retroactive eligibility is determined by counting back three months prior to the date of application. The start date will be the first day of that month.

6. Eligibility may not extend past the month in which the postpartum period ends.

7. The applicant/enrollee must be income eligible during the initial month of eligibility only. Changes in income after the initial month will not affect eligibility.

E. Child Related Groups.

1. Children Under Age 19-CHAMP. CHAMP children are under age 19 and meet income and non-financial eligibility criteria. ACA expands mandatory coverage to all

children under age 19 with household income at or below 133 percent Federal Poverty Level (FPL). Such children are considered CHAMP Children.

2. Children Under Age 19-LaCHIP. A child covered under the Louisiana State Children's Health Insurance Program (LaCHIP) shall:

- a. be under age 19;
- b. not be eligible for Medicaid under any other optional or mandatory eligibility group or eligible as medically needy (without spend-down liability);
- c. not be eligible for Medicaid under the policies in the State's Medicaid plan in effect on April 15, 1997;
- d. not have health insurance; and
- e. have MAGI-based income at or below 212 percent (217 percent FPL with 5 percent disregard) of the Federal Poverty Level.

3. Children Under Age 19-LaCHIP Affordable Plan. A child covered under the Louisiana State Children's Health Insurance Program (LaCHIP) Affordable Plan shall:

- a. be under age 19;
- b. not be income eligible for regular LaCHIP;
- c. have MAGI-based income that does not exceed 250 percent FPL;
- d. not have other insurance or access to the State Employees Health Plan;
- e. have been determined eligible for child health assistance under the State Child Health Insurance Plan; and
- f. be a child whose custodial parent has not voluntarily dropped the child(ren) from employer sponsored insurance within last three months without good cause. Good cause exceptions to the three month period for dropping employer sponsored insurance are:
  - i. lost insurance due to divorce or death of parent;
  - ii. lifetime maximum reached;
  - iii. COBRA coverage ends (up to 18 months);
  - iv. insurance ended due to lay-off or business closure;
  - v. changed jobs and new employer does not offer dependent coverage;
  - vi. employer no longer provides dependent coverage;
  - vii. monthly family premium exceeds 9.5 percent of household income; or
  - viii. monthly premium for coverage of the child exceeds 5 percent of household income.

4. Children Under Age 19-Phase IV LaCHIP (SCHIP). The State Child Health Insurance Program (SCHIP) provides prenatal care services, from conception to birth, for low income uninsured mothers who are not otherwise eligible for other Medicaid programs, including CHAMP pregnant women benefits. This program, Phase IV LaCHIP, also covers non-citizen women who are not qualified for other Medicaid programs due to citizenship status only.

F. Regular and Spend Down Medically Needy MAGI. Regular and spend down medically needy shall use the MAGI determination methodology.

G. Foster Care Children. Foster care children are applicants/enrollees under 26 years of age, who were in foster care under the responsibility of the state at the time of

their eighteenth birthday, and are not eligible or enrolled in another mandatory coverage category.

1. Foster care children may also be applicants/enrollees who:

- a. have lost eligibility due to moving out of state, but re-established Louisiana residency prior to reaching age 26; or
- b. currently reside in Louisiana, but were in foster care in another state's custody upon reaching age 18.

2. Foster care children must:

- a. be at least age 18, but under age 26;
- b. currently lives in Louisiana;
- c. have been a child in foster care in any state's custody upon reaching age 18; and
- d. not be eligible for coverage in another mandatory group.

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

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

## **Chapter 25. Eligibility Factors**

### **§2529. Hospital Presumptive Eligibility**

A. Effective December 31, 2013 any hospital designated by Louisiana Medicaid as a Hospital Presumptive Eligibility Qualified Provider (HPEQP) may obtain information and determine Hospital Presumptive Eligibility (HPE) for individuals who are not currently enrolled in Medicaid and who are in need of medical services covered under the State Plan.

1. Coverage groups eligible to be considered for Hospital Presumptive Eligibility include:

- a. parents and other caretaker relatives;
- b. pregnant women;
- c. children under age 19;
- d. former foster care children;
- e. family planning; and
- f. certain individuals needing treatment for breast or cervical cancer.

B. Qualified Hospitals. Qualified hospitals shall be designated by the department as entities qualified to make presumptive Medicaid eligibility determinations based on preliminary, self-attested information obtained from individuals seeking medical assistance.

1. A qualified hospital shall:

- a. be enrolled as a Louisiana Medicaid provider under the Medicaid state plan or a Medicaid 1115 Demonstration;
- b. not be suspended or excluded from participating in the Medicaid Program;
- c. have submitted a statement of interest in making presumptive eligibility determinations to the department; and
- d. agree to make presumptive eligibility determinations consistent with the state policies and procedures.

C. The qualified hospital shall educate the individuals on the need to complete an application for full Medicaid and shall assist individuals with:

1. completing and submitting the full Medicaid application; and
2. understanding any document requirements as part of the full Medicaid application process.

#### D. Eligibility Determinations

1. Household composition and countable income for HPE coverage groups are based on Modified Adjusted Gross Income (MAGI) Methodology.

2. The presumptive eligibility period shall begin on the date the presumptive eligibility determination is made by the qualified provider.

3. The end of the presumptive eligibility period is the earlier of:

a. the date the eligibility determination for regular Medicaid is made, if an application for regular Medicaid is filed by the last day of the month following the month in which the determination for presumptive eligibility is made; or

b. the last day of the month following the month in which the determination of presumptive eligibility is made, if no application for regular Medicaid is filed by that date.

4. Those determined eligible for presumptive eligibility shall be limited to no more than one period of eligibility in a 12-month period, starting with the effective date of the initial presumptive eligibility period.

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

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

#### Subpart 5. Financial Eligibility

#### Chapter 103. Income

#### §10307. Modified Adjusted Gross Income - (MAGI)

##### Groups

##### A. MAGI Related Types of Income.

1. Alimony shall be counted as unearned income payments made directly to the household from non-household members.

2. Alien sponsor's income shall be counted against the flat grant needs of the alien's household. If the income of the sponsor is equal to or greater than the flat grant amount for the number of people in the alien parent's family, the alien parent(s) is not eligible for inclusion in his children's Medicaid certification.

3. Business income or loss shall be countable net profit or loss from partnerships, corporations, etc.

4. Capital gain or loss shall be countable income.

5. A child's earned income is counted, except for the tax filer's budget when earnings are below the tax filing threshold.

6. Annual income received under an implied, verbal, or written contract in less than 12 months shall be averaged over the 12 month period it is intended to cover unless the income is received on an hourly or piecework basis.

7. Disability insurance benefits shall count as unearned income. If federal and/or state taxes are deducted, disability insurance benefits shall count as earned income.

8. Dividends shall count as unearned income. Dividends shall be averaged for the period they are intended to cover.

9. Interest, including tax-exempt interest, shall count as unearned income. Interest shall be averaged for the period it is intended to cover.

10. Irregular and unpredictable income shall count as income in the month of receipt. Annual income received under an implied, verbal, or written contract in less than 12 months shall be averaged over the 12 month period it is

intended to cover unless the income is received on an hourly or piecework basis.

11. Income received from employment through the Job Training Partnership Act of 1982 (JTPA) program shall be counted as earned income. JTPA income received for training through JTPA program shall be counted as unearned income.

12. A non-recurring cash payment (lump sum) shall count as income only in the calendar month of receipt. This includes insurance settlements, back pay, state tax refunds, inheritance, IRA or other retirement distributions, and retroactive benefit payments.

13. Regular recurring income from oil and land leases shall be counted over the period it is intended to cover and counted as unearned income. Payments received in the first year of an oil lease, which are above the regular recurring rental and payments received when an oil lease is written for only one year, are treated as non-recurring lump sum payments.

14. Pensions and annuities shall count as unearned income.

15. Income is potentially available when the applicant/enrollee has a legal interest in a liquidated sum and has the legal ability to make this sum available for the support and maintenance of the assistance unit. Potential income shall be counted when it is actually available as well as when it is potentially available but the applicant/enrollee chooses not to receive the income. If the agency representative is unable to determine the amount of benefits available, the application shall be rejected for failure to establish need.

16. Railroad retirement shall count as unearned income the amount of the entitlement including the amount deducted from the check for the Medicare premiums, less any amount that is being recouped for a prior overpayment.

17. Ownership of rental property is considered a self-employment enterprise. Income received from rental property may be earned or unearned. To be counted as earned income, the applicant/enrollee must perform some work related activity. If the applicant/enrollee does not perform work related activity, the money received shall be counted as unearned income. Only allowable expenses associated with producing the income may be deducted. If the income is earned, any other earned income deductions are allowed.

18. The gross amount of retirement benefits, including military retirement benefits, counts as unearned income.

19. Royalties shall count as unearned income. Royalties shall be prorated for the period they are intended to cover.

20. Scholarships, awards, or fellowship grants shall count as unearned income if used for living expenses such as room and board.

21. Seasonal earnings shall count as earned income in the month received. If contractual, such as a bus driver or teacher, the income shall be prorated over the period it is intended to cover. If earnings are self-employment seasonal income, they shall be treated as self-employment income as below in Subparagraph 22.

22. Self-employment income is counted as earned income. Self-employment income is income received from an applicant/enrollee's own business, trade, or profession if no federal or state withholding tax or Social Security tax is

deducted from his job payment. This may include earnings as a result of participation in Delta Service Corps and farm income.

a. Allowable expenses are those allowed when filing taxes on a Schedule C or Farm Income Schedule F.

23. Social Security Retirement, Survivors and Disability Insurance Benefits (RSDI) shall count as unearned income. The amount counted shall be that of the entitlement including the amount deducted from the check for the Medicare premium, less any amount that is being recouped for a prior overpayment.

24. Income from taxable refunds, credits, or offsets of state and local income taxes if claimed on Form 1040 shall count as unearned income.

25. Income from income trust withdrawals, dividends, or interest which are or could be received by the applicant/enrollee shall count as unearned income.

26. Tutorship funds are any money released by the court to the applicant/enrollee and shall be counted as unearned income.

27. Unemployment compensation benefits (UCB) shall be counted as unearned income in the month of receipt.

28. Taxable gross wages, salaries, tips, and commissions, including paid sick and vacation leave, shall count as earned income. Included as earned income are:

a. vendor payments made by the employer instead of all or part of the salary;

b. the cash value of an in-kind item received from an employer instead of all or part of the salary; and

c. foreign earnings.

29. The following types of income shall not be counted for MAGI budgeting:

a. adoption assistance;

b. Agent Orange Settlement payments;

c. American Indian and Native American Claims and Lands and income distributed from such ownership;

d. Census Bureau earnings;

e. child support payments received for anyone in the home;

f. contributions from tax-exempt organizations;

g. disaster payments;

h. Domestic Volunteer Service Act;

i. earned income credits;

j. educational loans;

k. energy assistance;

l. foster care payments;

m. Housing and Urban Development (HUD) block grant funds, payments, or subsidies;

n. in-kind support and maintenance;

o. loans;

p. income from nutritional programs;

q. income from radiation exposure;

r. relocation assistance;

s. scholarships, awards or fellowship grants used for education purposes and not for living expenses;

t. Supplemental Security Income (SSI);

u. vendor payments;

v. veterans' benefits;

w. Women, Infants and Children Program (WIC) benefits;

x. work-study program income;

y. worker's compensation benefits; and

z. cash contributions. Money which is contributed by the absent parent of a child in the assistance unit is considered child support and not counted. Small, non-recurring monetary gifts (e.g., Christmas, birthday, or graduation gifts) are not counted. Cash contributions include any money other than loans received by or for a member of the income unit if:

i. the use is left to the discretion of the member of the income unit; or

ii. the contribution is provided for the specific purpose of meeting the maintenance needs of a member of the assistance unit.

B. Financial eligibility for the MAGI groups shall be made using income received in the calendar month prior to the month of application or renewal as an indicator of anticipated income. The taxable gross income of each member of the MAGI household shall be used. Income eligibility of the household shall be based on anticipated income and circumstances unless it is discovered that there are factors that will affect income currently or in future months.

1. Income eligibility is determined by prospective income budgeting or actual income budgeting.

a. Prospective income budgeting involves looking at past income to determine anticipated future income. Income earned in the calendar month prior to the month of application or renewal which the applicant/enrollee earned shall be used to determine expected income in the current and future months.

b. Actual income budgeting involves looking at income actually received within a specific month to determine income eligibility for that month. Actual income shall be used for all retroactive coverage. Actual income or the best estimate of anticipated actual income shall be used if:

i. the income terminates during the month;

ii. the income begins during the month; or

iii. the income is interrupted during the month.

2. Income of a Tax Dependent. The earned income of a tax dependent including a child shall be counted when calculating the financial eligibility of a tax filer when the earned income meets the tax filing threshold. The unearned income of a tax dependent, including a child, shall be used when calculating MAGI based financial eligibility regardless of tax filing status (e.g., RSDI).

a. Cash contributions to a dependent shall be counted towards the dependent.

3. Allowable Tax Deductions for MAGI. The following deductions from an individual's income shall be used to determine the individual's adjusted gross income:

a. educator expenses;

b. certain business expenses of reservists, performing artists and fee basis government offices;

c. health savings account deductions;

d. moving expenses;

e. the deductible part of self-employment tax;

f. self-employed SEP, SIMPLE and qualified plans;

g. self-employed health insurance deduction;

h. the penalty on early withdrawal of savings;

i. alimony paid outside the home;

j. IRA deductions;

k. student loan interest deduction;



- l. tuition and fees; and
  - m. domestic production activities deductions.
4. A 5 percent disregard shall be allowed on MAGI budgets when it is the difference between eligibility or ineligibility for the individual in a child related program.

5. The net countable income for the individual's household shall be compared to the applicable income standard for the household size to determine eligibility.

a. If the countable income is below the income standard for the applicable MAGI group, the individual is income eligible.

b. If the countable income is above the income standard for the applicable MAGI group, the individual is income ineligible.

C. Federal Poverty Income Guidelines (FPIG). Eligibility shall be based upon the following guidelines using the Federal Poverty Income Guidelines and adjusted to account for the 5 percent disregard:

1. Parents/caretakers, income is less or equal to 24 percent FPIG;

2. Pregnant Women, income is less or equal to 138 percent FPIG;

3. CHAMP (Children 0-18), income is less or equal to 147 percent FPIG;

4. LaChip, income is less or equal to 217 percent FPIG;

5. LaChip IV (Unborn Option), income is less or equal to 214 percent FPIG; and

6. LaCHIP Affordable Plan, income does not exceed 255 percent FPIG.

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

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

**Chapter 107. Resources**

**§10705. Resource Disregards**

A. - C.2.

D. Modified Adjusted Gross Income (MAGI) Groups. Resources will be disregarded for those groups using the MAGI determinations methodology.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1899 (September 2009), amended LR 36:2867 (December 2010), LR 40:

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

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

Kathy H. Kliebert  
Secretary

1404#063

**DECLARATION OF EMERGENCY**

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

Outpatient Hospital Services  
Non-Rural, Non-State Public Hospitals  
Supplemental Payments  
(LAC 50:V.5315, 5515, 5717, 5915 and 6117)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.5315, §5515, §5717, §5915 and §6117 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for outpatient hospital services to provide supplemental Medicaid payments to qualifying non-rural, non-state public hospitals for state fiscal year 2013 (*Louisiana Register*, Volume 39, Number 6).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services in order to revise the qualifying criteria and reimbursement methodology for non-rural, non-state public hospitals (*Louisiana Register*, Volume 39, Number 7). The department promulgated an Emergency Rule which amended the provisions of the July 1, 2013 Emergency Rule in order to further revise the qualifying criteria and reimbursement methodology for non-rural, non-state public hospitals and to correct the *Code of Federal Regulation* citation (*Louisiana Register*, Volume 39, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2013 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program.

Effective May 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services rendered by non-rural, non-state public hospitals.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Hospital Services**

**Subpart 5. Outpatient Hospitals**

**Chapter 53. Outpatient Surgery**

**Subchapter B. Reimbursement Methodology**

**§5315. Non-Rural, Non-State Public Hospitals**

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for outpatient surgical services rendered during the quarter. Payment

amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a Medicare metropolitan statistical area (MSA) per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 40:

## **Chapter 55. Clinic Services**

### **Subchapter B. Reimbursement Methodology**

#### **§5515. Non-Rural, Non-State Public Hospitals**

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for clinic services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 40:

## **Chapter 57. Laboratory Services**

### **Subchapter B. Reimbursement Methodology**

#### **§5717. Non-Rural, Non-State Public Hospitals**

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for laboratory services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2868 (December 2010), amended LR 39:1473 (June 2013), LR 40:

## **Chapter 59. Rehabilitation Services**

### **Subchapter B. Reimbursement Methodology**

#### **§5915. Non-Rural, Non-State Public Hospitals**

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for rehabilitation services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 40:

## **Chapter 61. Other Outpatient Hospital Services**

### **Subchapter B. Reimbursement Methodology**

#### **§6117. Non-Rural, Non-State Public Hospitals**

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for outpatient services other than clinic services, diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state

public acute care hospital must be designated as a non-teaching hospital by the department and must:

- a. be located in a MSA per 42 CFR 413.231(b)(1);
- b. provide inpatient obstetrical and neonatal intensive care unit services; and
- c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 40:

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

Kathy H. Kliebert  
Secretary

1404#061

## DECLARATION OF EMERGENCY

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

Pediatric Day Health Care Program  
(LAC 48:I.Chapter 52 and Chapter 125 and  
LAC 50:XV.27503)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.5237, §5247, §5257, §12501-12503, adopts §12508, and amends LAC 50:XV.27503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with Act 432 of the 2004 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions governing the licensing standards for pediatric day health care facilities (*Louisiana Register*, Volume 35, Number 12). The department subsequently adopted provisions to implement pediatric day health care (PDHC) services as an optional covered service under the Medicaid State Plan (*Louisiana Register*, Volume 36, Number 7).

The department promulgated an Emergency Rule which amended the licensing standards for PDHC facilities to revise the provisions governing provider participation, development and educational services and transportation requirements, and to adopt provisions for the inclusion of PDHC facilities in the Facility Need Review (FNR)

Program. This Emergency Rule also amended the provisions governing pediatric day health care services in order to revise the recipient criteria which will better align the program's operational procedures with the approved Medicaid State Plan provisions governing these services (*Louisiana Register*, Volume 40, Number 3.)

The department now proposes to amend the March 1, 2014 Emergency Rule in order to revise the additional grandfather provisions for the Facility Need Review process for the Pediatric Day Health Care Program. This action is being taken to avoid sanctions or federal penalties from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), as the administrative rule is not consistent with the approved Medicaid State Plan for PDHC services, and to ensure that these optional services are more cost effective and appropriate.

Effective April 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the March 1, 2014 Emergency Rule governing the additional grandfather provisions for the Facility Need Review Program for Pediatric Day Health Care Program.

## Title 48

### PUBLIC HEALTH—GENERAL

#### Part I. General Administration

#### Subpart 3. Licensing and Certification

#### Chapter 52. Pediatric Day Health Care Facilities

#### Subchapter D. Participation Requirements

#### §5237. Acceptance Criteria

A. - D.1. ...

2. The medical director of the PDHC facility may provide the referral to the facility only if he/she is the child's prescribing physician, and only if the medical director has no ownership interest in the PDHC facility.

3. No member of the board of directors of the PDHC facility may provide a referral to the PDHC. No member of the board of directors of the PDHC facility may sign a prescription as the prescribing physician for a child to participate in the PDHC facility services.

4. No physician with ownership interest in the PDHC may provide a referral to the PDHC. No physician with ownership interest in the PDHC may sign a prescription as the prescribing physician for a child to participate in the PDHC facility services.

5. Notwithstanding anything to the contrary, providers are expected to comply with all applicable federal and state rules and regulations including those regarding anti-referral and the Stark Law.

E. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193 – 40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2769 (December 2009), amended LR 40:

#### Subchapter E. Pediatric Day Health Care Services

#### §5247. Developmental and Educational Services

A. ...

B. For any child enrolled in the early intervention program (EarlySteps) or the local school district's program under the Individuals with Disabilities Act, the PDHC facility shall adhere to the following.

1. ...

2. The PDHC facility shall not duplicate services already provided through the early intervention program or the local school district. EarlySteps services cannot be provided in the PDHC unless specifically approved in writing by the DHH EarlySteps Program. Medicaid waiver services cannot be provided in the PDHC unless specifically approved in writing by the Medicaid waiver program. The PDHC shall maintain a copy of such written approval in the child's medical record.

B.3. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193 – 40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2770 (December 2009), amended LR 40:

### **§5257. Transportation**

A. The PDHC facility shall provide or arrange transportation of children to and from the facility; however, no child, regardless of his/her region of origin, may be in transport for more than one hour on any single trip. The PDHC facility is responsible for the safety of the children during transport. The family may choose to provide their own transportation.

1. - 1.b.Repealed.

B. Whether transportation is provided by the facility on a daily basis or as needed, the general regulations under this Section shall apply.

C. If the PDHC facility provides transportation for children, the PDHC facility shall maintain in force at all times current commercial liability insurance for the operation of PDHC facility vehicles, including medical coverage for children in the event of accident or injury.

1. This policy shall extend coverage to any staff member who provides transportation for any child in the course and scope of his/her employment.

2. The PDHC facility shall maintain documentation that consists of the insurance policy or current binder that includes the name of the PDHC facility, the name of the insurance company, policy number, and period of coverage and explanation of coverage.

3. DHH Health Standards shall specifically be identified as the certificate holder on the policy and any certificate of insurance issued as proof of insurance by the insurer or producer (agent). The policy must have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

D. If the PDHC facility arranges transportation for children through a transportation agency, the facility shall maintain a written contract which is signed by a facility representation and a representative of the transportation agency. The contract shall outline the circumstances under which transportation will be provided.

1. The written contract shall be dated and time limited and shall conform to these licensing regulations.

2. The transportation agency shall maintain in force at all times current commercial liability insurance for the operation of transportation vehicles, including medical coverage for children in the event of accident or injury. Documentation of the insurance shall consist of the:

a. insurance policy or current binder that includes the name of the transportation agency;

- b. name of the insurance agency;
- c. policy number;
- d. period of coverage; and
- e. explanation of coverage.

3. DHH Health Standards shall specifically be identified as the certificate holder on the policy and any certificate of insurance issued as proof of insurance by the insurer or producer (agent). The policy must have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

4. - 10. Repealed.

E. Transportation arrangements, whether provided by the PDHC facility directly or arranged by the PDHC facility through a written contract with a transportation agency shall meet the following requirements.

1. Transportation agreements shall conform to state laws, including laws governing the use of seat belts and child restraints. Vehicles shall be accessible for people with disabilities or so equipped to meet the needs of the children served by the PDHC facility.

2. The driver or attendant shall not leave the child unattended in the vehicle at any time.

2.a. - 6.Repealed.

F. Vehicle and Driver Requirements

1. The requirements of Paragraph F of this Section shall apply to all transportation arrangements, whether provided by the PDHC facility directly or arranged by the PDHC facility through a written contract with a transportation agency.

2. The vehicle shall be maintained in good repair with evidence of an annual safety inspection.

3. The following actions shall be prohibited in any vehicle while transporting children:

- a. the use of tobacco in any form;
- b. the use of alcohol;
- c. the possession of illegal substances; and
- d. the possession of firearms, pellet guns, or BB guns (whether loaded or unloaded).

4. The number of persons in a vehicle used to transport children shall not exceed the manufacturer's recommended capacity.

5. The facility shall maintain a copy of a valid appropriate Louisiana driver's license for all individuals who drive vehicles used to transport children on behalf of the PDHC facility. At a minimum, a Class "D" Chauffeur's license is required for all drivers who transport children on behalf of the PDHC facility.

6. Each transportation vehicle shall have evidence of a current safety inspection.

7. There shall be first aid supplies in each facility or contracted vehicle. This shall include oxygen, pulse oximeter, and suction equipment. Additionally, this shall include airway management equipment and supplies required to meet the needs of the children being transported.

8. Each driver or attendant shall be provided with a current master transportation list including:

- a. each child's name;
- b. pick up and drop off locations; and
- c. authorized persons to whom the child may be released.

i. Documentation shall be maintained on file at the PDHC facility whether transportation is provided by the facility or contracted.

9. The driver or attendant shall maintain an attendance record for each trip. The record shall include:

- a. the driver's name;
- b. the date of the trip;
- c. names of all passengers (children and adults) in the vehicle; and

d. the name of the person to whom the child was released and the time of release.

10. There shall be information in each vehicle identifying the name of the administrator and the name, telephone number, and address of the facility for emergency situations.

#### G. Child Safety Provisions

1. The requirements of Paragraph G of this Section shall apply to all transportation arrangements, whether provided by the PDHC facility directly or arranged by the PDHC facility through a written contract with a transportation agency.

2. The driver and one appropriately trained staff member shall be required at all times in each vehicle when transporting any child. Staff shall be appropriately trained on the needs of each child, and shall be capable and responsible for administering interventions when appropriate.

3. Each child shall be safely and properly:

- a. assisted into the vehicle;
- b. restrained in the vehicle;
- c. transported in the vehicle; and
- d. assisted out of the vehicle.

4. Only one child shall be restrained in a single safety belt or secured in any American Academy of Pediatrics recommended age appropriate safety seat.

5. The driver or appropriate staff person shall check the vehicle at the completion of each trip to ensure that no child is left in the vehicle.

a. The PDHC facility shall maintain documentation that includes the signature of the person conducting the check and the time the vehicle is checked. Documentation shall be maintained on file at the PDHC facility whether transportation is provided by the facility or contracted.

6. During field trips, the driver or staff member shall check the vehicle and account for each child upon arrival at, and departure from, each destination to ensure that no child is left in the vehicle or at any destination.

a. The PDHC facility shall maintain documentation that includes the signature of the person conducting the check and the time the vehicle was checked for each loading and unloading of children during the field trip. Documentation shall be maintained on file at the PDHC facility whether transportation is provided by the facility or contracted.

7. Appropriate staff person(s) shall be present when each child is delivered to the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193-40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2771 (December 2009), amended LR 40:

## 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.

\* \* \*

*Pediatric Day Health Care (PDHC) Providers*—a facility that may operate seven days a week, not to exceed 12 hours a day, to provide care for medically fragile children under the age of 21, including technology dependent children who require close supervision. Care and services to be provided by the pediatric day health care facility shall include, but not be limited to:

- a. nursing care, including, but not limited to:
  - i. tracheotomy and suctioning care;
  - ii. medication management; and
  - iii. Intravenous (IV) therapy;
- b. respiratory care;
- c. physical, speech, and occupational therapies;
- d. assistance with activities of daily living;
- e. transportation services; and
- f. education and training.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), LR 28:2190 (October 2002), LR 30:1023 (May 2004), LR 32:845 (May 2006), LR 34:2611 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2437 (November 2009), amended LR 36:323 (February 2010), LR 38:1961 (August 2012), LR 40:

##### §12503. General Information

A. - B. ...

C. The department will also conduct a FNR for the following provider types to determine if there is a need to license additional units, providers or facilities:

1. - 3. ...
4. hospice providers or inpatient hospice facilities;
5. outpatient abortion facilities; and
6. pediatric day health care facilities.

D. - F.4. ...

G. Additional Grandfather Provision. An approval shall be deemed to have been granted under FNR without review for HCBS providers, ICFs-DD, ADHC providers, hospice providers, outpatient abortion facilities, and pediatric day health care centers that meet one of the following conditions:

1. - 3. ...

4. hospice providers that were licensed, or had a completed initial licensing application submitted to the department, by March 20, 2012;

5. outpatient abortion facilities which were licensed by the department on or before May 20, 2012; or

6. pediatric day health care providers that were licensed by the department before March 1, 2014, or an entity that meets all of the following requirements:

a. has a building site or plan review approval for a PDHC facility from the Office of State Fire Marshal by March 1, 2014;

b. has begun construction on the PDHC facility by April 30, 2014, as verified by a notarized affidavit from a licensed architect submitted to the department, or the entity had a fully executed and recorded lease for a facility for the specific use as a PDHC facility by April 30, 2014, as verified by a copy of a lease agreement submitted to the department;

c. submits a letter of intent to the department's Health Standards Section by April 30, 2014, informing the department of its intent to operate a PDHC facility; and

d. becomes licensed as a PDHC by the department no later than December 31, 2014.

H. - H.2....

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Repealed and repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:808 (August 1995), amended LR 28:2190 (October 2002), LR 30:1483 (July 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 34:2612 (December 2008), amended LR 35:2437 (November 2009), LR 36:323 (February 2010), LR 38:1593 (July 2012), LR 38:1961 (August 2012), LR 40:

#### **Subchapter B. Determination of Bed, Unit, Facility or Agency Need**

#### **§12508. Pediatric Day Health Care Providers**

A. No PDHC provider shall be licensed to operate unless the FNR Program has granted an approval for the issuance of a PDHC provider license. Once the FNR Program approval is granted, a PDHC provider is eligible to be licensed by the department, subject to meeting all of the requirements for licensure.

B. For purposes of facility need review, the service area for a proposed PDHC shall be within a 30 mile radius of the proposed physical address where the provider will be licensed.

#### **C. Determination of Need/Approval**

1. The department will review the application to determine if there is a need for an additional PDHC provider in the geographic location and service area for which the application is submitted.

2. The department shall grant FNR approval only if the FNR application, the data contained in the application, and other evidence effectively establishes the probability of serious, adverse consequences to recipients' ability to access health care if the provider is not allowed to be licensed.

3. In reviewing the application, the department may consider, but is not limited to, evidence showing:

a. the number of other PDHC providers in the same geographic location, region, and service area servicing the same population; and

b. allegations involving issues of access to health care and 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 health care if the provider is not allowed to be licensed. The department shall not grant any FNR approvals if the application fails to provide such data and evidence.

D. Applications for approvals of licensed providers 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 site and location as defined in the application. FNR approval of licensed providers shall expire if these aspects of the application are altered or changed.

E. FNR approvals for licensed providers are non-transferable and are limited to the location and the name of the original licensee.

1. A PDHC provider undergoing a change of location in the same licensed service area shall submit a written attestation of the change of location and the department shall re-issue the FNR approval with the name and new location. A PDHC provider undergoing a change of location outside of the licensed service area shall submit a new FNR application and appropriate fee and undergo the FNR approval process.

2. A PDHC provider undergoing a change of ownership shall submit a new application to the department's FNR Program. FNR approval for the new owner shall be granted upon submission of the new application and proof of the change of ownership, which must show the seller's or transferor's intent to relinquish the FNR approval.

3. FNR Approval of a licensed provider shall automatically expire if the provider is moved or transferred to another party, entity or location without application to and approval by the FNR program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

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

#### **Title 50**

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

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

#### **Subpart 19. Pediatric Day Health Care Program**

#### **Chapter 275. General Provisions**

#### **§27503. Recipient Criteria**

A. In order to qualify for PDHC services, a Medicaid recipient must meet the following criteria. The recipient must:

1. be from birth up to 21 years of age;

2. require ongoing skilled medical care or skilled nursing care by a knowledgeable and experienced licensed professional registered nurse (RN) or licensed practical nurse (LPN);

3. have a medically complex condition(s) which require frequent, specialized therapeutic interventions and close nursing supervision. Interventions are those medically necessary procedures provided to sustain and maintain health and life. Interventions required and performed by individuals other than the recipient's personal care giver would require the skilled care provided by professionals at PDHC centers. Examples of medically necessary interventions include, but are not limited to:

a. suctioning using sterile technique;

b. provision of care to a ventilator dependent and/or oxygen dependent recipients to maintain patent airway and adequate oxygen saturation, inclusive of physician consultation as needed;

c. monitoring of blood pressure and/or pulse oximetry level in order to maintain stable health condition and provide medical provisions through physician consultation;

d. maintenance and interventions for technology dependent recipients who require life-sustaining equipment; or

e. complex medication regimen involving, and not limited to, frequent change in dose, route, and frequency of multiple medications, to maintain or improve the recipient's health status, prevent serious deterioration of health status and/or prevent medical complications that may jeopardize life, health or development;

4. have a medically fragile condition, defined as a medically complex condition characterized by multiple, significant medical problems that require extended care. Medically fragile individuals are medically complex and potentially dependent upon medical devices, experienced medical supervision, and/or medical interventions to sustain life;

a. medically complex may be considered as chronic, debilitating diseases or conditions, involving one or more physiological or organ systems, requiring skilled medical care, professional observation or medical intervention;

b. examples of medically fragile conditions include, but are not limited to:

- i. severe lung disease requiring oxygen;
- ii. severe lung disease requiring ventilator or tracheotomy care;
- iii. complicated heart disease;
- iv. complicated neuromuscular disease; and
- v. unstable central nervous system disease;

5. have a signed physician's order, not to exceed 180 days, for pediatric day health care by the recipient's physician specifying the frequency and duration of services; and

6. be stable for outpatient medical services.

B. If the medical director of the PDHC facility is also the child's prescribing physician, the Department reserves the right to review the prescription for the recommendation of the child's participation in the PDHC Program.

1. - 1.j. Repealed.

C. Re-evaluation of PDHC services must be performed, at a minimum, every 120 days. This evaluation must include a review of the recipient's current medical plan of care and provider agency documented current assessment and progress toward goals.

D. A face-to-face evaluation shall be held every four months by the child's prescribing physician. Services shall be revised during evaluation periods to reflect accurate and appropriate provision of services for current medical status.

E. Physician's orders for services are required to individually meet the needs of each recipient and shall not be in excess of the recipient's needs. Physician orders prescribing or recommending PDHC services do not, in themselves, indicate services are medically necessary or indicate a necessity for a covered service. Eligibility for participation in the PDHC Program must also include meeting the medically complex provisions of this Section.

F. When determining the necessity for PDHC services, consideration shall be given to all of the services the recipient may be receiving, including waiver services and other community supports and services. This consideration must be reflected and documented in the recipient's treatment plan.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1557 (July 2010), amended LR 40:

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

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

Kathy H. Kliebert  
Secretary

1404#064

## DECLARATION OF EMERGENCY

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

State Children's Health Insurance Program  
Coverage of Prenatal Care Services  
(LAC 50:III.20301 and 20303)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.20301 and 20303 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule which adopted provisions to expand coverage to children under Title XXI of the Social Security Act by implementing a stand-alone State Children's Health Insurance Program (SCHIP) to provide coverage of prenatal care services to low-income, non-citizen women and to clarify the service limits and prior authorization criteria for SCHIP prenatal care services (*Louisiana Register*, Volume 35, Number 1).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the January 20, 2009 Rule in order to include Medicaid coverage for the unborn child(ren) of any pregnant woman with income between 138 percent and 214 percent of the Federal Poverty Level (FPL) (*Louisiana Register*, Volume 40, Number 1). The department now proposes to amend the December 31, 2013 Emergency Rule in order to clarify these provisions. This action is being taken to promote the health and welfare of pregnant women by increasing access to prenatal care services that will support better health outcomes for babies.

Effective April 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the December 31, 2013 Emergency Rule governing the State Children's Health Insurance Program coverage of prenatal care services.

#### **Title 50**

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

#### **Part III. Eligibility**

#### **Subpart 11. State Children's Health Insurance Program**

#### **Chapter 203. Prenatal Care Services**

#### **§20301. General Provisions**

A. ...

B. Effective December 31, 2013, coverage of SCHIP prenatal care services shall be expanded to include any pregnant woman with income between 138 percent and 214 percent of the FPL.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:72 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

#### **§20303. Eligibility Criteria**

A. - B. ...

C. Recipients must have family income at or below 214 percent of the FPL.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:72 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

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

Kathy H. Kliebert  
Secretary

1404#065

### **DECLARATION OF EMERGENCY**

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

State Children's Health Insurance Program  
LaCHIP Affordable Plan Benefits Administration  
(LAC 50:III.20501, 20505 and 20507)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.20501 and §20505-20507 in the Medical Assistance Program as

authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to implement phase five of the Louisiana Children's Health Insurance Program (LaCHIP) as a stand-alone program under Title XXI provisions to provide coverage to uninsured children whose family income is from 200 percent up to 250 percent of the Federal Poverty Level (*Louisiana Register*, Volume 34, Number 4).

The department promulgated an Emergency Rule which amended the April 2008 Rule in order to transfer the administration of health care services covered under the LaCHIP Affordable Plan (Phase 5) to the health plans participating in the BAYOU HEALTH Program, and the administration of behavioral health services to the Statewide Management Organization in the Louisiana Behavioral Health Partnership (*Louisiana Register*, Volume 38, Number 12).

This Emergency Rule also revised the cost sharing provisions in order to remove the co-payment, co-insurance, and deductible requirements since they will no longer be attributable to the LaCHIP Affordable Plan Program. Only the monthly premium per household shall apply. This Emergency Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs, and to promote the health and welfare of LaCHIP Affordable Plan recipients.

Effective April 30, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the LaCHIP Affordable Plan in order to transfer the administration of these services to the BAYOU HEALTH Program and the Louisiana Behavioral Health Partnership.

#### **Title 50**

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

#### **Part III. Eligibility**

#### **Subpart 11. State Children's Health Insurance Program**

#### **Chapter 205. Louisiana Children's Health Insurance**

#### **Program (LaCHIP)—Phase V**

#### **§20501. General Provisions**

A. ...

B. The Department retains the oversight and management of this LaCHIP expansion with health care benefits provided through the BAYOU HEALTH Program and behavioral health services provided through the Louisiana Behavioral Health Partnership (LBHP).

C. Phase five is a cost-sharing program. Families who are enrolled in phase five of LaCHIP will be responsible for paying premiums.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:



### §20505. Covered Services

A. Children covered in phase five of the LaCHIP expansion shall receive health care benefits through an array of covered services offered by health plans participating in the BAYOU HEALTH Program, and behavioral health services administered by the Statewide Management Organization under the LBHP. The following services shall be included:

1. - 8. ...
9. inpatient and outpatient behavioral health services other than those listed in any other provisions of §20503:
- 9.a. - 10. ...
11. nursing care services;
  - a. Repealed.
12. ...
13. inpatient substance abuse treatment services, including residential substance abuse treatment services:
  - a. Inpatient admissions must be pre-certified. Emergency services are covered if, upon review, presentation is determined to be life-threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;
  - b. ...
14. outpatient substance abuse treatment services:
  - a. all services must be pre-certified;
  - b. ...
15. case management services;
  - a. Repealed.
16. - 16.a. ...
17. hospice care;
  - a. Repealed.
18. medical transportation; and
  - a. Repealed.
19. ...

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

### §20507. Cost Sharing

A. Phase five of LaCHIP is a cost-sharing program with premiums limited to no more than 5 percent of the family's annual income.

B. The following cost-sharing criteria shall apply.

1. - 1.a. ...
2. - 3.e. Repealed.

C. Non-payment of premiums may result in disenrollment from LaCHIP. Recipients shall be allowed a 60-day grace period prior to disenrollment for non-payment.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:661 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Secretary

1404#074

### DECLARATION OF EMERGENCY

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

State Children's Health Insurance Program  
Modified Adjusted Gross Income  
(LAC 50:III.20103)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.20103 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Section 1004(a)(2) of the Patient Protection and Affordable Care Act (ACA) of 2010 and Section 36B (d)(2)(B) of the *Internal Revenue Code* mandate that Medicaid eligibility use the Modified Adjusted Gross Income (MAGI) methodology for eligibility determinations for certain eligibility groups. In compliance with the ACA and *Internal Revenue Code*, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing Medicaid eligibility to adopt the MAGI methodology for eligibility groups covered under Title XIX (Medicaid) and Title XXI (Children's Health Insurance Program) of the Social Security Act (*Louisiana Register*, Volume 40, Number 1). The department also adopted provisions which allow qualified hospitals to make determinations of presumptive eligibility for individuals who are not currently enrolled in Medicaid.

The department now proposes to amend the provisions of the December 31, 2013 Emergency Rule in order to make technical revisions to ensure that these provisions are appropriately promulgated in a clear and concise manner. The provisions governing the MAGI eligibility changes for the Louisiana Children's Health Insurance Program (LaCHIP) are being repromulgated independent of the provisions governing the Title XIX eligibility groups.

This action is being taken to avoid federal sanctions. It is expected that implementation of this Emergency Rule will not have programmatic costs for state fiscal year 2013-2014.

Effective April 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the December 31, 2013 Emergency Rule governing Medicaid eligibility which adopted the Modified Adjusted Gross Income (MAGI) methodology.

**Title 50**  
**PUBLIC HEALTH—MEDICAL ASSISTANCE**  
**Part III. Eligibility**  
**Subpart 11. State Children’s Health Insurance Program**  
**Chapter 201. Louisiana Children’s Health Insurance**  
**Program (LaCHIP) - Phases 1-3**

**§20103. Eligibility Criteria**

A. - A.1....  
2. are from families with income at or below 217 percent of the federal poverty level; and

A.3. - D.1.f. ...  
E. Effective December 31, 2013 eligibility for LaCHIP shall be determined by Modified Adjusted Gross Income (MAGI) methodology in accordance with Section 1004(a)(2) of the Patient Protection and Affordable Care Act (ACA) of 2010 and Section 36B (d)(2)(B) of the Internal Revenue Code.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:659 (April 2008), amended by the Department of Health and Hospitals, LR 40:

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

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to [medicaidPolicy@la.gov](mailto:medicaidPolicy@la.gov). Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert  
Secretary

1404#066

**DECLARATION OF EMERGENCY**

**Department of Health and Hospitals**  
**Office of Public Health**

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

The Department of Health and Hospitals, Office of Public Health (DHH/OPH), pursuant to the rulemaking authority granted to the secretary of DHH by R.S. 40:962(C) and (H), hereby adopts the following Emergency Rule for the protection of public health. This Rule is being promulgated

in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.), effective March 20, 2014.

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

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part LIII. Pharmacists**

**Chapter 27. Controlled Dangerous Substances**  
**Subchapter A. General Provisions**

**§2704. Added Controlled Dangerous Substances**

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

1. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide;
2. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide;
3. N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide;
4. N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide;
5. N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide;
6. (1-(5-fluoropentyl)-1H-benzimidazol-2-yl)(naphthalen-1-yl) methanone;
7. (4-methylpiperazin-1-yl)(1-pentyl-1H-indol-3-yl) methanone; and
8. Naphthalen-1-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 40:

Kathy H. Kliebert  
Secretary

1404#005

# Rules

## RULE

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Agricultural Chemistry and Seed Commission

#### Seeds (LAC 7:XIII.Chapters 1-11)

In accordance with R.S. 49:953, the Department of Agriculture, Office of Agriculture and Environmental Sciences, Agricultural Chemistry and Seed Commission intends to amend LAC 7:XIII.Chapters 1-11. This action has amended rules and regulations to incorporate the merger of the Feed, Fertilizer, and Agricultural Liming Commission and the Seed Commission by Act 26, 2013; repeals duplicative or obsolete provisions; stays abreast of changes in industry standards for certifying the seeds of California Bullrush, Sea Oats, and Smooth Cordgrass; and makes the rules and regulations easier for the public and the industry to use and understand.

The changes are shown in the following table, which is not a part of the revisions being made to the rules and regulations.

Table of Changes Made by Revision of LAC 7:XIII.Seeds	
Section	Summary
§101	Clarifies definitions applicable to Part XIII and defines La. Seed Law
§103	Allows extension of time to act on request for rule change with requestor's consent and grammatical changes
§105	Allows extension of time to act on request for declaratory ruling
§107	Repeal of moot regulation
§121	Changes "department" to "LDAF"
§123	Changes "inspection fee" to "regulatory fee" to conform to R.S. 3:1448, makes Grammatical and formatting changes
§125	Changes "department" to "LDAF" and grammatical and formatting changes
§131	Requires labels to be in English; moved §131.G to §135.C; revised wording related to testing and labeling to make the intent clear and more precise; grammatical changes to coordinate language in the regulation with language in the Seed Law; and to make formatting changes
§133	Grammatical changes
§135	Track language in Seed Law as to persons required to keep records; included vegetable seeds and seed containers in record keeping requirements; grammatical and formatting changes; and inserted §131.G as §135.C
§145	Repealed §145 because duplicate of §109
§301	Specify acts which, under the Seed Law, are violations subject to civil penalties

Table of Changes Made by Revision of LAC 7:XIII.Seeds	
Section	Summary
§303	Repealed because procedure for holding adjudicatory hearing is in the Seed Law.
§501	References definitions in §101; changes section number reference to reflect change in section numbers under repromulgation; deletes reference to old Seed Commission
§503	Formatting changes; changes "department" to "LDAF"
§505	to reflect change in section numbers under repromulgation
§507	Changes "Department of Agriculture and Forestry" or "Department" to "LDAF"
§511	Deletes reference to old Seed Commission
§513	Changes "Department of Agriculture and Forestry" to "LDAF"
§515	Delete limitation of sampling to moisture and germination to reflect industry changes; deletes second sample requirement; deletes reference in §515.F.2 to a fee that was changed in 2003 and moved to §125.F; format
§517	Changes "Department of Agriculture and Forestry" to "LDAF"
§519	Delete obsolete word "seedsmen" to be replaced by more precise terminology; changes "Department of Agriculture and Forestry" to "LDAF"
§521	Requires retail outlets to have LDAF approved procedure for handling bulk certified seed; grammatical and formatting changes; changes "Department of Agriculture and Forestry" to "LDAF"
§715	Changes certification standards for California Bulrush seed to meet current industry standards
§717	Changes certification standards for Sea Oats seed to meet current industry standards
§719	Changes certification standards for Smooth Cordgrass seed to meet current industry standards
§723	Changes "Department of Agriculture and Forestry" to "LDAF"
§741	Changes "Department of Agriculture and Forestry" to "LDAF"
§761	Changes "Department of Agriculture and Forestry" to "LDAF"
§785	Changes "Department of Agriculture and Forestry" to "LDAF"
§903	Deletes terms defined by the Seed Law or §101 of Part XIII; Changes "Department of Agriculture and Forestry" to "LDAF"
§905	Deletes reference to old Seed Commission
§907	Changes "Department of Agriculture and Forestry" to "LDAF"
§909	Changes "state entomologist" to "LDAF" changes "state entomologist" to "LDAF"
§911	Changes the time and date for testing and
§1101	Changes "Department" to "LDAF"
§1103	Changes "Department" to "LDAF"
§1105	Changes "Department of Agriculture and Forestry" and "department" to "LDAF"
§1107	Changes "Department" to "LDAF"
§1111	Changes "Department" to "LDAF"

**Title 7**  
**AGRICULTURE AND ANIMALS**  
**Part XIII. Seeds**

**Chapter 1. General Provisions**  
**Subchapter A. Definitions; Administrative Matters**

**§101. Definitions**  
**(Formerly §101)**

A. The definitions in R.S. 3:1331 and the following definitions are applicable to this Part.

\* \* \*

*Seed Gathered in Elevators*—seed gathered in elevators or other establishments to be sold for planting purposes by farmers or other persons who are subject to the provisions of the Seed Law or the rules and regulations in this Part.

*Seed Law*—R.S. 3:1431 et seq.

\* \* \*

B. The terms defined in R.S. 3:1331 and in this Section have the meaning herein given to them, except where a rule or regulation or the context expressly indicates otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:104 (April 1978), amended, LR 12:825 (December 1986), LR 36:1220 (June 2010), LR 37:270 (January 2011), LR 39:1757 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:744 (April 2014).

**§103. Request for Adoption, Amendment, or Repeal of a Rule**  
**(Formerly §239)**

A. - C. ...

D. The commission shall consider the request as follows:

1. A request for rule change shall be considered by the commission within a reasonable time, not to exceed 90 days, unless the requesting party consents to the matter being deferred for a longer period of time.

2. Notice of the meeting at which the request is to be considered shall be provided to the person submitting the request.

3. Failure of the requesting party to attend the meeting for purposes of discussing the proposed rule change may be cause for the request to be denied by the commission.

4. The request, with the consent of the requesting party, may be taken under consideration or action deferred.

a. If the matter is taken under consideration or action is deferred then it will be taken up and acted upon at the next regularly scheduled meeting of the commission or at a special meeting of the commission to be held before the next regularly scheduled meeting, as agreed upon between the requesting party and the commission.

E. Any decision by the commission shall be in writing and shall state the reasons for the denial or action being taken. Such notice may be delivered by hand, mail, electronically or by any other means reasonably assured to provide notice to the requesting party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 49:953(C).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 39:1763 (July 2013), repromulgated by the Department of Agriculture and Forestry,

Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:744 (April 2014).

**§105. Procedure for Declaratory Orders and Rulings**  
**(Formerly §241)**

A. - C. ...

D. The commission shall consider the request as follows.

1. The request shall be considered by the commission within a reasonable time, not to exceed 90 days, unless the requesting party consents to the matter being deferred for a longer period of time.

2. ...

3. Failure of the requesting party, after notice, to attend any hearing or meeting regarding the request may be cause for the request to be denied.

4. The request, with the consent of the requesting party, may be taken under consideration or action deferred by the commission. If the matter is taken under consideration or action is deferred then it will be taken up and acted upon at the next regularly scheduled meeting of the commission or at a special meeting of the commission to be held before the next regularly scheduled meeting, as agreed upon between the requesting party and the commission.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433, R.S. 49:962 and R.S. 49:963(D).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 39:1763 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:744 (April 2014).

**§107. Repeal of Prior Rules and Regulations of the Seed Commission**  
**(Formerly §237)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), repealed LR 40:744 (April 2014).

**§109. List of Noxious Weeds and Limitations on Noxious Weed Seed**

A. The weeds listed in the following table are designated as noxious weeds. The seed of any noxious weed is permitted to be in seed sold, distributed, or offered or handled for sale only as provided in the limitation column of the table, except as otherwise provided in Subsection B.

List of Noxious Weeds and Seed Limitations		
	Name	Limitations
1.	Tropical Soda Apple ( <i>Solanum viarum</i> )	Prohibited
2.	Field Bindweed ( <i>Convolvulus arvensis</i> )	Prohibited
3.	Hedge Bindweed ( <i>Convolvulus sepium</i> )	Prohibited
4.	Nutgrass ( <i>Cyperus esculentus</i> , <i>C. rotundus</i> )	Prohibited
5.	Itchgrass ( <i>Rottboellia exaltata</i> , L., <i>R. cochinchinensis</i> )	Prohibited
6.	Balloon Vine ( <i>Cardiospermum halicacabum</i> )	Prohibited
7.	Cocklebur ( <i>Xanthium</i> spp.)	5 per lb.
8.	Spearhead ( <i>Rhynchospora</i> spp.)	5 per lb.

List of Noxious Weeds and Seed Limitations	
Name	Limitations
9. Purple Moonflower ( <i>Ipomoea turbinata</i> )	9 per lb.
10. Red Rice ( <i>Oryza sativa</i> var.)	9 per lb.
11. Wild Onion and/or Wild Garlic ( <i>Allium</i> spp.)	9 per lb.
12. Canada Thistle ( <i>Cirsium arvense</i> )	100 per lb.
13. Dodder ( <i>Cuscuta</i> spp.)	100 per lb.
14. Johnsongrass ( <i>Sorghum halepense</i> )	100 per lb.
15. Quackgrass ( <i>Agropyron repens</i> )	100 per lb.
16. Russian Knapweed ( <i>Centaurea repens</i> )	100 per lb.
17. Blueweed, Texas ( <i>Helianthus ciliaris</i> )	200 per lb.
18. Grass, Bermuda ( <i>Cynodon dactylon</i> )	300 per lb.
19. Bracted Plantain ( <i>Plantago aristata</i> )	300 per lb.
20. Buckhorn Plantain ( <i>Plantago lanceolata</i> )	300 per lb.
21. Cheat ( <i>Bromus secalinus</i> )	300 per lb.
22. Hairy Chess ( <i>Bromus commutatus</i> )	300 per lb.
23. Corncockle ( <i>Agrostemma githago</i> )	300 per lb.
24. Darnel ( <i>Lolium temulentum</i> )	300 per lb.
25. Dock ( <i>Rumex</i> spp.)	300 per lb.
26. Horsenettle ( <i>Solanum carolinense</i> )	300 per lb.
27. Purple Nightshade ( <i>Solanum elaeagnifolium</i> )	300 per lb.
28. Sheep Sorrel ( <i>Rumex acetosella</i> )	300 per lb.
29. Morning Glory ( <i>Ipomoea</i> spp.)	18 per lb.
30. Wild Poinsettia ( <i>Euphorbia heterophylla</i> , <i>E. dentata</i> )	18 per lb.
31. Wild Mustard and Wild Turnips ( <i>Brassica</i> spp.)	300 per lb.
32. Hemp Sesbania, Coffeebean, Tall Indigo ( <i>Sesbania exaltata</i> )	300 per lb.
33. Curly Indigo ( <i>Aeschynomene virginica</i> )	300 per lb.
34. Mexican Weed ( <i>Caperonia castaneaefolia</i> )	300 per lb.
Sum of Total Noxious Weed (Subject to limitations above)	500 per lb.

B. If the noxious weed or weed seed restrictions set out in Chapter 7 of this Part for a field or seed being certified is more restrictive than the limitations in the table in Section A or if any of those rules and regulations provides for limitations on weeds not listed in the table then the rules and regulations in Chapter 7 for that specific crop kind or variety supersedes the limitations listed in the table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended LR 5:96 (May 1979), LR 7:285 (June 1981), LR 8:563 (November 1982), LR 9:197, 206 (April 1983), amended, LR 12:825 (December 1986), LR 14:605 (September 1988), LR 23:1282 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Seed Commission, LR 30:199 (February 2004), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2704 (October 2013), amended LR 40:744 (April 2014).

#### Subchapter B. Fees

##### §121. License Fee; Laboratory and Sampling Fees (Formerly §113)

A. ...

B. The following laboratory and sampling fees shall be applicable to all seed testing conducted by LDAF:

1. - 10. ...

11. service sample taken by LDAF inspector: \$15 per sample; and

12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended

LR 7:164 (April 1981), amended, LR 12:825 (December 1986), LR 14:603 (September 1988), LR 29:2632 (December 2003), LR 36:1220 (June 2010), LR 37:1373 (May 2011), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:745 (April 2014).

##### §123. Regulatory Fee on Seeds (Formerly §115)

A. A regulatory fee of \$0.20 for each 100 pounds of agricultural and vegetable seed sold, within this state shall be paid to the commission. The regulatory fee shall be due at the first point of sale in this state. However, the payment of a regulatory fee is not required upon the sale of Louisiana certified tagged seed upon which the regulatory fee has already been paid.

B. All seed dealers shall maintain accurate and legible records for all seeds sold, distributed, or offered or handled for sale in this state. These records shall include the following information for each lot of seed:

1. any identification of each lot;
2. the kind and variety of seed in the lot;
3. the number of pounds of seed in the lot; and
4. for each lot sold or distributed, the invoice number, weight, lot number, number of containers, and name of the person receiving the seed.

C. Each seed dealer shall file a quarterly report with LDAF on a form approved by the commission and submit the inspection fees collected during that quarter.

1. The reports shall cover the following periods: 1st quarter—July, August, September; 2nd quarter—October, November, December; 3rd quarter—January, February, March; 4th quarter—April, May, June.

2. Reports and fees shall be filed with LDAF no later than 30 days following the end of each quarter. If a seed dealer has no sales during the quarterly reporting period the LDAF must be notified accordingly.

D. LDAF may assess a 10 percent additional charge as a late payment for failure to timely pay any inspection fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Seed Commission, LR 14:603 (September 1988), amended LR 29:2632 (December 2003), LR 38:1558 (July 2012), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:745 (April 2014).

##### §125. Certification, Field Inspection, and Sampling Fees (Formerly §143)

A. All fees shall be paid before the requested work is performed, as follows.

1. All application fees and fees for inspections, re-inspections, sampling and re-sampling shall be paid at the time the application or request for work is submitted to LDAF, except for those crop kinds where the fee is based on an hourly rate and mileage.

A.2. - C.1. ...

2. for the following species, California bulrush, sea oats, and smooth cordgrass:

a. an hourly fee of \$25 per hour per inspector for each inspection and

b. mileage for travel to and from inspection location at the mileage reimbursement rate established by the Division of Administration's state travel regulations;

3. - 6.b. ...

c. seed storage inspection:

i. a fee of \$25 per hour, per inspector for each seed sweet potato storage inspection, and

ii. mileage for travel to and from the inspection location mileage reimbursement rate established by the Division of Administration's state travel regulations.

C.7. - H.1.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 10:495 (July, 1984); amended by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), LR 14:604 (September 1988), LR 16:847 (October 1990), LR 25:1617 (September 1999), LR 26:235 (February 2000), LR 29:2632 (December 2003), LR 31:420 (February 2005), LR 31:1511 (July 2005), LR 34:2339 (November 2008), LR 37:2979 (October 2011), LR 38:1558 (July 2012), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:745 (April 2014).

**Subchapter C. Labels; Records; Samples; Tolerances; Standards; Noxious Weed Seed**

**§131 Analysis Test; Labeling of Seed (Formerly §121)**

A. Every person whose name appears on the label of seed, except persons exempt pursuant to the authority of R.S. 3:1445, and who sells, transports, distributes, or offers or handles for sale agricultural, or vegetable, shall have a complete analysis test performed on the seed by a registered seed technologist or an official state seed analyst prior to the seed being sold, distributed or offered or handled for sale in Louisiana.

B. Information required to be shown on the label by R.S. 3:1436 or this Part shall be in the English language and in type that is no smaller than eight point.

C. Seed treated with a mercurial or similarly toxic substance that is harmful to humans or other vertebrate animals, if any residue remains in or on the seed, shall be labeled in type no smaller than eight points and shall be in red letters on a distinctly contrasting background. In addition, the label shall show a representation of a skull and crossbones using at least 16 point type.

D. Seed treated with a substance harmful to humans or other vertebrate animals, other than a mercurial or similarly toxic substance, and which is in containers of four ounces or less does not need to contain a cautionary statement on the label.

E. The following substances shall not be deemed harmful if present at a rate less than the number of parts per million (ppm) indicated:

- 1. allethrin, 2ppm;
- 2. malathion, 8ppm;
- 3. methoxychlor, 2ppm; piperonyl butoxide, 8ppm on oat and sorghum and 20ppm on all other seeds; and
- 4. pyrethrins, 1ppm on oat and sorghum and 3ppm on all other seeds.

E. Seeds labeled "foundation seed," "registered seed" or "certified seed," shall not be sold, distributed, or offered or handled for sale in this state unless the seed has been produced and labeled in compliance with this Part and the procedures and protocols of a seed certifying agency approved by the commissioner.

F. When more than one component is required to be named on the label, the word "mixture" or the word "mixed" shall be shown conspicuously on the label.

G. The label on hybrid corn shall show the state where grown.

H. The name and kind of variety of seed shall not be abbreviated on the label, but shall be written out in full.

I. No seed shall be sold or offered for sale more than nine months, inclusive of the month of testing, after the date on any germination label applicable to the seed or seed lot. For all vegetable seed packaged in hermetically sealed containers, this period shall be extended to 24 months, inclusive of the month of testing.

1. The owner or distributor of the seed shall be responsible for relabeling the seed after expiration of the germination test date period to state the true germination date after the seed has been retested.

2. A new tag or label shall be used to state the true germination date. The original tag shall not be changed in any way.

J. Each package of coated seed shall have the following additional information on the front of the package which shall be set forth in a clear and conspicuous manner so that the ultimate purchaser is able to read the information easily and without strain:

- 1. the words "coated seed;"
- 2. a statement giving the maximum amount of coating material contained within the package;
- 3. a statement referring purchaser to the product label for additional information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and 3:1436.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended, LR 12:825 (December 1986), LR 16:492 (June 1990), LR 37:270 (January 2011), LR 37:2979 (October 2011), LR 39:1757 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:746 (April 2014).

**§133. Tag Requirements (Formerly §111)**

A. The analysis tag shall be a Number 6 standard shipping tag, minimum size, and shall carry the information required by the Seed Law, arranged as follows.

Kind and Variety \_\_\_\_\_  
Where Grown \_\_\_\_\_ Net Wt. \_\_\_\_\_ Lot No. \_\_\_\_\_  
Pure Seed \_\_\_\_\_ Percent Germination \_\_\_\_\_ Percent  
Inert Matter \_\_\_\_\_ Percent Hard Seed \_\_\_\_\_ Percent  
Crop Seed \_\_\_\_\_ Percent Total Germ and Hard Seed \_\_\_\_\_ Percent  
Weed Seed \_\_\_\_\_ Percent Date of Test \_\_\_\_\_  
Name and No. of Noxious Weed Seed per lb. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1436 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:746 (April 2014).

**§135. Invoices and Records; Inspection of Records (Formerly §119)**

A. Each person selling, distributing, or offering or handling for sale agricultural or vegetable seed shall keep for a period of three years complete records of each container or lot of seed sold, distributed, or offered or handled for sale by that person. Complete records shall, at a minimum, include the information required in §123.A.2 of this Part.

B. These records shall be accessible for inspection by the commissioner, commissioner, or LDAF or their authorized agent at any time during customary business hours.

C. Trucks and other carriers transporting seed for delivery in this state shall have available for examination at any time a bill of lading, waybill or a delivery receipt showing:

1. the name of the shipper or party from whom purchased;
2. the name and address of the party to whom the seed is to be delivered;
3. the kind and amount of each separate lot of seed; and
4. the name of the truck line or owner and driver of the truck or other carrier transporting the seed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1435 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:747 (April 2014).

**§145. Noxious Weeds**

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended LR 5:96 (May 1979), LR 7:285 (June 1981), LR 8:563 (November 1982), LR 9:197, 206 (April 1983), amended, LR 12:825 (December 1986), LR 14:605 (September 1988), LR 23:1282 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Seed Commission, LR 30:199 (February 2004), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 40:747 (April 2014).

**Chapter 3. Enforcement of Law and Regulations**

**§301. Acts which Constitute Violations**

**(Formerly §151)**

A. The following acts shall be considered as violations under the Seed Law or this Part:

1. selling, distributing, or offering or handling for sale any agricultural or vegetable seed without registering with the commissioner as a seed dealer or maintaining a seed dealer's license;
2. failing to timely file any required report or pay any required regulatory fee on agricultural or vegetable seed sold within or into Louisiana;
3. selling, distributing, offering or handling for sale, or transporting, unless exempted under R.S. 3:1445, any agricultural or vegetable seed within or into this state which is not labeled in accordance with the Seed Law or this Part;
4. selling, distributing, offering or handling for sale, or transporting except for common carriers exempted under R.S. 3:1445, within or into this state, any agricultural or vegetable seed that is:
  - a. labeled in a false or misleading manner; or that is
  - b. advertised in a false or misleading manner; or that
  - c. contain conflicting labeling or label information;
5. failing to comply with a written stop order issued by an authorized agent of the commissioner, commission or LDAF;
6. failing to comply with labeling requirements when selling, distributing, or offering or handling for sale "treated" seed;
7. detaching, defacing, damaging, falsifying, altering or destroying any required label, certificate, seal, tape, test data, records or other documents provided for in the Seed Law or this Part unless any such action is performed by the ultimate consumer or end user of the seed after purchase by that person;
8. failing to keep accurate records or to make any such records available for inspection, as required by the Seed Law or this Part;
9. selling, distributing, or offering or handling for sale agricultural or vegetable seed as certified, registered or foundation class without being produced and labeled in compliance with the Seed Law or this Part;
10. representing a lot as "certified seed" without an official seed certifying agency label, tape, certificate or other approved documentation attached to or accompanying each container or shipment;
11. obstruct in any way the commissioner, the commission, LDAF or any of their authorized agents in the performance of their duties;
12. selling, distributing, offering or handling for sale, or transporting except for common carriers exempted under R.S. 3:1445, any agricultural or vegetable seed that has not been tested in accordance with the Seed Law or this Part;
13. using relabeling stickers without having both the calendar month and year that the germination test was completed and the lot number that exactly matches the original lot number;



14. failure of labeled seed to be within the limitations allowed or recognized tolerances of analysis on label;

15. failure to comply and obtain a written release of a stop order within the 30-day period required by R.S. 3:1440.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1444 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:567 (November 1982), amended LR 9:197 (April 1983), amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), Amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 40:747 (April 2014).

### **§303. Penalties; Adjudicatory Hearing Required (Formerly §153)**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1446 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:567 (November 1982), amended LR 9:197 (April 1983), amended by the Department of Agriculture and Forestry, Seed Commission LR 12:825 (December 1986), LR 29:2633 (December 2003), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), repealed by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 40:748 (April 2014).

## **Chapter 5. General Seed Certification Requirements**

### **§501. Definitions also Applicable to this Chapter (Formerly §125)**

\* \* \*

*Noxious or prohibited Weeds*—all weeds designated as noxious or prohibited weeds under §109.

*Off-Type (Mutations)*—plants or seeds which deviate in one or more characteristics from the breeder description filed with LDAF.

\* \* \*

*Other Weeds/Weed Seeds*—all weeds and/or weed seeds which have not been designated as noxious weeds by the Commission.

\* \* \*

*Weight Unit*—unit of measure, designated by the Commission, based on the most common industry accepted packaging weight in pounds for a specific commodity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and 3:1436.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:564 (November 1982), amended, LR 12:825 (December 1986), LR 20:642 (June 1994), LR 31:420 (February 2005), LR 37:2979 (October 2011), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:748 (April 2014).

### **§503. Classes of Seed (Formerly §123)**

A. The following classes of seed are recognized for purposes of this Chapter.

1. *Breeder Seed (White Tag)*—seed directly controlled by the originating or sponsoring plant breeding institution,

firm or individual which is the source for the production of seed of the certified classes.

2. *Foundation Seed (White Tag)*—progeny of breeder or foundation seed, handled so as to maintain specific genetic purity and identity, production of which must be acceptable to LDAF.

3. *Registered Seed (Purple Tag)*—progeny of breeder or foundation seed, handled under procedures acceptable to LDAF to maintain satisfactory genetic purity and identity.

4. *Certified Seed (Blue Tag)*—progeny of breeder, foundation or registered seed, handled under procedures acceptable to LDAF to maintain satisfactory genetic purity and identity.

5. *Tree Seed*—

a. *Certified Tree Seed (Blue Tag)*—seed from trees of proven genetic superiority, produced so as to assure genetic identity. Seeds from interspecific hybrids of forest trees may be included.

b. *Selected Tree Seed (Green Tag)*—progeny of rigidly selected trees or stands of untested parentage that have promise but not proof of genetic superiority and for which geographic source and elevation is stated on the label.

c. *Source-Identified Tree Seed (Yellow Tag)*—seed from a natural stands with known geographic source and elevation, or plantations of known geographic origin and which is acceptable to LDAF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:564 (November 1982), amended by the Department of Agriculture and Forestry, Seed Commission, LR 12:825 (December 1986), LR 31:1510 (July 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:748 (April 2014).

### **§505. General Requirements for Certification (Formerly §127)**

A. The crop or variety to be certified must have been approved for certification by LDAF.

B. The originator, developer, owner, or agent seeking to have the crop or variety of seed certified shall provide the following information to LDAF.

1. the name of the variety;

2. a statement concerning the variety's origin and the breeding procedure used in its development;

3. a detailed description of the morphological, physiological and other characteristics of the plants and seed that distinguish it from other varieties;

4. evidence supporting the identity of the variety, such as comparative yield data, insect and disease resistance, or other factors supporting the identity of the variety;

5. a statement delineating the geographic area or areas of adaptation of the variety;

6. a statement on the plans and procedures for the maintenance of seed classes, including the number of generations through which the variety may be multiplied;

7. a description of the manner in which the variety is constituted when a particular cycle of reproduction or multiplication is specified;

8. any additional restrictions on the variety specified by the breeder, with respect to geographic area of seed



production, age of stand or other factors affecting genetic purity;

9. a sample of seed representative of the variety as marketed.

C. To be certified, all crops and/or varieties must conform to:

1. all general requirements for certification; and

2. all specific requirements for certification of a particular crop or variety. (See §§701-811 for specific requirements. In §§701-811, the percentages shown for pure seed and germination are the minimum acceptable levels of performance required for certification; the percentages shown for all other factors are maximum allowable percentages.)

D. The grower must submit the application described in §507 on or before the date specified in §509 for the crop or variety to be certified. (See §507.B and §125.B for provisions concerning late applications.)

E. The crop or variety to be certified must be of breeder, foundation or registered seed, or seed approved by the commission.

F. The grower must maintain genetic purity during seeding, production, harvesting, storage, conditioning and labeling.

G. The grower must hand-rogue all off-type plants, varietal mixtures, noxious weeds or any other plants producing seed that are inseparable from seed of the crop or variety to be certified.

H. Other varieties or crops, volunteer plants and/or off-type plants cannot be present in the field, and seeds thereof cannot be present in seed to be certified, unless permitted under the specific certification standards for the crop or variety entered for certification. Noxious weeds are permitted in the field and seed thereof are permitted in seed to be certified, within the limitations specified in §109, unless a specific limitation on noxious weeds is contained in the specific requirements for the crop or variety entered for certification. (See §§701-811 for specific requirements.)

I. One or more field inspections will be made to determine genetic identity and purity. The crop or variety to be certified must be standing, reasonably free of weeds and of relatively uniform maturity at the time of field inspection(s). A copy of the field inspection report will be furnished to the grower.

J. All planting, harvesting, bin storage and cleaning equipment must be free of contamination by other seeds, insects, or plant diseases.

K. Storage facilities must be:

1. suitable for maintaining germination and varietal purity;

2. constructed so that a representative sample can be drawn; and

3. all such facilities are subject to approval by LDAF.

L. The grower must maintain complete records accounting for all production and final disposition of all certified seeds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:197 (April 1983), amended, LR 12:825 (December 1986), LR 20:642 (June 1994), LR 20:1257 (November 1994), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:748 (April 2014).

#### **§507. Application for Field Certification (Formerly §129)**

A. The grower must apply for certification on or before the application deadline shown in §509 for seed stock to be certified by LDAF. The grower must submit a completed application on the form provided by LDAF.

B. - C.3. ...

4. one sample tag from each lot number (If the grower plants seed of his own production, the class of seed and lot number shall be identified by documentation acceptable to LDAF); and

5. ...

D. It is the duty of the grower to notify LDAF at least two weeks prior to harvest of the anticipated harvest date for each field presented for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended, LR 12:825 (December 1986), LR 34:863 (May 2008), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:749 (April 2014).

#### **§511. Limitations on Generations (Formerly §133)**

A. - B.1. ...

2. one additional generation of certified seed may be permitted on a one-year basis when, prior to planting season, the Commission declares that there are insufficient supplies of foundation and registered seed to plant the needed acreage of the certified variety. Permission of the variety's originator, if existent, must be obtained. In this situation, the additional generation will not be eligible for recertification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:749 (April 2014).

#### **§513. Lot of Seed (Formerly §135)**

A. - C. ...

D. All seed must be bagged in new bags, unless other types of containers are approved by LDAF prior to bagging.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:195 (April 1983), amended, LR 12:825 (December

1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:749 (April 2014).

**§515. Seed Sampling  
(Formerly §137)**

A. - C.1. ...

2. A LDAF inspector will sample at random, by probing, a specific number of bags from each lot. The number of bags to be sampled from each lot is as follows: five bags, plus 10 percent of the total number, not to exceed 30 bags per lot. In lots containing six bags or less, every bag will be sampled.

D. Sampling of Bulk Seed

1. Cleaned Seed in Bulk

a. A LDAF inspector will collect a minimum of four samples, at intervals of 4 feet, by probing the entire depth of the bin or storage area.

b. All samples will be blended into one representative sample for each bin or storage area.

2. Uncleaned Seed in Bulk

a. A LDAF inspector will collect a minimum of four samples, at intervals of 4 feet, by probing the entire depth of the bin or storage area. All samples will be blended into one representative sample for each bin or storage area.

E. - F.1.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:195 (April 1983), amended, LR 12:825 (December 1986), LR 19:888 (July 1993), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:750 (April 2014).

**§517. Listing of Certified Seed Conditioning Plants  
(Formerly §139)**

A. Seed conditioning plants desiring to be listed in LDAF roster of seed conditioning plants must make a written application for inclusion on the list.

B. LDAF will issue certificates to all seed conditioning plants making application for inclusion on the listing, on an annual basis, each such certificate to expire on June 30 following date of issue.

C. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:196 (April 1983), amended, LR 12:825 (December 1986), LR 20:642 (June 1994), LR 31:35 (January 2005), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:750 (April 2014).

**§519. Processing of Certified Seed  
(Formerly §141)**

A. Bagging

1. All seed approved for certification must be packaged in new 100 pound containers or less, except as provided by this subsection.

2. Registered class of rice and small grains (wheat and oats):

a. new super-bags or Q-Bit bulk containers (or its equivalent as determined by LDAF);

b. each super-bag or Q-Bit container of registered seed must be sealed in an LDAF approved manner that prevents removal and re-attachment without tampering being obvious. Seals shall be attached after filling and/or sampling is completed.

3. Certified class of rice and small grains (wheat and oats):

a. new or reusable super-bags or Q-Bit bulk containers (or its equivalent as determined by LDAF). Reusable containers shall be cleaned in a manner approved by LDAF.

B. General Labeling Requirements

1. Each container, regardless of size, of all classes of certified seed offered for sale must bear an official certification label issued by the LDAF.

2. - 5. ...

6. The number of labels issued will be determined by the inspector's estimate of the quantity of seed at the time of sampling. All unused labels must be returned to LDAF.

7. Prelabeling

a. In order to permit owners or certifiers of seed to bag and label seed in advance of final laboratory reports, certification labels may be issued in advance. Such labels can be pre-issued upon receipt of completed field inspection reports showing that field production standards have been met. The state may grant a waiver on the movement of seed if an acceptable preliminary test is made on the seed lot. If pre-labeled lots fail laboratory analysis standards, all labels shall be destroyed or returned to the LDAF. Failure to comply with this regulation will result in suspension of future prelabeling privileges.

8. The official certification label may be printed directly on the container with prior approval of LDAF.

9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:196 (April 1983), amended, LR 12:825 (December 1986), LR 20:643 (June 1994), LR 31:35 (January 2005), LR 31:1510 (July 2005), LR 39:1758 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:750 (April 2014).

**§521. Bulk Certification Requirements  
(Formerly §147)**

A. Bulk certification shall be limited to the certified class of the following commodities:

1. small grains (wheat and oats);
2. rice.

B. Seed eligible for bulk certification shall meet all field and laboratory standards established for certified seed as specified in these regulations.

C. Seed certified in bulk shall not be eligible for recertification.

D. Seed certified in bulk shall only be sold by the applicant producer or by a retail facility approved by LDAF.

1. Each retail outlet shall have a procedure for handling bulk certified seed that is acceptable to LDAF for

the purpose of assuring genetic purity and that the identity of the seed is maintained.

E. The seed owner is responsible for making application for bulk certification to LDAF and for securing LDAF's approval to use the facility in which the seed will be stored prior to storage of the seed at the facility.

F. Storage Requirements

1. A separate storage bin shall be available for each variety that will be sold in bulk.

2. Storage bins shall be constructed so that all bin openings can be sealed to prevent contamination and maintain genetic purity.

3. All bins shall be clearly and prominently marked to show crop and variety, until disposal of the entire lot is completed and the bin is properly cleaned to remove all remaining seeds or seed residue.

G. Seed sampling shall be conducted as provided in §515.D.

H. Certification

1. No certified seed tags will be issued for seed certified in bulk, except as provided by subsection I of this Section.

2. For sales to an approved retail facility within the state, a bulk certified seed transfer form shall be issued to cover all bulk certified seed which meets the general requirements for seed certification and the specific requirements for the crop/variety being certified.

a. The seller shall provide a copy of the bulk certified seed transfer form to each purchaser at time of delivery.

b. The seller shall provide a copy of each issued Bulk Certified Seed Transfer Form to LDAF at the time the form is completed.

c. The seller shall maintain a copy of each issued bulk certified seed transfer form in his file, which shall be available for examination by LDAF upon reasonable request.

3. For sales to the end user, a bulk certified seed sales certificate shall be issued to cover all bulk certified seed which meets the general requirements for seed certification and the requirements for the crop/variety being certified.

a. The seller shall provide a copy of the bulk certified seed sales certificate to each purchaser at the time of delivery.

b. The seller shall provide a copy of each issued bulk certified seed sales certificate to LDAF at the time the form is completed.

c. The seller shall maintain a copy of each issued bulk certified seed sales certificate in his file, which shall be available for examination by LDAF upon reasonable request.

I. If the owner of seed certified in bulk elects to package any portion of the lot, the owner shall give prior notification of his intention to package the seed to LDAF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433 and R.S. 3:1434.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:567 (November 1982), amended, LR 12:825 (December 1986), LR 23:1283 (October 1997), LR 26:235 (February 2000), repromulgated by the

Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:750 (April 2014).

**§523. Interagency Certification (Out-of-State Seed) (Formerly §149)**

A. Seed to be certified by interagency action must meet the seed certification standards established by the Seed Law and this Part or comparable standards of a seed certifying agency recognized by the commissioner.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:196 (April 1983), amended, LR 12:825 (December 1986), LR 23:1283 (October 1997), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2714 (October 2013), amended LR 40:751 (April 2014).

**Chapter 7. Certification of Specific Crops/Varieties**  
**Subchapter A. Grasses and Clovers**

**§715. California Bulrush (*Schoenoplectus californicus*) Clonally Propagated Plant Certification Standards (Formerly §171)**

A. LDAF shall issue numbered certified bulk sales certificates or tags when requested to do so by a grower who has met the requirements and standards set forth in this Section. The numbered certified certificates or tags shall accompany each shipment of certified vegetatively propagated stock.

B. DNA Fingerprinting Requirements

1. DNA fingerprinting samples shall be taken by LDAF and submitted to an LDAF approved laboratory for testing in accordance with the following guidelines:

a. Foundation Class

i. Fingerprinting is required within one year of transplant and every other year thereafter.

ii. Ponds—one sample/1000 sq. ft., with a minimum of five samples per pond.

iii. Containers—10 percent, with a minimum of five samples.

b. Registered Class

i. Fingerprinting is required within one year of transplant and every three years thereafter.

ii. Ponds—one sample/1000 sq. ft., with a minimum of five samples per pond.

iii. Containers—5 percent, with a minimum of five samples.

c. Certified Class—certified class is not required to be DNA fingerprinted.

2. LDAF shall have the right to re-inspect, re-sample and re-test production ponds or containers/tanks that are out-of-tolerance for DNA fingerprinting prior to final certification. Resampling of plots or containers/tanks that are out-of-tolerance for DNA fingerprinting shall be at the request of the producer.

3. Additional DNA fingerprinting samples shall be required of a certified grower when the integrity of the

genetic purity of a production plot or container/tank has been jeopardized by any means prior to final certification.

C. Production Requirements. To be eligible for the production of all certified classes, production ponds and containers/tanks shall be left undisturbed for a minimum of four weeks prior to planting, and found to be free of California bulrush and noxious and objectionable weeds.

1. Pond Requirements

- a. Ponds shall be contained by levees.
- b. Only one variety shall be grown per pond.
- c. Ponds of different varieties must be separated by the minimum isolation distance at all points.
- d. Ponds must have individual water supplies and water drainage capabilities for each produced variety.
- e. All seed heads shall be routinely removed from plants after flowering begins to ensure viable seed are not produced.

2. Container/Tank Requirements

- a. Soil used for container/tank production shall:
  - i. come from an area that has not produced California bulrush for a minimum of one year; and
  - ii. be free of visible California bulrush rhizomes and stems prior to transplanting.
- b. Only one variety shall be grown per container/tank.
- c. Different varieties shall be grown in separate tanks and shall have individual water supplies and drainage capabilities.
- d. All seed heads shall be routinely removed from plants after flowering begins to ensure viable seed are not produced.

D. Grower Inspections

1. Ponds and containers shall be inspected by grower to ensure that all requirements of this Section are being met.

E. LDAF Inspections. Production ponds and containers/tanks shall be made accessible for inspection by the grower.

1. Ponds and containers/tanks shall be inspected by LDAF within four weeks prior to transplanting to ensure ponds and containers/tanks are free of volunteer California bulrush plants and noxious and objectionable weeds. All ponds and containers/tanks shall be non-flooded at time of pre-plant inspection.

2. Ponds and containers/tanks shall be inspected by LDAF a minimum of once a year, after transplanting, to ensure that all requirements of this Section are being met.

3. Additional inspections may be performed at the discretion of LDAF at any time without prior notice.

F. Field Standards Production Ponds/Containers/Tanks

Factor	Foundation	Registered	Certified
Maximum Unit Life <sup>(1)</sup>	4 years	6 years	Unlimited
Land Requirements	1 year	1 year	1 year
<b>Isolation:</b>			
Pond Production	20 ft.	20 ft.	20 ft.
Tank Production	One variety per tank	One variety per tank	One variety per tank
Container Production	Different varieties must be separated and clearly identified	Different varieties must be separated and clearly identified	Different varieties must be separated and clearly identified

Factor	Foundation	Registered	Certified
<b>Plant Variants:</b>			
Fingerprints	1%	2%	Not Applicable
Visual Inspections	3 plants per 5,400 ft <sup>2</sup>	5 plants per 5,400 ft <sup>2</sup>	10 plants per 5,400 ft <sup>2</sup>
Harmful Diseases <sup>(2)</sup>	None	None	None
Noxious or Objectionable Weeds <sup>(3)</sup>	None	None	≤ 5 plants per 5,400 ft <sup>2</sup>
Other Crops <sup>(4)</sup>	None	None	≤ 5 plants per 5,400 ft <sup>2</sup>

(1) Production unit life from date of transplant. No maximum age for a certified class production unit so long as the unit continues to meet all requirements of this Section.

(2) Diseases determined in accordance with the Louisiana Ag Experimental Station and LDAF to seriously affect the quality of seed or vegetatively propagated stock.

(3) Including, but not limited to following weed species: *Cyperus spp.* (Sedge), *Eleocharis spp.* (Spikerush), *Phragmites australis* (Roseau cane), *Typha spp.* (Cattail).

(4) Including, but not limited to the following crop species: *Spartina alterniflora* (Smooth cordgrass), *Spartina patens* (Marshhay cordgrass), *Spartina cynosuroides* (Big cordgrass), *Spartina spartinae* (Gulf cordgrass), *Distichlis spicata* (Saltgrass), *Paspalum vaginatum* (Seashore paspalum).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 37:2980 (October 2011), LR 39:1759 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:751 (April 2014).

**§717. Sea Oats (*Uniola Paniculata*) Clonally Propagated Plant Certification Standards (Formerly §183)**

A. LDAF shall issue numbered certified bulk sales certificates or tags when requested to do so by a grower who has met the requirements and standards set forth in this Section. The numbered certified certificates shall accompany each shipment of certified vegetatively propagated stock.

B. Production Requirements. To be eligible for the production of all certified classes, plots and containers/tanks shall be left undisturbed for a minimum of four weeks prior to planting, and found to be free of sea oats and noxious and objectionable weeds.

1. Plot Requirements

- a. Only one variety of sea oats shall be grown per plot.
- b. Plots of different varieties must meet the minimum isolation distance at all points.
- c. All seed heads shall be routinely removed from plants after flowering begins to ensure viable seed are not produced.

2. Container/Tank Requirements

- a. Soil used for container/ tank production shall:
  - i. come from an area that has not produced sea oats for a minimum of one year
  - ii. be free of visible sea oats rhizomes and stems prior to transplanting.
- b. Only one variety of sea oats shall be grown per production tank.

c. Different varieties shall be grown in separate tanks units unless individual varieties are separated by solid sided partition that will not allow rhizomes or stem material to spread between or within tank units.

d. All seed heads shall be routinely removed from plants after flowering begin to ensure viable seed are not produced.

C. Grower Inspections. Plots and containers shall be routinely inspected by grower to ensure that all requirements of this Section are being met.

D. LDAF Inspections. Production plots and containers/tanks shall be made accessible for inspection by the grower.

1. Plots and containers/tanks shall be inspected by LDAF within four weeks prior to transplanting to ensure they are free of volunteer sea oat plants and noxious and objectionable weeds.

2. Plots and containers shall be inspected by LDAF inspectors a minimum of once a year, after transplanting, to ensure that all requirements of this Section are being met.

3. Additional inspections may be performed at the discretion of LDAF at any time without prior notice.

E. Field Standards—Production Plots/Containers/Tanks

Factor	Foundation	Registered	Certified
Maximum Unit Life <sup>(1)</sup>	4 years	6 years	Unlimited
Land Requirements	1 year	1 year	1 year
<b>Isolation:</b>			
Plot Production	30 ft.	30 ft.	30 ft.
Tank Production	One variety per tank	One variety per tank	One variety per tank
Container Production	Different varieties must be separated and clearly identified	Different varieties must be separated and clearly identified	Different varieties must be separated and clearly identified
Plant Variants	3 plants per 5,400 ft <sup>2</sup>	5 plants per 5,400 ft <sup>2</sup>	10 plants per 5,400 ft <sup>2</sup>
Harmful Diseases <sup>(2)</sup>	None	None	None
Noxious or Objectionable Weeds <sup>(3)</sup>	None	None	≤ 5 plants per 5,400 ft <sup>2</sup>
Other Crops <sup>(4)</sup>	None	None	≤ 5 plants per 5,400 ft <sup>2</sup>

(1) Maximum production unit life from transplant date. No maximum age for a certified production unit so long as the unit continues to meet all requirements of this Section.

(2) Diseases determined in accordance with the Louisiana Ag Experiment Station and the LDAF to seriously affect the quality of seed or vegetatively propagated stock.

(3) Including but not limited to the following weed species: *Cyperus* spp. (Sedges), *Panicum repens* (Torpedograss), *Phragmites australis* (Roseau cane), *Fimbristylis* spp. (*Fimbristylis*), *Tamarix* spp. (Salt cedar), *Cenchrus* spp. (Sandbur), *Suaeda linearis* (Sea-blite), *Acacia farnesiana* (Sweet acacia).

(4) Including but not limited to the following crop species: *Spartina patens* (Marshhay cordgrass), *Spartina Spartinae* (Gulf cordgrass), *Sporobolus virginicus* (Dropseed), *Distichlis spicata* (Saltgrass), *Schizachyrium maritimum* (Seacoast bluestem), *Paspalum vaginatum* (Seashore paspalum), *Panicum amarum* (Beach panicgrass).

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 37:2980 (October 2011), LR 39:1759 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:752 (April 2014).

**§719. Smooth Cordgrass (*Spartina alterniflora*) Certification Standards (Formerly §193)**

A. LDAF shall issue numbered certified bulk sales certificates or tags when requested to do so by a grower who has met the requirements and standards set forth in this Section. The numbered certified certificates or tags shall accompany each shipment of certified seed or vegetatively propagated material.

B. Definitions. The following words and terms when used in this Section, shall have the following meanings, unless the context clearly indicates otherwise.

*Generation 1 (G1)*—the vegetative increase of tested class G0.

*Generation 2 (G2)*—the seed production or vegetative increase of tested class G1.

*Generation 3 (G3)*—the seed production of tested class G1 or G2.

*Tested Germplasm*—the progeny of plants whose parentage has been tested and has proven genetic superiority or possess distinctive traits for which the heritability is stable.

C. DNA Fingerprinting Requirements

1. DNA fingerprinting samples shall be taken by the LDAF and submitted to an LDAF-approved laboratory for testing in accordance with the following guidelines:

a. Foundation and Tested Generation One (G1)

i. Fingerprinting is required within one year of transplant and every other year thereafter.

ii. Ponds—one sample/1000 ft<sup>2</sup>, with a minimum of five samples per pond.

iii. Containers—10 percent, with a minimum of five samples.

b. Registered and Tested Generation Two (G2)

i. Fingerprinting is required within one year of transplant and every three years thereafter.

ii. Ponds—one sample/1000 ft<sup>2</sup>, with a minimum of five samples per pond.

iii. Containers—five percent, with a minimum of five samples.

c. Certified and Tested Generation Three (G3)

i. Fingerprinting is required within one year of transplant and every five years thereafter.

ii. Ponds—one sample/1000 ft<sup>2</sup>, with a minimum of five samples per pond.

iii. Containers—five percent, with a minimum of five samples.

d. Seed Production Ponds

i. Fingerprinting is required within one year of transplant to ensure that there are no clones other than those defined by the breeder.

ii. One sample/4400 square feet with a minimum of five samples.

2. LDAF shall have the right to re-inspect, re-sample and re-test production ponds and containers/tanks that are out-of-tolerance for DNA fingerprinting prior to final certification.

a. Resampling of ponds and containers/tanks that are out-of-tolerance for DNA fingerprinting shall be at the request of the producer.

3. Additional DNA fingerprinting samples shall be required of a certified grower when the integrity of the genetic purity of a production pond or container/tank has been jeopardized by any means prior to final certification.

D. Production Requirements. To be eligible for the production of all certified classes, production ponds and containers/tanks shall be left undisturbed for a minimum of four weeks prior to planting, and found to be free of smooth cordgrass and noxious and objectionable weeds.

1. Pond Requirements of Vegetatively Propagated Stock

- a. Ponds shall be contained by levees;
- b. Only one variety shall be grown per pond;
- c. Ponds of different varieties must be separated by the minimum isolation distance at all points;
- d. Ponds must have individual water supplies and water drainage capabilities for each produced variety;
- e. All seed heads shall be routinely removed from plants after flowering begins to ensure viable seed are not produced;
- f. Vegetative production ponds of the “certified class” only may be located within natural tidal influenced areas.

2. Container/Tank Requirements of Vegetatively Propagated Plant Stock

- a. Soil used for container/tank production shall:
  - i. come from an area that has not produced smooth cordgrass for a minimum of one year; and
  - ii. be free of visible smooth cordgrass rhizomes and stems prior to transplanting.
- b. Only one variety shall be grown per container/tank.
- c. Different varieties shall be grown in separate tanks and shall have individual water supplies and drainage capabilities.
- d. All seed heads shall be routinely removed from plants after flowering begins to ensure viable seed are not produced.

3. Seed Production Pond Requirements

- a. Ponds shall be contained by levees.
- b. Ponds containing different varieties must be separated by the minimum isolation distance at all points.

E. Grower Inspections

1. Production ponds, tanks, and containers shall be routinely inspected by the grower to ensure that all requirements of this Section are being met.

F. LDAF Inspections. Production ponds and containers/tanks shall be made accessible for inspection by the grower.

1. Production ponds and containers/tanks shall be inspected by LDAF within four weeks prior to transplanting to ensure production ponds and containers/tanks are free of volunteer smooth cordgrass plants and noxious and objectionable weeds. All ponds and containers/tanks shall be non-flooded at time of pre-plant inspection.

2. Shall be inspected by LDAF a minimum of once a year, after transplanting, to ensure that all requirements of this Section are being met.

3. Additional inspections may be performed at the discretion of LDAF at any time without prior notice.

G. Field Standards Production Ponds/Containers/Tanks

Factor	Foundation and Tested G1 Germplasm	Registered and Tested G2 Germplasm	Certified and Tested G3 Germplasm	Seed Production Fields (All Generations)
Maximum Unit Life <sup>(1)</sup>	4 years	6 years	Unlimited	5 years
Land Requirements	1 year	1 year	1 year	1 year
<b>Isolation:</b>				
Pond Production	20 ft.	20 ft.	20 ft.	1200 ft.
Tank Production	One variety per tank	One variety per tank	One variety per tank	N/A
Container Production	Different varieties must be separated and clearly identified	Different varieties must be separated and clearly identified	Different varieties must be separated and clearly identified	N/A
<b>Plant Variants:</b>				
DNA Fingerprints	1%	2%	25%	25%
Visual Inspections	3 plants per 5,400 ft <sup>2</sup>	5 plants per 5,400 ft <sup>2</sup>	10 plants per 5,400 ft <sup>2</sup>	10plants per 5,400 ft <sup>2</sup>
Harmful Diseases (2)	None	None	None	None
Noxious or Objectionable Weeds (3)	None	None	≤ 5 plants per 5,400 ft <sup>2</sup>	≤ 5 plants per 5,400 ft <sup>2</sup>
Other crops (4)	None	None	≤ 5 plants per 5,400 ft <sup>2</sup>	≤ 5 plants per 5,400 ft <sup>2</sup>

(1) Production unit life from date of transplant. No maximum age for a certified class production unit so long as the unit continues to meet all requirements of this Section.

(2) Diseases determined in accordance with the Louisiana Ag Experiment Station and LDAF to seriously affect the quality of seed or vegetatively propagated stock.

(3) Including, but not limited to the following weed species: *Salvinia* spp. (Salvinia), *Cyperus* spp. (Sedge), *Eleocharis* spp. (Spike rush), *Phragmites australis* (Roseau cane), *Typha* spp. (Cattail).

(4) Including, but not limited to the following crop species: *Spartina patens* (Marshhay cordgrass), *Spartina cynosuroides* (Big cordgrass), *Spartina spartinae* (Gulf cordgrass), *Distichlis spicata* (Saltgrass), *Schoenoplectus californicus* (California bulrush), *Paspalum vaginatum* (Seashore paspalum).

H. Seed Standards

1. All generations of seed shall contain a pure seed content, excluding coating material, of not less than 90 percent.

2. All seed packages shall be labeled in such a manner as to meet the minimum seed labeling requirement of the Seed Law, this Part, and the Federal Seed Act and accompanying rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 37:2983 (October 2011), LR 39:1761 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:753 (April 2014).

**§723. Turf and Pasture Grass Certification Standards (Formerly §219)**

A. - A.3. ...

\*A grower may increase his acreage on his own farm on a limited basis with the approval of LDAF.

B. - B.1.a. ...

b. A recommended soil fumigation may be applied by a licensed applicator, followed by an inspection by LDAF a minimum of four weeks after the application, to ensure no emergence of noxious and objectionable weeds prior to planting.

C. Field Inspections. Turf Grasses and Pasture Grasses entered into the certification program shall be inspected at least three times a year: first (April-May); second (August-September); third (December-January) to ensure the quality of the grasses has met or exceeded the minimum standards set forth in these regulations. If a field is found to be deficient in meeting the standards then the producer has the option of spot roguing the undesirable, if LDAF deems possible, and call for a re-inspection of the crop.

D. - E. ...

F. Reporting System

1. Issuing Certificates

a. The grower will be issued numbered certificates of certification and tags by LDAF upon request that must accompany each load of certified grass sold.

b. The grower is responsible for completing the forms and returning the appropriate copies to LDAF within 10 working days of issuance.

2. Tagging System

a. Upon meeting the standards set forth in these regulations the certified crop must have attached to the invoice two tags:

- i. one from the seed certification division; and
- ii. one from the horticulture division of LDAF.

b. This two-tag system shall distinguish the crop to have met or exceeded the requirements set by both divisions of LDAF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 9:204 (April 1983), amended, LR 12:825 (December 1986), LR 16:847 (October 1990), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:755 (April 2014).

**Subchapter B. Grain and Row Crop Seeds**

**§741. Cottonseed Seed Certification Standards (Formerly §165)**

A. ...

B. Handling and Storage Requirements

1. Ginning. Cottonseed in all classes of certification, to be certified, shall be ginned on a thoroughly cleaned, one-variety gin approved by LDAF prior to ginning. With special permission of the Department of Agriculture and Forestry:

a. cottonseed for all classes of certification may be ginned on thoroughly cleaned, mixed variety gins either with:

- i. a notarized ginner's agreement previously approved by LDAF, or
- ii. in the presence of a LDAF inspector.

b. cottonseed produced for only the certified class may be ginned on a mixed-variety gin if a minimum of three bales are "blown" through the gin prior to catching of the cottonseed to be certified. An inspector of LDAF may be present if cottonseed for certification is ginned under special permission.

2. Delinting. Delinters must conform to the same requirements set forth for ginners. No cottonseed entered for certification may be delinted outside the state of Louisiana except by special permission of LDAF.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, LR 8:570 (November 1982), amended LR 9:199 (April 1983), LR 10:737 (October 1984), amended, LR 12:825 (December 1986), LR 13:156 (March 1987), repromulgated LR 13:232 (April 1987), amended LR 18:954 (September 1992), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2723 (October 2013), amended LR 40:755 (April 2014).

**§743. Hybrid Seed Corn Certification Standards (Formerly §173)**

A. - C.4.a.ii. ...

b. Sucker tassels, portions of tassels or tassels on main plants will be counted as shedding pollen when 2 inches or more of the central stem, the side branches, or a combination of the two have anthers extended from the glumes. In cases where a few silks are out and tassels of the seed parent have begun to shed pollen, the field can be approved by immediate and complete detasseling of the seed parent and removal of the ear shoots with exposed silks, if done to the satisfaction of LDAF.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:572 (November 1982), amended LR 9:197 (April 1983), amended, LR 12:825 (December 1986), LR 13:156 (March 1987), repromulgated LR 13:232 (April 1987), amended LR 15:613 (August 1989), LR 20:643 (June 1994), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:755 (April 2014).

**§755. Sweet Potato Certification Standards (Virus and Non Virus-Tested) (Formerly §191)**

A. ...

B. The following definitions apply to this Section only.

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*Source Seed*—material entering the LAES seed program obtained by methods acceptable to LDAF.

\*\*\*

C. - I.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:579 (November 1982), amended LR 9:202 (April 1983), amended, LR 12:825 (December 1986), LR 22:1210 (December 1996), LR 36:1220 (June 2010), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural

Chemistry and Seed Commission, LR 39:2725 (October 2013), amended LR 40:755 (April 2014).

**§763. Sugarcane (Tissue Culture) Certification Standards (Formerly §207)**

A. - A.1. ...

2. Additional propagation of original foundation stock shall be according to procedures determined by the American Sugar Cane League, LDAF, the LSUAC, and the USDA-ARS Sugarcane Research Unit.

A.3. - B.3. ...

a. Tissue sample testing and protocol shall be provided by the LSU Ag Center Sugarcane Disease Detection Lab. The certifier shall provide to LDAF verification that foundation stock has been tested for sugarcane ratoon stunting disease (RSD) and sugarcane yellowleaf virus.

4. - 5.c. ...

**C. Field Inspections and Sampling**

1. At least three field inspections by LDAF inspectors shall be made each year to determine if certified seedcane is being produced that apparently meets field standards.

2. The second inspection to be conducted in June by LDAF inspectors will include the collection of leaf samples for the detection of Sugarcane Yellow Leaf Virus.

3. Individual fields shall be sampled by LDAF inspectors for the detection of Sugarcane Yellow Leaf Virus according to the following guidelines.

Field Size in Acres	# Leaf Tissue Samples per Field
Less than 5 Acres *	25
5 - 10 Acres	50
Greater than 10 Acres	75
*Minimum of 25 Leaf Tissue Samples per Field	

4. ...

5. LDAF shall have the right to re-inspect, re-sample and re-test fields that are out of tolerance for Sugarcane Yellow Leaf Virus prior to certification.

D. - F.1.b. ...

c. Planting stock shall be subject to inspection by LDAF at any time during the harvest season.

**G. Reporting System**

1. ...

2. The certifier shall be furnished certification forms by the LDAF and shall:

a. ...

b. send a copy of each issued certification form to LDAF within 10 days after each sale; and

c. maintain a copy of each issued certification form on file, which shall be available for examination by LDAF upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 23:1284 (October 1997), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Seed Commission, LR 30:1143 (June

2004), amended, LR 33:1609 (August 2007), LR 36:1223 (June 2010), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:756 (April 2014).

**Subchapter C. Fruits and Vegetables**

**§785. Shallot Seed Certification Standards (Formerly §197)**

A. - C.3. ...

4. Seed severely infested with bulb mites shall not be eligible for certification. Seed lightly infested with bulb mites must be treated in a manner prescribed by LDAF before certified permit tags will be issued.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:583 (November 1982), amended LR 9:197 (April 1983), amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:756 (April 2014).

**Chapter 9. Approved Plant Breeders**

**§903. Definition of Terms Used (Formerly §225)**

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*Entomologist*—the LDAF entomologist.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:756 (April 2014).

**§905. Professional Services for which an Approved Plant Breeder is Required (Formerly §227)**

A. ...

B. Any individual, firm or corporation desiring to be granted the status of a commercial plant breeding firm must submit to the commission a general outline of their proposed methods of seed production for the breeder class of seed. This outline of methods of production must be approved by the commission. This firm must also have an approved plant breeder who has qualified under §907 of these regulations. Production of all breeder seed must be under the direct and active supervision of the plant breeder. This firm's complete plant breeding and seed increase setup must be open to inspection by personnel of the state seed certifying agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:756 (April 2014).

**§907. Qualifications for Approved Plant Breeders (Formerly §229)**

A. To be recognized officially by LDAF as an approved plant breeder, a person must either:



1. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Seed Commission August 1961, amended, LR 12:825 (December 1986), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:756 (April 2014).

## **Chapter 11. Adulterated Seed Stock and other**

### **Propagating Stock**

#### **Subchapter A. Rice Seed Stocks Containing the Presence of LibertyLink Traits**

##### **§1101. Planting of Rice Seed Stock with LL Traits (Formerly §301)**

A. The following seeds may not be sold, offered for sale, or planted in Louisiana as seed for purposes of producing a new plant, except as otherwise provided by this Chapter.

1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 (December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:757 (April 2014).

##### **§1103. Planting of all Rice Seed Stocks (Formerly §303)**

A. Rice seed stocks, where the variety as a whole is found to test positive, according to tolerances established by LDAF, for LL traits may be sold, offered for sale or planted in Louisiana only for the purpose of seed stock increase, subject to the sampling and testing requirements set out in this Chapter.

B. If a portion of a variety of rice seed stock is found to test positive for LL traits, according to tolerances established by LDAF, the portion found to test positive shall be placed under a "stop-sale" order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 (December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), Amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 40:757 (April 2014).

##### **§1105. Sampling of Rice Seed Stock to Detect LL Traits (Formerly §305)**

A. Samples of all rice seed stocks shall be taken by the Louisiana Department of Agriculture and Forestry (LDAF) for testing. LDAF shall conduct the testing or cause the testing to be done in laboratories approved by LDAF. LDAF shall determine the method and manner of sampling and the number of samples that are needed.

B. Each sample must test negative for LL traits according to tolerances established by LDAF.

C. All costs incurred by LDAF in regard to sampling, including but not limited to the taking, transportation,

testing, and disposal of samples, shall be paid by the person or entity requesting the sampling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 (December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:757 (April 2014).

##### **§1107. Rice Seed Stock Originating from Out-of-State (Formerly §307)**

A. All rice seed stocks originating from out-of-state must meet the requirements for sampling, testing, and handling, as established by LDAF.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2592 (December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:757 (April 2014).

##### **§1111. Stop-Sale (Formerly §311)**

A. Any lot of rice seed that is subject to the requirements of this Chapter that tests positive for LL traits, according to tolerances established by LDAF, shall be placed under a "stop-sale" order and moved, handled or disposed of only with the express permission of the commissioner or his designate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 33:2593 (December 2007), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2733 (October 2013), amended LR 40:757 (April 2014).

Mike Strain, DVM  
Commissioner

1404#026

### **RULE**

#### **Department of Agriculture and Forestry Horticulture Commission**

Landscape Architects Exam (LAC 7:XXIX.Chapter 1)

Under the enabling authority of R.S. 3:3801 and in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.), the Department of Agriculture and Forestry has amended the rules and regulations set out below.

The action brings LDAF regulations into conformity with the changes in the *Revised Statutes* made by Act 103 of 2013 regarding the landscape architects examination. The action simplifies the requirements for a person to apply for and take the Louisiana Landscape Architects Examination. The other changes made by the action are not substantive; rather they

are a rewording of existing regulations designed to make the regulations easier to read and understand.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XXIX. Horticulture Commission

##### Chapter 1. Horticulture

##### §102. Definitions

A. The terms defined in R.S. 3:3803 are applicable to this Part and have the meaning given to them in that statute, except where a regulation or the context expressly indicates otherwise.

B. The terms defined in this Section are applicable to this Part and have the meaning herein given to them, except where a regulation or the context expressly indicates otherwise.

C. The following terms are hereby defined for purposes of this Part.

*Arborist*—any person trained in the care and removal of shade and ornamental trees. Shade and ornamental trees may be defined as those on an existing homesite or commercial property and those on property permitted for development for commercial or residential purposes. This definition shall also apply to any tree within 100 feet of any improvements on these properties.

*CLARB*—the Council of Landscape Architectural Registration Boards or any successor.

*Department*—the Louisiana Department of Agriculture and Forestry.

*Floral Design*—an arrangement of cut flowers, ornamental plants, other living or freshly cut plant materials, or any combination thereof intentionally constructed so as to constitute a planned relationship among them.

*Horticulture Law*—Louisiana Revised Statutes of 1950, Title 3, Chapter 24, §3801 et seq.

*Landscape Architect*—any person that applies creative and technical skills and scientific, cultural and political knowledge in the planned arrangement of natural and constructed elements on the land with a concern for the stewardship and conservation of natural, constructed and human resources.<sup>1</sup>

*LARE*—the Landscape Architect Registration Examination.

*Stop Order and Notice of Non-Compliance*—a directive issued by the commissioner or the department or authorized agent to a person prohibiting that person from continuing a particular course of conduct or prohibiting the advertisement, application, distribution, disturbance, movement, performance, sale or offer for sale of a service or material thing, or both.

<sup>1</sup>American Society of Landscape Architects (ASLA) Definition of Landscape Architecture, ASLA Member Handbook, adopted November 18, 1983.

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).

##### §105. Qualifications for Examination and Licensure or Permitting

A. All persons applying for an examination for licensure or for a license or permit issued by the commission shall meet the following requirements.

1. An applicant must be 17 years of age or older to take an examination for licensure or apply for a permit, but must be 18 years of age or older before a license or permit will be issued to the applicant.

2. An applicant for licensure shall successfully complete the examination prescribed by the commission for the area in the practice of horticulture for which the license is sought.

B. Applicants for the landscape architect license shall also meet the following requirements:

1. pass the LARE or an exam approved by CLARB;

2. submit proof of passage of LARE or an exam approved by CLARB with the application for the Louisiana Landscape Architect Examination;

3. pass the Louisiana Landscape Architect Examination;

4. have at least one year of practical experience under the direct supervision of a licensed landscape architect, landscape horticulturist, engineer, architect, or a licensed professional with a design or contracting firm.

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 20:639 (June 1994), LR 26:2240 (October 2000), LR 35:1227 (July 2009), LR 40:758 (April 2014).

##### §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 by the deadline date established for applying for the taking of the examination along with any other information required by the commission in this Chapter for an applicant to take the requested examination.

B. Applicants who desire to take an examination for licensure offered by the commission may apply at any time, in person or by writing, to the commission's state office at 5825 Florida Boulevard, Baton Rouge, LA 70806 or at any district office of the department. Applicants who apply in person, will be allowed, whenever feasible, to complete the written application form at the initial visit.

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).

##### §109. Examination Fees

###### A. Landscape Architect

1. The initial fee for the Louisiana Landscape Architect Examination shall be \$200.

2. The re-examination fee for the Louisiana Landscape Architect Examination shall be \$100.

B. - C. ...

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).

**§111. Minimum Examination Performance Levels Required**

A. Any person taking an examination for licensure must score a 70 percent or above to pass the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3807.

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 20:153 (February 1994), LR 35:1229 (July 2009), LR 37:3464 (December 2011), LR 40:759 (April 2014).

**§113. Examination; Location; Scheduling; Re-Examination**

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. Each applicant shall be notified of the date for the examination.

B. An applicant who fails to complete or pass an examination for licensure must wait at least two weeks before reapplying to take the examination.

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).

Mike Strain, DVM  
Commissioner

1404#027

**RULE**

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

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

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) has adopted LAC 67:III, Subpart 15, Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55, TANF Initiatives, Section 5599, Louisiana Student Financial Assistance Grants.

Pursuant to Louisiana's TANF block grant, adoption of Section 5599 is necessary to govern the collection of eligible tuition expenditures for low income students that may be counted as maintenance of effort (MOE) for the TANF grant.

This Rule was made effective by an Emergency Rule dated and effective November 1, 2013.

**Title 67**

**SOCIAL SERVICES**

**Part III. Economic Stability**

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

**Chapter 55. TANF Initiatives**

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

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

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Economic Stability Section, LR 40:759 (April 2014).

Suzy Sonnier  
Secretary

1404#036

## RULE

### Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School,  
District, and State Accountability System  
(LAC 28:LXXXIII.303, 1101, 1102, 4301, and 4311)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*: §303, Transition from Fall 2013 to Spring 2015; §1101, Letter Grades; §1102, Academically Unacceptable Schools (AUS); §4301, Inclusion of All Districts; and §4311, District Letter Grades. The policy revisions establish the process for transitioning school and district accountability to new standards and assessments.

#### Title 28

#### EDUCATION

#### Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

#### Chapter 3. School Performance Score Component §303. Transition from Fall 2013 to Spring 2015

A. Schools shall receive an annual 2013 SPS using the 150-point scale, as approved for the 2012-13 school year and as described in Chapters 3-6 of this bulletin. In order to illustrate growth from the 2011-2012 to the 2012-2013 school year, for the fall 2013 release only, schools shall also receive a 2012 transition baseline SPS and 2013 growth SPS based on the 200-point scale as described in this Section.

B. The LDE shall ensure that the distribution of school letter grades remains constant throughout this transition by assigning school letter grades for the 2013-2014 and 2014-2015 school years based on the distribution of school letter grades for the 2012-2013 school year, such that the number of schools at each letter grade for the 2013-2014 and 2014-2015 school years is equivalent to the number of schools at each letter grade for the 2012-2013 school year. Any school or district that maintains or improves its annual performance score as compared to the 2012-2013 performance scores shall not experience a decrease in its letter grade.

C. By the fall of 2015, BESE shall determine, in consultation with the Accountability Commission, the timeline and benchmarks needed to gradually raise the standard for student proficiency such that a school or district with a letter grade of "A" has a majority of students achieving "mastery" (level 4) on state assessments no later than the 2024-2025 school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2442 (September 2013), amended LR 40:760 (April 2014).

### Chapter 11. School Performance Categories

#### §1101. Letter Grades

A. For the 2013-2014 and 2014-2015 school years, letter grades shall be assigned pursuant to §303 of this bulletin. Thereafter schools will receive letter grades based on the school performance score (SPS).

B. In addition to the letter grade, the LDE shall award schools the following labels:

1. if a school declines, it shall be labeled as "declining;" and

2. if a school qualifies as a reward school (described in §1301), it shall be labeled as a "top gains" school.

C. The LDE shall identify all schools that have selective, non-traditional academic admissions requirements.

D. The LDE shall identify all schools that are classified as alternative schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2120 (July 2011), amended LR 38:3110 (December 2012), LR 40:760 (April 2014).

#### §1102. Academically Unacceptable Schools (AUS)

A. A school with a baseline SPS below 50.0 shall be identified as an academically unacceptable school (AUS), except in 2013-2014 and 2014-2015 when AUS status shall be assigned for those schools with a letter grade of "F."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2121 (July 2011), amended LR 39:304 (February 2013), LR 40:760 (April 2014).

### Chapter 43. District Accountability

#### §4301. Inclusion of All Districts

A. Every school district shall participate in a district accountability system based on the performance of schools as approved by the Louisiana State Board of Elementary and Secondary Education (SBESE).

B. Indicators for District Accountability. There shall be two statistics reported for each school district for district accountability:

1. a district performance score (DPS); and
2. a subgroup component.

C. District Performance Score (DPS). A district performance score (DPS) shall be calculated in the same manner as a SPS, aggregating all of the students in the district.

1. Assessment data from students enrolled in a district for a full academic year shall be used to calculate the DPS.

2. The DPS shall be reported as a numeric value and a letter grade shall be assigned based on the numeric value, except as otherwise outlined in §303 of this bulletin.

D. Subgroup Component. District AYP shall be determined by evaluating the aggregate performance of subgroups.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2755 (December 2003), amended LR 30:1446 (July 2004), LR 32:543 (April 2006), LR 37:2119 (July 2011), LR 38:3116 (December 2012), LR 40:760 (April 2014).

**§4311. District Letter Grades**

A. The LDE shall report district scores and labels on every school district. In 2013-2014 and 2014-2015, letter grades shall be assigned pursuant to §303 of this bulletin. Thereafter, districts shall be assigned a district letter grade using their district performance score.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2120 (July 2011), amended LR 38:3116 (December 2012), LR 40:761 (April 2014).

Heather Cope  
Executive Director

1404#007

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 126—Charter Schools  
Application Process (LAC 28:CXXXIX.512)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has amended *Bulletin 126—Charter Schools*: §512, Application Process for Locally Authorized Charter Schools. The changes require the Department of Education to establish timelines for consideration of charter applications by local districts and further revises the approval timeline for charter applications by BESE.

**Title 28  
EDUCATION**

**Part CXXXIX. Bulletin 126—Charter Schools**

**Chapter 5. Charter School Application and Approval Process**

**§512. Application Process for Locally Authorized Charter Schools**

**A. Application Cycle**

1. Effective January 1, 2014, local school boards shall accept charter applications from applicants according to the local district timeline established by the department and approved by BESE. Local school boards may request supplementary materials once the initial application has been submitted. Final decisions regarding the approval of charter applications must be made by local school boards according to the local district charter application timeline. Notifications of charter proposal denied shall include written explanation of the reasons for such denial.

2. - 3. ...

**B. Common Charter Application**

1. Each local school board shall use a common charter application developed by the department and approved by BESE, but may request additional information from applicants as needed.

2. BESE shall annually approve the common application to be used by local school boards. If there are no changes to be made to the common application from a previous year, BESE will not be required to vote to approve the common charter application.

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 37:869 (March 2011), amended LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:3118 (December 2012), LR 39:81 (January 2013), LR 40:761 (April 2014).

Heather Cope  
Executive Director

1404#008

**RULE**

**Board of Elementary and Secondary Education**

Bulletin 130—Regulations for the Evaluation  
and Assessment of School Personnel  
(LAC 28:CXLVII.303 and 325)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has amended *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*: §303, Measures of Growth in Student Learning Value-Added Model; and §325, Extenuating Circumstances. The policy revisions make temporary adjustments to the teacher evaluation system. These adjustments are necessary during the transition to new standards and assessments in 2014 and 2015.

**Title 28**

**EDUCATION**

**Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel**

**Chapter 3. Personnel Evaluation**

**§303. Measures of Growth in Student Learning—Value-Added Model**

A. - F. ...

G. During the transition to new standards and assessments in 2013-2014 and 2014-2015, value-added data will not be available. The department shall provide transitional student growth data in 2014 and 2015 that may be used as a measure of student growth, at the evaluator's discretion. LEAs may define local rules pertaining to the use of such data.

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, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012), amended LR 38:3123 (December 2012), LR 39:1273 (May 2013), LR 40:761 (April 2014).

**§325. Extenuating Circumstances**

A. For any year in which a school temporarily closes due to natural disasters or any other unexpected events, districts may request invalidation of student achievement growth data with relation to the value-added assessment model by submitting a request to the state superintendent of education. The state superintendent of education shall publish annually the process and timeline for making such requests.

B. Evaluation results shall be invalidated for any teacher or administrator with 60 or more excused absences in a given academic year, due to approved leave, such as

maternity leave, military leave, sick leave, or sabbatical leave.

C. For approved leave of fewer days and for any other extenuating circumstances that significantly compromise an educator's opportunity to impact student learning, educators, on their own behalf, district superintendents, or CEOs may request invalidation of student achievement growth data with relation to the value-added assessment model by submitting such requests to the state superintendent of education. The state superintendent of education shall publish annually the process and timeline for making such requests.

D. In cases where value-added data is invalidated, the teacher's principal or designee shall have discretion to determine the evaluation rating, based on the evidence available from students learning targets and observations.

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, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1220 (May 2012), amended LR 38:2361 (September 2012), LR 39:1274 (May 2013), LR 40:761 (April 2014).

Heather Cope  
Executive Director

1404#009

## RULE

### Board of Elementary and Secondary Education

Bulletin 135—Health and Safety  
(LAC 28:CLVII.Chapters 5 and 7)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has amended *Bulletin 135—Health and Safety*: §501, Injury Management Program; §503, Injury Management Program Protocol for Educational Training on Serious Sports Injuries; §505, Injury Management Program Protocol for Serious Sports Injuries; and §701, Definitions. The policy revisions implement Act 352 of the 2011 Regular Session of the Legislature relative to a comprehensive sports injury management program for student athletes. The Louisiana Department of Education consulted with the Louisiana State Board of Medical Examiner (LSBME) and the Sports Medicine Advisory Committee of the Louisiana High School Athletic Association (LHSAA) in the development of this policy.

#### Title 28

#### EDUCATION

#### Part CLVII. Bulletin 135—Health and Safety

#### Chapter 5. Injury Management Program Rules for Serious Sports Injuries

#### §501. Injury Management Program

A. Each high school that sponsors or sanctions any athletic activity in Louisiana and which requires a participating student to regularly practice or train and compete, shall be subject to the terms of the injury management program contained in this Chapter.

B. This Chapter does not create any liability for, or create a cause of action against, a school, its officers, or its employees.

C. To carry out the duties prescribed in this Chapter, a school may contract for and accept private contributions, gifts, and grants, or in-kind aid from the federal government, the state, or any other source.

D. No school or school system shall be required to incur any financial cost related to the implementation of this Chapter, unless funds are appropriated by the legislature for such purpose.

E. The provisions of this Chapter shall not apply to concussions, as the protocols specific to these injuries shall be governed by the Louisiana Youth Concussion Act.

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).

#### §503. Injury Management Program Protocol for Educational Training on Serious Sports Injuries

A. Each high school coach and game official of a school-sponsored/sanctioned athletic activity shall attend an educational workshop, as approved by physician members of the Louisiana High School Athletic Association (LHSAA) Sports Medicine Advisory Committee or the Louisiana State Board of Medical Examiners (LSBME). Each approved workshop shall be designed to educate the attendees concerning the nature, and risks associated with, serious sport injuries.

1. Each school board or district shall determine an appropriate method of documentation that each respective high school coach received such approved educational training regarding the nature, and risks associated with, serious sport injuries.

2. The director of the Louisiana High School Officials Association shall determine an appropriate method of documentation that each game official received such approved educational training regarding the nature, and risks associated with, serious sport injuries.

B. Each high school student-athlete, and his/her respective parent(s) or guardian(s), shall annually acknowledge the risks of serious sports injuries prior to the student-athlete's participation in any school sponsored sports event. Each student and parent/guardian shall review either printed or verifiable electronic information regarding the nature and risks of serious sports injuries, as provided by the school or school district.

1. Each school board or district shall determine an appropriate method of documentation that each respective high school student-athlete, and his/her parent/guardian(s), did view educational information regarding the nature, and risks associated with, serious sport injuries.

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).

#### §505. Injury Management Program Protocol for Serious Sports Injuries

A. A student-athlete, who reports, or exhibits, any sign or symptom of a possible serious sports injury, defined as any loss of function as a result of a direct or indirect injury, shall immediately be disqualified from continued participation and be removed from practice, training or competition.

1. A direct injury refers to an injury which results from participation in the fundamental skills of the sport. This may include, but not limited to, fractures, dislocations,

injuries to the eyes, dental, or any other acute episode of musculoskeletal injury.

2. An indirect injury refers to an injury caused by a systemic failure (usually cardiac or respiratory in nature) resulting from exertion while participating in an activity, or by a complication which may be secondary to a non-fatal injury. This may include, but not limited to, abnormal/difficulty in breathing, the appearance of dizziness or confusion or any other unusual behavior exhibited by a student-athlete.

B. The student-athlete shall be evaluated for a serious sports injury, as determined by a doctor of medicine/doctor of osteopathic medicine (MD/DO), and appropriate medical treatment rendered in a timely manner.

1. If a MD/DO is not immediately available, the injured student-athlete may be triaged by an appropriate mid-level provider duly authorized by a MD/DO.

2. If no such caregiver(s) is immediately available, then the designated responsible school personnel shall ensure that medical treatment is rendered in a timely manner.

C. If the student-athlete's injury is not a serious sports injury, then a return-to-play (RTP) clearance may be provided by an onsite MD/DO or an appropriate mid-level provider duly authorized by a MD/DO.

D. A student-athlete with a serious sports injury may only be allowed to return to practice, training, or competition after a RTP clearance is provided by a MD/DO to the athletic trainer or coach. The clearance provided by a MD/DO shall include a step-wise RTP protocol.

E. The game official's role during a contest shall be to ensure the immediate removal of any student-athlete who reports or exhibits any sign or symptom of a serious sports injury from that contest until a RTP clearance has been provided by an onsite MD/DO or an appropriate mid-level provider duly authorized by a MD/DO. [The game official shall always rule on the side of caution, with the health and safety of the athlete being his/her primary and foremost concern.]

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).

## Chapter 7. Glossary

### §701. Definitions

*Appropriate Mid-Level Provider*—a health care provider duly authorized by a supervising MD/DO to provide care for sports injuries in accordance with their respective scopes of practice. For the purpose of this injury management program, the following health care providers may function as an appropriate mid-level provider onsite at any school-sponsored or sanctioned athletic activity: physician assistant (PA) licensed to practice in Louisiana; a registered nurse practitioner licensed to practice in Louisiana; an athletic trainer (AT) certified by LSBME to practice in Louisiana.

*Loss of Function*—any sign of inability to perform any sport specific activity or movement. This may include, but not limited to, walking/running with a limp or holding/protecting a body part, or any other impaired movement.

*Responsible School Personnel*—the individual(s) (i.e., head coach, assistant coach, etc.) designated by the respective school with the responsibility for student-athlete safety.

*Return-to-Play (RTP)*—a term used to describe when a student-athlete, who has followed a step-wise protocol, is released to return to practice or competition.

*Step-Wise RTP Protocol*—a protocol, approved by a MD/DO, delineating a sequence of progressive activities (which may include strength, stability, agility, etc.) designed to allow the athlete a gradual return to physical activity, and eventually sport practice or competition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.186.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:763 (April 2014).

Heather Cope  
Executive Director

1404#006

## RULE

### Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV.701, 2301, and 2303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2301, Content Standards; §2303, Planning and Instruction; and §701, Maintenance and Use of System Records and Reports.

Revisions to §701 clarify and enhance compliance with federal and state laws related to the use of personal information to ensure the security and safety of personal student data. The policy ensures that any agreements between LEAs or the LDE and data storage companies or organizations shall adhere to all applicable state and federal laws. The policy further stipulates that student identification numbers in the future shall not include or be based on Social Security numbers.

R.S. 17:24.4 requires the Louisiana Department of Education (LDE), with the approval of the Board of Elementary and Secondary Education (BESE), to establish content standards. Current policy requires local education agencies (LEAs) to provide instruction aligned to state-approved content standards. The changes to §2301 will establish that LEAs have autonomy and flexibility to develop and adopt instructional materials aligned to state standards, and that LEAs may provide instruction that exceeds state-approved standards. The policy change also stipulates that LEAs shall not be required to adopt any instructional materials not of their own choosing.

Revisions to §2303 require LEAs to allow parents to examine texts, to review reading lists for high school English courses, and to request the LEA to exempt their child from reading such content. The revisions also prohibit the LDE from issuing a state-required list of texts.

**Title 28  
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for  
School Administrators**

**Chapter 7. Records and Reports**

**§701. Maintenance and Use of System  
Records and Reports**

A. The LEA and school shall maintain accurate and current information on students, personnel, instructional programs, facilities, and finances.

B. The maintenance, use, and dissemination of information included in system and school records and reports shall be governed by written policies adopted by the local educational governing authority and/or other applicable educational governing authorities. The policies shall conform to the requirements of all applicable state and federal laws, including, but not limited to, the Louisiana Public Records Act, R.S. 44:1 et seq., the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232q and 45 CFR 99.1 et seq., the Individual with Disabilities Education Act, 20 U.S.C. 1400 et seq., 17:1941 et seq., and R.S. 17:1237.

1. Any agreements entered into between an LEA and a data storage company or organization shall provide for adherence to all applicable state and federal laws regarding the maintenance, use, and dissemination of personally identifiable student data.

2. In maintaining, using, and disseminating student data received from or reported by LEAs, the LDE shall adhere to and require any contracted data storage providers to adhere to all applicable state and federal laws, including, but not limited to, the Louisiana Public Records Act, R.S. 44:1 et seq., the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232q and 45 CFR 99.1 et seq., the Individual with Disabilities Education Act, 20 U.S.C. 1400 et seq., 17:1941 et seq., and R.S. 17:1237.

3. Student identification numbers used by LDE for purposes of the assessment of student learning shall be, by the beginning of the 2014-2015 school year, distinctive numerical identifiers assigned to every student enrolled in Louisiana public schools. Such identifiers shall not include or be based on Social Security numbers and shall be used for students as they transition through or transfer between Louisiana public schools.

4. Information files and reports shall be stored with limited accessibility and shall be kept reasonably safe from damage and theft.

C. Each parish superintendent shall keep a record of all business transacted by him or her as parish superintendent; the names, numbers, and description of school districts; the tabulation of reports made monthly to him or her by the principals of his or her schools; and all other papers, books, and documents of value connected with said office, which shall be at all times subject to inspection and examination by the state superintendent of education, or by any officer, or citizen. In addition to the annual report to the state superintendent of education, s/he shall furnish such narrative, and such information as the state superintendent of education or BESE may from time to time require of him or her.

1. Parish superintendents and teachers of the public schools of the state shall make and keep such school records as required by the state superintendent of education, prior to receiving their monthly salaries.

2. Each principal of a school shall make reports to the parish superintendent of schools as required. If any principal willfully neglects or fails to do this, the parish superintendent of schools may withhold the salary due until the report is satisfactorily made.

D. Each LEA/school shall maintain necessary records for the effective operation of the LEA/school. The LEA shall comply with the requirements of R.S. 44:411 regarding schedules for the retention of official records. Those records for which a formal retention schedule has not been executed shall be retained by the LEA for not less than three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:93, R.S. 17:411, and R.S. 17:415.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1268 (June 2005), amended LR 37:1380, 1380 (May 2011), LR 40:764 (April 2014).

**Chapter 23. Curriculum and Instruction  
Subchapter A. Standards and Curricula**

**§2301. Content Standards**

A. Each LEA shall provide instruction aligned to BESE-approved standards and shall have the autonomy and flexibility to develop, adopt, and utilize instructional materials that best support their students' achievement of the standards. LEAs may provide instruction that supplements or exceeds BESE-approved standards.

B. LEAs shall not be required to adopt or utilize any instructional materials not of their own choosing, including any that may be recommended, endorsed, or supported by any federal or state program or agency.

C. The Louisiana content standards shall be subject to review and revision to maintain rigor and high expectations for teaching and learning. Such review of each content area shall occur at least once every seven years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 31:3070 (December 2005), LR 33:429 (March 2007), LR 39:2213 (August 2013), LR 40:764 (April 2014).

**§2303. Planning and Instruction**

A. Course content shall be age-appropriate and unbiased with regard to the treatment of race, sex, roles, religions, ethnic origins, and political beliefs.

1. Each LEA shall permit parents to examine texts to be used in their child's class.

2. Each LEA shall provide parents and legal custodians of students enrolled in high school English courses a list of reading materials to be used in that school year. Parents and legal custodians may request that the LEA exempt their child from reading such content.

3. The LDE shall not issue any state-required list of texts that LEAs or educators must include in course content. This shall not relieve LEAs of any obligations to provide instruction of United States historical documents specifically required by state statute.

B. - 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).

Heather Cope  
Executive Director

1404#010

## RULE

### Board of Elementary and Secondary Education

#### Bulletin 1566—Pupil Progression Policies and Procedures (LAC 28:XXXIX.503, 701, and 703)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has amended *Bulletin 1566—Pupil Progression Policies and Procedures*: §503, Regular Placement; §701, Promotion Standard; and §703, Retention. The policy changes ease the transition to more rigorous standards and assessments.

#### Title 28

#### EDUCATION

#### Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

#### Chapter 5. Placement Policies—General Requirements

#### §503. Regular Placement

A. - A.1.d. ...

B. Requirements for High School Students

1. Each plan shall include the following statements, that:

a. for incoming freshmen prior to 2010-2011, in addition to completing the required minimum number of 23 Carnegie units of credit as presented by BESE, the students must pass the required components of the graduation exit examination (GEE) in order to receive a high school diploma;

b. for incoming freshmen in 2010-2011 and beyond, in addition to completing the required minimum number of Carnegie units of credits as presented by BESE, students must pass the required end-of-course tests to receive a high school diploma;

c. any student who is at least 15 years of age or will attain the age of 15 during the next school year, who scored at least at the *approaching basic* level on either the English language arts or mathematics component of the eighth grade LEAP test, and meets the criteria established in the pupil progression plan of the LEA where the student is enrolled, may be promoted to the ninth grade for the purpose of pursuing a career diploma;

d. at the conclusion of the 2013-2014 school year, any first-time eighth grade student who does not meet the passing standard set forth in §701.A of this bulletin and any student not receiving any waiver pursuant to §707.C of this bulletin, after taking the state assessments in spring and summer, may be placed on a high school campus in transitional ninth grade;

e. at the conclusion of the 2014-2015 school year, LEAs shall follow the guidelines set forth in §701.B to

determine, based on evidence of student learning, whether eighth grade students may be promoted to the ninth grade or placed on a high school campus in transitional ninth grade;

f. at the conclusion of the 2015-2016 school year and beyond, any eighth grade student who does not meet the passing standard pursuant to §701.C of this bulletin and who does not receive a waiver pursuant to §707.C of this bulletin, after taking the state assessments in spring and summer, may be placed on a high school campus in transitional ninth grade;

g. the following shall govern the transitional ninth grade.

i. Students placed in the transitional ninth grade shall participate in the summer remediation program offered by the LEA and the summer retest.

ii. After one full year of transitional ninth grade, students shall be included in the ninth grade graduation cohort for high school accountability.

iii. Students enrolled in transitional ninth grade shall receive remediation in any subjects in which they did not score at or above proficient, as determined by BESE. A plan outlining such remediation shall be included in the student's individual graduation plan.

iv. Students enrolled in transitional ninth grade shall have opportunities to take career and technical education courses and participate in any career training opportunities included in a high school career pathway developed by a consortium of LEAs, post-secondary colleges and universities, and local business and industry, and approved by the LDE.

v. Students enrolled in transitional ninth grade shall receive dropout prevention and mentoring services based on proven strategies to retain and graduate at-risk students. The LDE shall make available to LEAs a list of recommended strategies and technical assistance needed to offer students such services.

vi. Transitional ninth grades in charter schools authorized to serve students through eighth grade and those authorized to serve students in ninth grade and higher shall be governed by policy contained in *Bulletin 126—Charter Schools*.

C. - E.1.b. ...

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 25:2171 (November 2000), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:407 (March 2004), LR 31:1974 (August 2005), LR 31:3103 (December 2005), LR 33:2063 (October 2007), LR 34:2389 (November 2008), LR 36:2003 (September 2010), LR 40:765 (April 2014).

#### Chapter 7. High Stakes Testing Policy §701. Promotion Standard

A. At the conclusion of the 2013-2014 school year, a student who is a first-time fourth or eighth grader must score at or above the *basic* achievement level on the English language arts or mathematics components of the LEAP and at or above the *approaching basic* achievement level on the other (hereafter referred to as the passing standard) to be promoted to the fifth or ninth grade, respectively.

1. LEAs may promote any first-time fourth grade student who did not receive sufficient instruction needed to

achieve the passing standard on the transitional state assessment, but who has demonstrated readiness for fifth grade content through evidence of student learning, to the fifth grade. Each LEA shall include guidance in its local pupil progression plan outlining the evidence of student learning used to make such promotion decisions, including but not limited to performance on classroom assignments or benchmark assessments.

2. LEAs may promote any first-time eighth grade student who fails to achieve the passing standard to the transitional ninth grade, pursuant to requirements set forth in §503.B.1.d.

B. At the conclusion of the 2014-2015 school year, due to a delay in test scores resulting from the administration of new assessments, placement decisions for fourth and eighth grade students shall be made according to local pupil progression plans, which shall outline the evidence of student learning used to make promotion decisions. Such evidence shall include, but not be limited to, performance on classroom assignments or benchmark assessments.

C. At the conclusion of the 2015-2016 school year and beyond, a student who is a first-time fourth or eighth grader must score at or above the proficient achievement level, as determined by BESE, on the English language arts or mathematics component of the LEAP and at or above one achievement level below proficient, as determined by the state board (hereinafter referred to as the passing standard) to be promoted to the fifth or ninth grade.

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 36:2005 (September 2010), amended LR 40:765 (April 2014).

### §703. Retention

A. The decision to retain a student in the fourth grade more than once as a result of his/her failure to achieve the passing standard on the English language arts and mathematics components of LEAP shall be made by the LEA in accordance with the local pupil progression plan.

B. Eighth grade students who do not meet the promotion standard after taking the eighth grade state assessments in spring and summer may be placed on a high school campus in the transitional ninth grade.

C. LEAs shall provide a fourth grade transitional program for students meeting the minimum criteria.

1. The purpose of a fourth grade transitional program is to provide a class setting to students who have demonstrated the ability to benefit from a combination of intensive fourth grade remedial work and fifth grade regular coursework. Students in the transitional program may be able to progress to the sixth grade the following year.

2. Minimum criteria for placement into a fourth grade transitional program:

a. the student must score at the *approaching basic/approaching basic* achievement level on the English language arts and mathematics components of LEAP;

b. the student must have met all requirements for promotion from the fourth grade as outlined in the local pupil progression plan; and

c. the student must participate in both the summer remediation program offered by the LEA and the summer retest.

3. Minimum criteria for promotion to the sixth grade from a fourth grade transitional program:

a. the student must be provided remediation in the subject area(s) on which the student scored below *basic* on LEAP as well as instruction in the fifth grade curriculum;

b. the student must score a minimum of *basic/approaching basic* on English language arts and math and a minimum of *approaching basic/approaching basic* on science and social studies on the fourth grade LEAP; and

c. the student must have met all requirements for promotion from the fifth grade as outlined in the local pupil progression plan.

D. A student who has repeated the fourth grade and who is 12 years old on or before September 30 may be promoted according to the local pupil progression plan.

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 36:2005 (September 2010), amended LR 40:766 (April 2014).

Heather Cope  
Executive Director

1404#011

## RULE

### Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators  
Emergency Planning and Procedures (LAC 28:LXXIX.121)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has amended *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*: §121, Emergency Planning and Procedures. The policy revisions are pursuant to the requirements imposed by Act 50 and Act 136 of the 2013 Regular Session of the Legislature relative to school crisis management and response plans.

### Title 28

### EDUCATION

#### Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators Chapter 1. Operation and Administration §121. Emergency Planning and Procedures

A. Each school system and/or independent school shall have written plans and procedures that address the immediate response to emergency situations that may develop in the school.

1. Such plans and procedures shall, at a minimum:

a. address management and response in the event of a shooting or other violent incident on a school campus, school bus, or school-related activity; and

b. provide for a safe, secure, and orderly school that is conducive to learning for every student, teacher, and school employee.

2. All school employees shall receive training pertaining to the plan and procedures.

3. The plan and procedures shall be reviewed at least once annually.

4. Within the first 30 days of the school year, each school shall conduct a safety drill to rehearse the plan.

5. The plan shall be jointly developed with local law enforcement and emergency personnel.

6. The local law enforcement office and the fire chief whose office is in closest geographic proximity to the school shall have a copy of the plan.

B. To the extent that sufficient funds are available, each nonpublic school shall provide information regarding their facilities to their local parish office of emergency preparedness, which shall be uploaded to the virtual Louisiana system for inclusion in the system by the Governor's Office of Homeland Security and Emergency Preparedness.

1. The information shall include the following critical information:

a. building floor plans;

b. evacuation plans and other fire protection information relative to each building; and

c. any known hazards associated with the building.

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).

Heather Cope  
Executive Director

1404#012

## RULE

### Department of Environmental Quality Office of the Secretary Legal Division

Clean Water State Revolving Loan Fund  
(LAC 33:IX.2101, 2103, 2105, 2107, 2109, 2111, 2113,  
2115, 2119, 2121, 2123, and 2125)(WQ081)

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 Water Quality regulations, LAC 33:IX.2101, 2103, 2105, 2107, 2109, 2111, 2113, 2115, 2119, 2121, 2123, and 2125 (WQ081).

This Rule eliminates unmandated processes within the Clean Water State Revolving Fund, a low interest loan program for water quality improvement projects. The Rule will try to emulate the minimum federal requirements and processes that loan applicants must follow. The Rule eliminates Louisiana water quality inventory: integrated report (305(b)/303(d)) text and instead includes the most up-to-date Louisiana water quality inventory: integrated report (305(b)/303(d)) by reference. The basis and rationale for this Rule is to try to align the state's water regulations with federal requirements. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

## Title 33

### ENVIRONMENTAL QUALITY

#### Part IX. Water Quality

##### Subpart 1. Water Pollution Control

#### Chapter 21. Clean Water State Revolving Fund

##### Subchapter A. Clean Water State Revolving Fund

#### §2101. Introduction to the Clean Water State Revolving Fund (CWSRF)

A. The 1972 amendments to the Federal Water Pollution Control Act of 1956, commonly referred to as the Clean Water Act, provided for a strong federal role in the construction of publicly owned wastewater treatment works by increasing the level of federal aid and expanding the federal grant share to 75 percent in an effort to increase the pace of wastewater treatment facility construction and eliminate the backlog of needed facilities. Congress intended that states and municipalities eventually assume full responsibility for financing, building, operating, maintaining, and replacing their treatment facilities.

B. The 1977 amendments to the Clean Water Act began shifting responsibility to state and local governments by authorizing the U.S. Environmental Protection Agency (EPA) to delegate most of its construction grants management functions to the states. The 1981 amendments further reduced the federal role by reducing the annual federal authorization by half, reducing the federal grant share, narrowing the eligible funding categories, and reducing the eligible treatment capacity to that required to meet existing needs.

C. The 1987 amendments to the Clean Water Act set forth a schedule and mechanism for completing the transition to full state and municipal responsibility. The EPA continued to have the authority to allot funds to states for the award of grants to municipalities to construct wastewater treatment facilities through Federal Fiscal Year (FY) 1990. A new authority was created in the amendments that allowed EPA to make grants to capitalize clean water state revolving funds (CWSRFs), the primary purpose of which is to provide loans and other financial assistance to municipalities for the construction of wastewater treatment facilities. Beginning in FY 1987, states were able to exercise an option to use a portion of their annual construction grants allotments for the capitalization of CWSRFs. The last year in which funds were appropriated for direct project funding through construction grants was FY 1990. Separate appropriations for CWSRF capitalization grants were authorized from FY 1989-FY 1994. Although Congress has continued to provide funding beyond FY 1994 at its discretion, the funding for CWSRFs may stop.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of the Secretary, Legal Division, LR 40:767 (April 2014).

#### §2103. Authority

A. Act 349 of the 1986 Regular Session of the Louisiana Legislature enacted R.S. 30:2011(D)(4), 2074(A)(4) and (B)(6), and 2078 relative to the Louisiana Environmental Quality Act. Those subsections were amended by Act 296 in the 2010 Regular Session of the Louisiana Legislature.

Together, Acts 349 and 296 established the CWSRF; authorized the administrative authority of the Department of Environmental Quality to apply for and accept certain grants for the CWSRF; provided for matching funds; required that money received through such grants and state matching funds be deposited into the CWSRF; provided for the use, capitalization, investment, and disposition of the funds; provided for an exemption to certain public bond trust restrictions; and provided for related matters.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2011(D)(1).

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of the Secretary, Legal Division, LR 40:767 (April 2014).

### §2105. Definitions

*Act*—*Act* 349 of the 1986 Louisiana Legislature enacting R.S. 30:2011(D)(4), 2074(A)(4) and (B)(6), and 2078 relative to the Louisiana Environmental Quality *Act*, and/or *Act* 296 of the 2010 Regular Session of the Louisiana Legislature, amending R.S. 30:2011(D)(4), 2074(A)(4) and (B)(6), and 2078.

*Administrative Authority*—the secretary of the department or his/her designee.

*Allowable Cost*—those project costs that are eligible, reasonable, necessary, and allocable to the project; permitted by the appropriate federal cost principles, and approved in the loan agreement.

*Applicant*—any political subdivision, agency, commission of the state, or private entity allowed by federal act or federal regulation, that submits an application for financial assistance in accordance with these regulations.

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*Cost*—the *cost* of acquisition and construction; the *cost* of all land, rights-of-way, property rights, easements, franchise rights and interests required by the department for such acquisition and construction; the *cost* of all machinery, furnishings, and equipment; all financing charges, and interest prior to and during construction; the *cost* of all engineering services and all expenses of research and development with respect to eligible projects; the *cost* of all legal services and expenses; the *cost* of all plans, specifications, land surveying and estimates of *cost* and revenues; all working capital and other expenses necessary or incident to determining the feasibility or practicability of acquisition or construction of any such project; all administrative expenses and such other expenses as may be necessary or incident to the acquisition or construction of the project, the financing of such acquisition or construction, including the amount authorized in the resolution of the department providing for the issuance of revenue bonds to be paid into any special funds from the proceeds of such bonds; and the financing of the placing of any such project in operation.

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*Eligible Recipient*—a political subdivision, public trust, agency or commission of the state, or a private entity as allowed by the federal act and/or federal regulations.

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*Federal Act*—the Federal Water Pollution Control Act Amendments of 1972, known as the Clean Water Act, as amended, 33 U.S.C. § 1245 et seq., (1972).

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*Financial Capability*—the applicant shall demonstrate an unencumbered and sufficient future revenue stream to meet the annual debt service of the loan being provided by the CWSRF as determined by the administering authority. Sufficiency of a future revenue stream may be determined by examining audited financial statements, review of future net income based on increased user fees, and/or approval of the funding by the Louisiana State Bond Commission.

*Initiation of Operation*—for wastewater treatment projects, the date operations of the treatment works are initiated or are capable of being initiated, whichever is earlier.

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*Loan Program Agreement*—a contractual arrangement by and between a municipality and the state acting by and through the department, providing for loans to such municipality for the purpose of paying the cost of construction of eligible projects.

*Municipality*—a city, town, village, district, parish, Native American tribe, or an authorized Native American tribal organization, or public body having jurisdiction over transport, treatment, and/or disposal of sewage, industrial waste, other waste.

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*Person*—Repealed.

*Pollution*—

1. the discharge, release, escape, deposit or disposition, directly or indirectly, of treated or untreated sewage, industrial wastes or other wastes, of whatever kind or character, in or near any water of the state, in such condition, manner or quantity, as does, will, or is likely to contaminate or substantially contribute to the alteration of the physical, chemical or biological properties of any such waters, if such contamination or alteration where an *applicant* only contributes thereto, is to such an extent as to make any of such waters:

1.a. - 2. ...

*Program Loans*—loans made to an applicant by the state which are required to be repaid pursuant to a loan program agreement.

*Project Completion*—the date a project is complete and accepted by the owner. For wastewater treatment projects, the *project completion* is the initiation of operation date.

*Replacement*—obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

*Secretary*—Repealed.

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*User Charge*—a charge levied on users of a treatment works for the cost of operation and maintenance, including replacement or loan payment.

*Wastewater*—any water containing sewage, industrial wastes, or other wastes or contaminants derived from the

prior use of such water, and shall include without limiting the generality of the foregoing, surface water of the type storm sewers are designed to collect and dispose of.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of the Secretary, Legal Division, LR 40:768 (April 2014).

#### **§2107. Eligibility for Participation in Program**

A. Loans may be made only to *eligible recipients* as defined in LAC 33:IX.2105 for the construction of *wastewater facilities* as defined in LAC 33:IX.2105 necessary to serve the population designated in the approved planning area for the *municipality* as defined in LAC 33:IX.2105, or to an *applicant* as defined in LAC 33:IX.2105 to implement an approved nonpoint source management plan. Loans to applicants may be used to develop and implement estuary conservation and management plans.

B. Not every *cost* as defined in LAC 33:IX.2105 associated with an applicant's wastewater treatment project may be an *allowable cost* as defined in LAC 33:IX.2105 for loan participation. Allowable cost determinations are based on applicable law and regulations. Allowable costs may include those listed in LAC 33:IX.2121 of these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of the Secretary, Legal Division, LR 40:769 (April 2014).

#### **§2109. Priority System**

A. The state's *priority system* as defined in LAC 33:IX.2105 and the criteria contained therein will be used to generate an annual project priority list. The project priority list will consist of an ordered listing of all projects submitted by applicants that qualify for participation in the CWSRF program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:2164 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:769 (April 2014).

#### **§2111. Application Process for Funding**

A. Any potential applicant applying for a project loan shall first submit a completed preapplication form and associated documentation to the department. All qualified projects for which a preapplication is submitted shall be included on the next fiscal year's project priority list in accordance with the S.T.E.T. priority system.

B. Applicants selected by the department to be tentatively funded for loan assistance in the current fiscal year shall be notified in writing.

C. An applicant notified by the department for tentative funding shall submit a completed application package to the department for review and approval. The contents of the application shall be consistent with the information detailed in the preapplication form. The application package shall include all application forms and schedules required by the department and documents necessary to demonstrate the necessity, and benefits, and costs associated with the project. Supporting documents may include, but are not limited to, the following:

1. feasibility studies, engineering reports, and environmental impact evaluations required by LAC 33:IX.2125;
2. project plans and specifications;
3. financial information (possibly including project schedules, financial audits, copies of ordinances, State Bond Commission approval, and other required forms); and
4. other documents that may be deemed necessary by the department.

D. Once all required information is received and approved by the department, a loan may be awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2550 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:2164 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:769 (April 2014).

#### **§2113. Loans**

A. Loans shall be made only to eligible applicants that:

1. meet the requirements of *financial capability* as defined in LAC 33:IX.2105 set by the department to assure sufficient revenues to operate and maintain the facility for its useful life and to repay the loan;
2. possess an acceptable source of revenue for repayment of the loan. Acceptable sources of revenue for municipalities may include *charges* as defined in LAC 33:IX.2105, sales taxes, property taxes, other sources of revenue that may be legally dedicated, and revenue that is deemed acceptable by the department;
3. agree to operate and maintain the wastewater facility so that the facility will function properly over the design life of the facility, which shall not be less than the term of the loan;
4. agree to properly maintain financial records, to allow an audit of the project's financial records by a certified public accountant, and to make these records available to the department upon request;
5. provide a written assurance, signed by an attorney, that the applicant has proper title, easement and right-of-way to the property upon or through which the project is to be constructed or extended; and
6. agree to provide a written notice to the department of completion of the project; and
7. ensure that the expenditure of funds by loan recipients for *construction* as defined in LAC 33:IX.2105 or other eligible project costs shall begin within six months after entering into a binding commitment or on a more stringent time frame as may be required by financing

agreements. Failure by the loan recipient to start the expenditure of funds within one year after entering into a binding commitment will result in the withdrawal of all financial assistance from the CWSRF.

B. Loans shall be made for a period of time not to exceed 30 years.

C. Loan repayments of the principal and interest installments will be set by the department in the executed loan agreement. Interest payments on the amount drawn shall begin within one year following the loan closing. Principal repayments shall begin within one year following completion of the project, but no later than three years after the loan closing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of the Secretary, Legal Division, LR 40:769 (April 2014).

### §2115. Project Construction

A. The applicant shall comply with all state and federal laws, rules and regulations related to construction of the project. These items shall include, but shall not be limited to:

1. - 3. ...
4. Davis-Bacon Act (40 U.S.C. §3141 et seq.) and related acts (if applicable);
5. performance and payment *bonds* as defined in LAC 33:IX.2105;
6. noncompetitive procurement; and
7. ...

B. Any project constructed in whole or in part with funds obtained with a loan through the CWSRF shall be constructed in accordance with the plans and specifications approved by the department. Any deviation from the approved plans and specifications shall be approved by the department separately through the use of addenda and/or change orders.

1. The applicant may issue, prior to bid opening, addenda to correct errors, to clarify information in bidding documents or to incorporate the current wage rate determination. The addenda shall be issued in a reasonable time prior to the deadline for the receipt of bids and the applicant shall insure that the addenda have been issued to each bidder.

2. The applicant shall be responsible for negotiation of construction contract change orders. During negotiations with the contractor, the applicant or, if authorized, his engineer shall:

- a. - c. ...
- d. submit to the department all change orders for review and approval.

C. The applicant shall submit to the department for review a complete statement of work to be performed, the terms and conditions of the proposed contract to be awarded, a clear explanation of the methods of bidding and of evaluating bid prices and the limits of work for each item on the proposal form.

D. From the time of first submission of the loan application, throughout all stages of construction, and at any time while financial assistance from the CWSRF to the applicant is outstanding, the department, through its duly authorized representative, shall have the right to inspect any

and all projects, and any and all incidental works, areas, facilities and premises otherwise pertaining to the project for which the application is made. The department shall further have the same right of inspection to inspect any and all books, accounts, records, contracts or other instruments, documents or information possessed by the applicant or entity representing the applicant which relate to the receipt, deposit and/or expenditure of financial assistance funds or to the planning, design, construction and operation of any facilities which may have been constructed as a result of such financial assistance. By submittal of a loan application to the department, the applicants shall be deemed to consent and agree to the right of reasonable inspection and all applicants shall allow the department all necessary and reasonable access and opportunity for such purposes.

E. The applicant shall provide the department with a written notification upon completion of any project for which financial assistance is provided through the CWSRF. The department shall conduct a final on-site inspection of the project and an audit of any and all financial assistance furnished to the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:2164 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:770 (April 2014).

### §2119. Miscellaneous

A. The department shall have an annual audit conducted of the fiscal operation of the CWSRF for submission to the governor and the legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:2164 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:770 (April 2014).

### §2121. Allowable Costs

A. *Allowable costs* as defined in LAC 33:IX.2105 may include, but may not be limited to, the following:

1. - 3. ...
4. facilities planning directly related to a treatment works;
5. - 11. ...
12. a reasonable inventory of laboratory chemicals and/or other supplies necessary to initiate operation of the project;
13. start-up services for new treatment works, in accordance with guidance issued by the department;
14. project identification signs, if necessary;
15. development of a municipal pre-treatment program and purchase of monitoring equipment and construction of facilities to be used by the municipal treatment works in the pre-treatment program; and

16. costs of complying with procurement requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 13:742 (December 1987), repromulgated LR 14:862 (December 1988), amended by the Office of the Secretary, Legal Division, LR 40:770 (April 2014).

**Subchapter B. Clean Water State Revolving Fund  
Priority System**

**§2123. Introduction to the Clean Water State Revolving Fund (CWSRF) Priority System**

**A. Introduction**

1. On October 18, 1972, the Federal Water Pollution Control Act Amendments became Public Law 92-500. PL 92-500 was amended by PL 95-217, the Clean Water Act of 1977, PL 97-117, the Municipal Wastewater Treatment Construction Grant Amendments of 1981, and by PL 100-4 (Water Quality Act of 1987).

2. The primary aim of the *federal act* as defined in LAC 33:IX.2105 is to "restore and maintain the chemical, physical, and biological integrity of the nation's water." The federal act states the goal of suitable water quality for recreational contact, and for protection and propagation of fish and wildlife. In addition, the federal act emphasizes the need for controlling or eliminating discharges of toxic pollutants through the control of point and nonpoint sources of *pollution* as defined in LAC 33:IX.2105. A permit program has been established to restrict pollutant discharges from factories, municipalities, and large agricultural operations. The permit program has been expanded to include pollutants entering the nation's water through nonpoint sources, including stormwater runoff from municipalities, factories, agricultural operations, and other sources that do not require NPDES permits.

3. The Water Quality Act of 1987 added title VI to the Clean Water Act, which provided for a program of low interest loans. Section 603(c) of the federal act states that the amounts of funds available to each state water pollution control revolving fund shall be used only for providing financial assistance:

a. to any *municipality* as defined in the LAC 33:IX.2105, intermunicipal, interstate, or state agency for *construction* as defined in the LAC 33:IX.2105 of publicly owned treatment works as defined in section 212 of the Clean Water Act;

b. for the implementation of a management program established under section 319 of the Clean Water Act; and

c. for development and implementation of a conservation and management plan under section 320 of the Clean Water Act.

4. Section 603(g) of the federal act states that the state may provide financial assistance with the state revolving loan fund only if a construction project as described in subsection (c)(1) is on the state's priority list under section 216 of the federal act. Assistance may be provided regardless of the rank of a project on the list. Section 603(g) of the federal act does not require that a project for the implementation of a management program established under section 319 of the federal act, and for development and implementation of a conservation and management plan under section 320 of the federal act shall be on the state's

priority list to receive financial assistance. These projects shall be included on the priority list and assigned priority ratings in accordance with LAC 33:IX.2123.C.7.

5. Section 603(c) of the federal act states that after public comment and review, each state shall prepare an annual plan identifying the intended uses of the money to its revolving loan fund.

6. The department has established the state of Louisiana CWSRF priority system due to the federal requirements of the program.

7. This system provides a priority list of publicly owned treatment works projects that meet the definition in section 212 of the federal act, and provides for the selection of eligible projects to be included on the annual intended use plan (IUP) for each year.

**B. List of Stream Subsegments and Subsegment Priority Numbers**

1. The priority of the program's management is to give more importance to the areas where significant problems occur.

2. The state of Louisiana is divided into 12 water quality management basins which exhibit distinct hydrologic characteristics. Each designated basin is divided into stream segments and subsegments which exhibit common reactions to stresses (e.g., pollutants). The stream segmentation for Louisiana is contained in the area-wide *water quality management plans* as defined in LAC 33:IX.2105 and submitted under section 303(e) of the federal act.

3. In order to direct the water quality management effort, each stream subsegment is ranked according to its designated uses and the degree to which they are supported. The values from each of the category classifications, from Table B-1 of this Section, are multiplied together to produce a stream subsegment priority number. If a subsegment has multiple designated uses, the single highest product of a designated use and degree of support shall be utilized as the stream subsegment priority number.

4. Information on designated uses and degree of support is taken from the latest approved Louisiana water quality inventory integrated report, which may be found on the department's website.

5. The stream priority list is used as the base for the later determination of the project priority ratings.

<b>Table B-1: Subsegment Priority Ranking Multipliers</b>	
<b>Designated Uses</b>	<b>Multiplier</b>
Shellfish Propagation	20
Sole Source Drinking Water Supply	15
Outstanding Natural Resource	10
Primary Contact Recreation	5
Secondary Contact Recreation	5
Fish and Wildlife Propagation	5
Agriculture	5
Limited Aquatic Wildlife Use	2
<b>Degree of Support</b>	<b>Multiplier</b>
Not Supported	5
Partially Supported	4
Fully Supported but Threatened	3
Fully Supported	2
<b>Formula:</b>	
Designated Uses X Degree of Support = Stream Subsegment Priority Number	

C. List by Priority Rank

1. In conjunction with the priority of the stream subsegments of the state of Louisiana, each municipality that requests consideration for funding is rated by its ability to comply with the federal act.

2. The priority rating for each municipality being considered for a loan is composed of the stream subsegment priority rating and the municipality factor. These numbers are added together to form the basic project priority rating.

3. The municipality factor is the summation of the category factor and the pollution reduction factor. The category factor depends on the age of a particular treatment or collection system within a project area.

a. The category factor value for treatment system only projects shall be obtained from Table C-1 of this Section.

b. The category factor value for collection system projects shall be obtained from Table C-2 of this Section.

c. The category factor value for treatment and collection system projects shall be the higher values from Table C-1 or C-2 of this Section and shall be used to calculate the municipality factor.

d. The pollution reduction factor value is an indication of the ability to reduce the pollution discharged into the receiving waters, and shall be obtained from Table C-3 of this Section.

Table C-1 Treatment System Category Factor				
Age of Treatment Plant	Type of Treatment Plant			
	Mechanical Plant	Aerated Lagoon	Stabilization Pond	Other
0 - 5 years	2	1	0	0
6 - 10 years	4	2	1	0
11 - 15 years	6	4	2	1
16 - 20 years	8	5	3	1
Over 20 years	10	7	4	2

Table C-2 Collection System Category Factor	
Age of Collection System	Points
0 - 10 years	2
11 - 20 years	4
21 - 30 years	6
31 - 40 years	8
Over 40 years	10

Table C-3 Pollution Reduction Factor				
Present Treatment Level	Future Level of Treatment			
	Secondary	Advanced (BOD≥20)	Advanced (20>BOD≥10)	Advanced (BOD<10)
Raw (from existing outfall)	80	90	90	100
Less than Secondary	60	70	80	90
Secondary	20*	60	70	80
Advanced (BOD≥20)	N/A	20*	60	70
Advanced (20>BOD≥10)	N/A	N/A	20*	60
Advanced (BOD<10)	N/A	N/A	N/A	20*
Unsewered (no outfall)	30	40	50	60
N/A- No reduction in pollution discharge anticipated				20

Table C-3 Pollution Reduction Factor				
Present Treatment Level	Future Level of Treatment			
	Secondary	Advanced (BOD≥20)	Advanced (20>BOD≥10)	Advanced (BOD<10)
*If no change to treatment, but increase in capacity, change 20 to 40				
Formula: Category Factor + Pollution Reduction Factor = Municipality Factor				

4. A separate municipality factor shall be determined for each treatment facility and the collection system within its service area. When two or more treatment facilities are included in a single project, the municipality factor for the project will be the weighted average, according to population served for all treatment facilities included in the project regardless of whether they are in the same or different municipalities.

$$\text{Basic Project Priority Rating} = \text{Stream Subsegment Priority Rating} + \text{Municipality Factor}$$

5. The priority rating for a municipality may be reconsidered and adjusted when new information is made available. Information may result from water quality analysis, facility planning, etc.

6. Any municipality may request a reconsideration of its priority rating. Such a request shall include the reason(s) the municipality believes the priority rating is incorrect.

7. Projects for the implementation of a management program established under section 319 of the Federal Act, and for development and implementation of a conservation and management plan under section 320 of the Federal Act, shall be assigned a stream subsegment priority number based on the most impacted by the project. These projects shall also be assigned an additional factor based on the ability of the project to reduce pollution in receiving waters. This factor shall be assigned by the department based on evaluation of individual project applications and shall not exceed 100 points. The basic priority rating for projects under sections 319 and 320 of the Federal Act are detailed in the equation below.

$$\text{Basic Project Priority Rating} = \text{Stream Subsegment Priority Rating} + \text{Additional Assigned Factor}$$

D. CWSRF Priority List

1. Upon receipt of a request by the authorized representative of an applicant, the basic priority rating will be determined and the proposed project shall be placed on the CWSRF priority list.

2. For public entities only, requests for inclusion on the CWSRF priority list shall include:

- a. a resolution from the governing authority designating a project representative and authorizing him/her to submit preapplication material;
- b. a completed preapplication; and
- c. a map of the proposed planning area.

3. It is the responsibility of each authorized project representative to maintain current and accurate information for his/her project, and to submit any revised or updated project information to the department each year. The information will be used to prepare the CWSRF priority list.

4. The loan amount shown on the list shall be the estimated amount of the items eligible for loan assistance.



Eligibility of specific items shall be based on the latest federal requirements in effect at the time the list is prepared. Should these requirements be changed subsequent to preparation of the list, all projects on the list shall be adjusted accordingly. The monetary amount of each item shall be based on the latest information supplied by the authorized project representative in accordance with Paragraph D.2 of this Section.

5. Projects normally proceed by facility planning, design, and construction. Projects that have completed facility planning and design, and are ready to begin construction may be considered for funding. Projects shall be awarded points in addition to the basic priority rating based on the readiness to proceed to construction in accordance with the Table D.1 of this Section.

Table D.1.	
Milestone	Points
Project has completed facility planning and planning documents have been approved	1000
The plan and design for the project has been completed, and the specifications have been approved	2000

6. Assistance may be offered in several phases to large projects upon request by the authorized project representative. Assistance is based on a comparison of project cost and funds available, or other factors that may require delayed funding for portions of a project. Each phase of a project shall be listed separately on the CWSRF priority list. All phases shall have the same basic priority rating, but each phase will have its own points awarded based on readiness to proceed.

7. The CWSRF priority list shall include all projects that have requested funding assistance, ranked in priority order, regardless of the amount of funds available. The priority list shall be used for the later preparation of the CWSRF intended use plan.

8. Projects on the CWSRF priority list shall be selected to receive funds from the amount expected to be available in accordance with Paragraph E.2 of this Section, less any reserves established in accordance with Subsection F of this Section.

9. The department shall provide public notice of the CWSRF priority list by publishing the availability of the list in the official state journal and by placing the notice on the DEQ website. The public shall have 30 days from the publication date of the notice to provide written comments to the department. After the end of the 30 day comment period, the department shall hold a public hearing on the CWSRF priority list. The department shall consider all comments received and make any changes deemed necessary. Afterwards, the department shall submit the CWSRF priority list to the EPA.

10. Any project or project phase shall be removed from the CWSRF priority list once funding for the project or project phase has been provided through the CWSRF. The project or project phase shall be removed after it been constructed using another source of funds.

11. Any project request without written communication with the department and no presentation of progress toward prerequisites to funding for a period of five years shall be deemed to be an inactive project and may be removed from the CWSRF priority list. Prior to removal of an inactive

project from the CWSRF priority list, the department shall contact the project representative in writing to inform him/her of the impending removal.

12. The CWSRF priority list is divided into the fundable portion and the future funding portion. The fundable portion includes those projects expected to be awarded assistance during the fiscal year in which the list was prepared. The future funding portion includes those projects expected to receive funding in future fiscal years.

13. A project may be moved from the fundable portion to the future funding portion of the list, if the department determines that the project will not be ready to proceed during the funding year. The department shall contact the project representative in writing to advise him/her of the impending decision to move the project to the future funding list. The applicant shall have 30 days to present updated information to avoid being moved to the future funding list.

14. Projects from the future funding portion of the list that have completed the priority list public participation requirements may advance to the fundable portion of the list if program funding allows, or if additional funds are available. Individual projects shall advance in accordance with the provisions of Paragraph D.8 of this Section, until the available federal funding is consumed if additional funds are available.

15. If the actual amount available during the year is less than the projected amount expected to be available in accordance with Paragraph E.2 of this Section, and it is not possible to fund all projects on the fundable portion of the priority list, then those projects selected last for inclusion on the priority list will be moved from the fundable portion of the list to the future funding portion until the remaining projects can be funded with the available funds.

16. If granting the additional funds would result in insufficient funds for the remaining projects on the fundable portion, the additional funds shall not be granted. The project contact may request that additional funds be added to the future funding portion of the project.

E. Intended Use Plan (IUP)

1. An is prepared for each state fiscal year (SFY), and it details the intended use of amounts expected to be available to the CWSRF during the SFY. These intended uses shall include loans for projects and other allowable uses of the fund. This includes, but is not limited to, repayment of *bonds* as defined in LAC 33:IX.2105 issued by the fund, loan guarantees, insurance for local obligations, and payment of allowable costs of administering the fund. The priority list from Subsection D of this Section is an integral component of the IUP.

2. On July 1 of each year the *administrative authority* as defined in LAC 33:IX.2105, or his/her designee, shall determine the loan amount expected to be available for projects in the current SFY.

3. Of the amount expected to be available in accordance with Paragraph E.2 of this Section, certain amounts shall be reserved in accordance with Subsection F of this Section.

4. Projects shall be included on the current CWSRF priority list that have met public participation requirements and have been submitted to the EPA in order to be selected for the IUP. Projects on the proposed CWSRF priority list may be selected for the proposed IUP, provided that both the

proposed priority list and IUP meet public participation requirements and are accepted by the EPA.

5. The department shall provide a CWSRF IUP public notice by publishing it in the official state journal and by placing the notice on the DEQ website. The public shall have 10 business days from the publication of the notice to provide written comments to the department. After the end of the 10 business-day comment period, the department may hold a public hearing on the CWSRF IUP. The department shall consider all comments received and make any changes deemed necessary.

6. The CWSRF IUP shall be submitted to the EPA for review and approval after the public comment period has expired.

F. Reserves Related to the IUP

1. Reserves for State Management Assistance

a. The state may set aside a portion of the total funds available during each SFY for use by the department in fulfilling its obligations to manage the CWSRF program.

b. The reserve shall be limited to the amount authorized by federal law as a percentage of each federal capitalization grant.

2. Reserve for Loans for Facilities Planning and Design

a. The state may set aside a portion of the total funds available during the SFY for loans to applicants for facilities planning and design.

b. The reserve is limited to applicants who meet all of the following conditions.

i. The construction portion of the project shall appear within the five year planning portion of the IUP.

ii. The loan shall be used to perform facility planning or design work that has not been previously funded.

iii. The applicant certifies that it does not have the financial capability to complete facility planning and design work without financial assistance.

c. The reserve shall be implemented only to the extent that the department deems necessary to provide assistance to applicants who are unable to complete facilities planning and design work without assistance. Applicants are expected to receive assistance for construction when facility planning and design work are completed. This reserve shall not exceed 10 percent of the funds available, in accordance with Paragraph E.2 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 17:342 (December 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2508 (October 2005), LR 33:2164 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:771 (April 2014).

**Subchapter C. State Environmental Review Process**

**§2125. Introduction to the State Environmental Review Process**

A. The state environmental review process (SERP) provides the policy for conducting environmental reviews of construction projects that are funded by federal funds in Louisiana's CWSRF. The reviews shall be consistent with the requirements of the National Environmental Policy Act

(NEPA) of 1969, 42 U.S.C. 4321 et seq., as implemented by the Council on Environmental Quality (CEQ) NEPA Regulations (40 CFR Parts 1500-1508). Pursuant to the 1987 amendments to the Clean Water Act, the United States Environmental Protection Agency (EPA) specified that state agencies may either develop or revise their own environmental review methods. They may also adopt and apply the procedures of 40 *Code of Federal Regulations* (CFR) Part 6. The CWSRF has adopted the procedures as outlined in 40 CFR Part 6, procedures for implementing the National Environmental Policy Act and assessing the environmental effect abroad of EPA actions.

B. All terminology used in this document is consistent with the terms defined in 40 CFR Part 1508 (CEQ NEPA regulations). The following definitions are provided for clarity.

*Environmental Information Document (EID)*—any written analysis prepared by an applicant, or their authorized representative, describing the environmental impacts of a proposed project. This document shall be of sufficient scope to enable the CWSRF to identify potentially significant environmental concerns and the associated potential impacts of the proposed project.

*Environmental Review*—the process whereby an evaluation is undertaken by the CWSRF to determine whether a proposed project may have a significant impact on the environment.

*Preliminary Engineering Report (PER)*—any written study prepared by an applicant, or their authorized representative, describing the need and recommendations for new, expanded, or upgraded wastewater facilities. The documents shall include a study of any socioeconomic, environmental, or other unique features. It shall include a forecast of planning area future conditions a detailed economic analysis for each principal alternative, and a description of the process, design flow, effluent limits, cost, and plan for implementation of the proposed wastewater treatment works.

C. The department shall conduct a NEPA-type review of construction projects proposed for funding through the CWSRF, if required. This review shall be conducted as early as possible in project formulation to ensure that all projects comply with applicable local, state, and federal laws, and departmental rules relating to the protection and enhancement of the environment. Based upon the department's review, it shall make a formal determination regarding the potential social and environmental impacts of the proposed project. The determination shall include any necessary mitigation measures as a condition of financial assistance. No financial assistance shall be provided until a final environmental determination has been made. Any public, private, or governmental entity shall be allowed to seek any administrative or legal review provided by law from the department determinations. Applicants to the CWSRF shall obtain guidance from the department regarding the scope of the environmental review to be conducted, and the environmental information the applicant is required to submit in support of the proposed project. Applicants are strongly encouraged to consult with the department in the early stage of project formulation. This consultation is to determine whether a project is eligible to be categorically excluded from a substantive environmental

review, determine alternatives to the proposed project for evaluation, and/or identify potential environmental issues which may impact its application.

1. The determinations that will apply to construction projects proposed to be implemented include a determination to:

- a. issue a categorical exclusion (CE);
- b. issue a finding of no significant impact (FONSI);

or

- c. require an environmental impact statement (EIS).

2. A project may be categorically excluded from a substantive environmental review if the project fits within a category of actions identified in Subparagraph C.2.c of this Section that are eligible for exclusion and the project does not involve any extraordinary circumstances identified in Subparagraph C.2.d of this Section. Applicants are not required to prepare an environmental information document (EID) or preliminary engineering report (PER) for projects that are being considered for CE. An environmental assessment (EA) is not required if the project is categorically excluded.

a. If a project is determined to be categorically excluded, a written CE determination shall be prepared by the department and published in the official parish journal at the location of the project. The CE determination constitutes a final decision of the administrative authority.

b. The department may identify categories of actions that do not individually, cumulatively over time, or in conjunction with other actions, have a significant effect on the quality of the human environment. These do not include projects that provide a capacity to serve a population 30 percent greater than the existing population, that directly or indirectly involve upgrading, or that extend infrastructure systems primarily for the purposes of future development.

c. Department-identified CEs include, but may not be limited to:

i. actions at facilities involving routine facility maintenance, repair, and groundskeeping; minor rehabilitation, restoration, renovation, or revitalization of existing facilities; *replacement* as defined in LAC 33:IX.2105, of equipment; acquisition and installation of equipment (including equipment needed solely for purposes of emergency preparedness); or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities;

ii. actions relating to existing infrastructure systems (i.e., sewer systems, drinking water supply systems, and stormwater systems that include combined sewer overflow systems) that involve minor upgrading, minor expansion of system capacity or rehabilitation (i.e., functional replacement) of the existing system and system components, (i.e., sewer collection network and treatment system; the system to collect, treat, store, and distribute drinking water; and stormwater systems, including combined sewer overflow systems) or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities. This category does not include actions that:

(a). involve new or relocated discharges to surface or ground water;

(b). will likely result in the substantial increase in the volume or the loading of pollutant to the receiving water;

(c). will provide capacity to serve a population 30 percent greater than the existing population;

(d). are not supported by the state, other regional growth plan, or strategy; or

(e). directly or indirectly involve or relate to upgrading or extending infrastructure systems primarily for the purposes of future development; and

iii. actions in unsewered communities involving the replacement of existing on-site systems, providing the new on-site systems do not result in substantial increases in the volume of discharge, or the loadings of pollutants from existing sources, or relocating an existing discharge.

d. Extraordinary circumstances that would preclude issuance of a CE include, but are not limited to, the following:

i. the proposed project is likely to have potentially significant environmental impacts on the quality of the human environment either individually or cumulatively over time;

ii. the proposed project is likely to have disproportionately high and adverse human health or environmental effects on any community including minority communities, low income communities, or federally-recognized Native American tribal communities;

iii. the proposed project is likely to significantly affect federally listed, threatened, endangered species, or their critical habitat;

iv. the proposed project is likely to significantly affect national natural landmarks or any property with nationally significant architectural, historic, prehistoric, archeological, or cultural value, including but not limited to, property listed on or eligible for the National Register of Historic Places;

v. the proposed project is likely to significantly affect environmentally important natural resource areas such as wetlands, floodplains, significant agricultural lands, aquifer recharge zones, coastal zones, barrier islands, wild and scenic rivers, and significant fish or wildlife habitat;

vi. the proposed project is likely to cause significant adverse air quality effects;

vii. the proposed project is likely to have a significant effect on the pattern, type of land use (i.e., industrial, commercial, agricultural, recreational, or residential), growth and distribution of population including altering the character of existing residential areas, or not consistent with state government, local government, or federally-recognized Native American tribe approved land use plans, or federal land management plans;

viii. the proposed project is likely to cause significant public controversy about a potential environmental impact of the proposed project; and

ix. the proposed project is likely to conflict with federal, state, local government, federally-recognized Native American tribe, federal environmental, resource protection, or land use laws or regulations.

e. A CE determination shall be rescinded if:

i. the proposed project no longer complies with the applicable 40 CFR Part 6 criteria for CE due to project changes; or

ii. new information involves or relates to at least one of the extraordinary circumstances, or otherwise indicates serious environmental issues exist.

f. When the department has determined that a CE is to be rescinded based upon this criteria, the department shall prepare a notice of intent (NOI) to rescind the CE previously applied to the project and require the preparation of an EID or EIS.

3. A FONSI may be prepared based on a proposed project's EA, which will be prepared based on a substantive environmental review conducted by the department and supported by an EID prepared in conjunction with the facility plan (FP) prepared by the applicant. If the EA supports the finding that the proposed project will not have a significant effect on the human environment or includes any commitments to mitigation that render the impacts of the proposed project insignificant, then the administrative authority will issue a FONSI. If the EA does not support a FONSI, then an EIS shall be prepared.

4. An EIS may be required based on a proposed project's EA, which will be prepared based on a substantive environmental review conducted by the department and supported by an EID prepared in conjunction with the PER prepared by the applicant. An EIS may also be required without an EA when the proposed project is deemed a major action significantly affecting the quality of the human environment. A project normally requires an EIS if the administrative authority determines:

a. the project will significantly affect the pattern and type of land use (i.e., industrial, commercial, recreational, or residential), or growth and distribution of the population;

b. the proposed project is inconsistent with federal, state, local government, federally-recognized Native American tribe, or federal environmental, resource protection, or land-use laws and management plans for protection of the environment;

c. the project is likely to significantly affect environmentally important resources such as:

i. wetlands;

ii. significant agricultural lands;

iii. aquifer recharge zones;

iv. threatened and endangered species or their habitats;

v. coastal zones;

vi. barrier islands;

vii. wild and scenic rivers;

viii. significant fish or wildlife habitat;

ix. national natural landmarks; and/or

x. any property on or eligible for the National Register of Historic Places; or

d. the project is likely to directly or indirectly, through induced development, involve uncertain environmental effects, produce significant cumulative impacts in conjunction with other government projects, or have significant adverse effects upon local ambient air quality, local noise levels, surface water reservoirs, or navigation projects.

5. Amended Projects, Previous Environmental Determinations, and Usage of Other Relevant Environmental Documents by the Department

a. In the event that changes are made to a project after an environmental determination has been issued, the administrative authority shall, prior to approval, examine the plans and specifications, loan application, and related

documents for consistency with the environmental determination. Based upon the department's review of the amended project, the administrative authority shall:

i. reaffirm and amend, as necessary, the original determination through the issuance of a statement of findings;

ii. rescind a CE and issue a NOI that the preparation of an EID or an EIS will be required;

iii. revise a FONSI and make available to the public;

iv. rescind a FONSI and issue a NOI that the preparation of an EIS will be required;

v. revise a record of decision (ROD) associated with an EIS and make available to the public; or

vi. rescind a ROD via the issuance of a NOI that financial assistance will not be provided.

b. The administrative authority may accept and adopt previous NEPA environmental determinations (i.e., CE, EA/FONSI, and EIS/ROD) issued within the last five years with the submittal of an application to the CWSRF. Acceptance of previous environmental determinations shall be affirmed through the issuance of a statement of findings. Otherwise, the administrative authority shall re-evaluate the project, environmental conditions, public views, and may reaffirm the original environmental determination, or have a new environmental review conducted in accordance with Subsection A of this Section.

c. The administrative authority may review relevant planning, decision making, and/or environmental review documents to determine if the proposed project or any of its alternatives have previously been considered. The department may adopt the existing document, or incorporate by reference, any pertinent part of that document.

6. Construction Prior to Environmental Review

a. An applicant may, at the applicant's risk, commence construction of part of the proposed project prior to completion of the necessary environmental review when that part of the project will:

i. immediately remedy a severe public health, water quality, or environmental problem;

ii. not preclude any identified reasonable alternatives;

iii. not cause significant direct or indirect environmental impacts including those which cannot be acceptably mitigated without completing the entire project;

iv. not be significantly controversial concerning a potential environmental impact; and

v. all other parts of the proposed project remain subject to the completion of the environmental review process prior to construction.

b. The administrative authority shall make a determination of eligibility for work performed under Subparagraph C.6.a of this Section after submittal, approval of the PER, and completion of the environmental review. There is no guarantee that work undertaken prior to the loan award will be eligible for funding.

D. Environmental Information Requirements

1. A minimum of one copy of the information required in this Subsection shall be submitted to the department by the applicant.

a. Categorical Exclusions (CE). Applicants seeking a CE shall provide the department with sufficient

documentation to demonstrate compliance with the criteria listed under Subparagraph C.2.c of this Section. If requested by the administrative authority the applicant shall submit additional information to support the application of a CE to the applicant's project and/or whether any extraordinary circumstance applies. At a minimum, additional information consists of:

- i. a brief description of the proposed project, including maps and drawings;
- ii. a brief description of the no action alternative;
- iii. a statement specifying the department-identified CE, as listed in Subparagraph C.2.c of this Section which applies to the proposed project; and
- iv. a statement that no extraordinary circumstances, as identified in Subparagraph C.2.d of this Section, apply to the proposed project.

b. Environmental Information Documents (EID). An EID is not required when the project is categorically excluded and does not involve extraordinary circumstances, or when the project has already been determined to require the preparation of an EIS. Otherwise, the applicant shall submit an EID that provides sufficient information for the administrative authority to undertake an environmental review and prepare either an EA/FONSI and/or request the preparation of an EIS for the project. The EID may be incorporated into the PER or submitted separately, and the administrative authority shall provide guidance to applicants on both the format and contents of the EID.

i. Contents. At a minimum the contents of the EID shall include:

- (a). the purpose and need for the project;
- (b). the existing environmental setting of the project;
- (c). the alternatives to the project, including the no action alternative;
- (d). a description of the proposed project;
- (e). the potential environmental impacts of the proposed project, including those which cannot be avoided;
- (f). a description of public participation activities conducted, issues raised, and changes to the project which may be made as a result of the public participation process; and
- (g). documentation of coordination with appropriate governmental agencies.

ii. Availability to the Public. At least 30 days in advance of submittal and availability of the PER and EID, the applicant shall provide a public notice of the availability of the PER and EID for public review and comment in a newspaper of general circulation in the project area. The applicant shall make the PER and EID available to all federal, state, local agencies, the affected public, and others that may have previously expressed an interest in the project. A public hearing may be required by the department if there is substantial public interest in conducting a hearing, or a hearing is requested by another agency with jurisdiction over the proposed project. In the event that a public hearing is required, the administrative authority shall provide guidance to the applicant regarding the contents of the public hearing notice and of the public hearing. The public hearing and the availability of the PER for public review shall be advertised by the applicant at least 30 days in advance in the newspaper of general circulation in the project area. Following the

public hearing the applicant shall provide the department with a verbatim transcript of the hearing, a copy of the public hearing notice with proof of publication, a list of all applicants and agencies notified of the public hearing, a list of all attendees, and responses to any substantive comments received.

c. Environmental Impact Statements (EIS). In the event that an EIS is required, the applicant shall provide sound analysis and clear presentation of alternatives, including the no action alternative, the selected alternative, and their environmental, economic, and social impacts. The administrative authority may request the applicant to prepare an EIS without first undertaking an EA. The EIS format shall be followed by the applicant unless the administrative authority determines otherwise. The EIS format shall include:

i. a cover sheet identifying the applicant, the project(s), and the program through which financial assistance is requested; and

ii. an executive summary of the critical issues of the EIS in sufficient detail that the reader may become familiar with the proposed project and its cumulative effects. The summary shall include:

- (a). a description of the existing problem;
- (b). a description of each alternative, including the no action alternative;
- (c). a listing of each alternative's potential environmental impacts, mitigation measures, and any areas of concern; and
- (d). any conclusions;

iii. the body of the EIS shall contain the following information:

(a). a complete and clear description of the purpose and need for the proposed project that clearly identifies its goals and objectives;

(b). a discussion of alternatives including, but not limited to:

(i). a balanced description of each alternative considered by the applicant including the no action alternative;

(ii). description including the size and location of the facilities, water lines, land requirements, and construction schedules; and

(iii). the preferred alternative identified, and any alternatives that are eliminated from examination along with the reasons for their elimination;

(c). a description of the alternatives available to the department including:

(i). providing financial assistance to the proposed project;

(ii). requiring that the proposed project be modified prior to providing financial assistance with conditions requiring the implementation of mitigation measures; and

(iii). not providing financial assistance to the proposed project;

(d). a description of the alternatives available to other local, state, and federal agencies which may have the ability to issue or deny a permit, provide financial assistance, or otherwise affect or have an interest in any of the alternatives; and

(e). a description of the affected environment and environmental impacts of each alternative, including, but not limited to:

(i). the alternative evaluation of the affected environment, which shall be based on, but not be limited to: hydrology, geology, air quality, noise, biology, socioeconomic factors, land use, and cultural resources of the planning area;

(ii). analysis of the total impact of each alternative in a manner that will facilitate comparison;

(iii). the effect of the no action alternative to serve as a baseline for comparison of the adverse and beneficial impacts of the other alternatives; and

(iv). description of the existing environment in the no action section for background information;

iv. the draft EIS shall be public noticed for a period of 30 days. The final EIS shall include a list of comments, a list of commenters, a commenter key, responses, and the final decision(s) of the department on any such comments pertinent to the project or the EIS;

v. material incorporated by reference into an EIS shall be organized to the extent possible into a supplemental information document and be made available for public review upon request. No material may be incorporated by reference unless it is reasonably available for inspection by interested applicants within the comment periods specified in Clause D.1.c.iv of this Section and Subclause D.1.c.vii.(b.) of this Section;

vi. when an EIS is prepared by contractors either for the department or the applicant, the department shall independently evaluate the EIS prior to issuance of the record of decision and take responsibility for its scope and contents. The department staff who reviews this evaluation shall be identified under the list of preparers, along with those of the contractor, and any other parties responsible for the content of the EIS;

vii. public participation required for an EIS shall be conducted by the department, but may be supplemented by the applicant depending upon the nature and scope of the proposed project. The following requirements represent the minimum allowable to the applicant and the department:

(a). as soon as practicable, and in accordance with Subparagraph E.2.c of this Section, the department shall convene a scoping meeting of the affected federal, state, and local agencies; the applicant; and other interested parties to determine the scope of the EIS after a determination has been made that an EIS is required. As part of the scoping meeting the department shall, at a minimum:

(i). determine the significant issues and the scope of analysis required of those issues in the EIS;

(ii). identify the preliminary range of alternatives to be considered;

(iii). identify potential cooperating agencies and determine the information or analyses that may be needed from cooperating agencies or other parties;

(iv). discuss the method of EIS preparation and the public participation strategy;

(v). identify consultation requirements of other laws and regulations; and

(vi). determine the relationship between the preparation of the EIS and the completion of the PER, and

any necessary arrangements for coordination of the preparation of both documents;

(b). following the scoping process the administrative authority shall begin the identification and evaluation of all potential available alternatives to adequately address the range of issues developed in the scoping process. A summary, including a list of the significant issues identified, shall be provided to the applicant and other interested parties. Preparation of the EIS shall be done at the discretion of the department, by the staff, consultants to the department, or a consultant contracted by the applicant subject to approval by the department. When a consultant is used for the preparation of the EIS, the consultant shall be required to execute a disclosure statement signifying it has no financial or other conflicting interest in the outcome of the project. Both the draft EIS and the final EIS shall be distributed and made available for public review in a manner consistent with the requirements of Clause D.1.b.ii of this Section. The department shall publish, in the *Louisiana Register* and a newspaper(s) of general circulation in the project area, a notice of availability of the final EIS giving locations at which it will be available for public review for at least 30 days prior to making the decision to provide or deny financial assistance to the proposed project;

(c). at the time of its decision to provide or deny financial assistance to the proposed project, the administrative authority shall prepare a concise public ROD that shall:

(i). include a brief description of the proposed project and all alternatives considered in the EIS, specifying the alternative that was considered to be environmentally preferable;

(ii). clearly state the decision being made and provide an explanation behind the decision; and

(iii). identify, if necessary, any commitments to mitigation.

#### E. Environmental Reviews and Determinations

1. A substantial environmental review resulting in the preparation of an EA is required for proposed projects that are expected to result in environmental impacts and where the significance of the impacts is not known. An EA is not required if the proposed project is categorically excluded, or if the administrative authority has determined that an EIS is required. The environmental review, supported by the applicant's EID and PER, shall be conducted by the administrative authority to determine whether any significant environmental impacts are anticipated and whether any changes may be made to the proposed project in order to eliminate significant adverse environmental impacts. As part of the review, the administrative authority may require the applicant to submit additional information or undertake additional public participation and coordination to support its environmental determination. Based on the environmental review, the administrative authority shall prepare an EA that provides sufficient information and analysis for determining whether to issue a FONSI or require the preparation of an EIS. The EA shall include:

a. a brief discussion of the:

i. need for the proposed project;

ii. alternatives considered, including the no action alternative;

iii. existing environment; and

iv. environmental impacts of the proposed project;  
b. identification and description of any mitigation measures considered, including any mitigation measures that shall be adopted to ensure the action will not have significant impacts; and

c. incorporation of documents by reference, if appropriate, including the EID and PER for the proposed project.

2. Based on the EA, the administrative authority shall issue a FONSI or a NOI to prepare an EIS.

a. The FONSI shall include a brief description of:

i. the proposed project;

ii. any mitigation measures required of the applicant as a condition of its receipt of financial assistance; and

iii. a statement to the effect that comments supporting or opposing with the FONSI may be submitted for consideration by the department.

b. The FONSI and EA shall be distributed to all public and private parties, governmental entities, and agencies that have previously expressed an interest in the proposed project. The availability of the FONSI and EA shall be public noticed in a newspaper of general circulation in the project area and invite the affected public to review and provide comments. The public notice initiates the required 30-day public comment period. No action regarding approval of the PER or the provision of financial assistance shall be taken by the department until the end of the public comment period.

c. The NOI to prepare an EIS shall include a brief description of the:

i. proposed project and possible alternatives;

ii. department's proposed scoping process (see Clause D.1.c.vii of this Section) including an invitation for comments and suggestions on the scope of the EIS, if available, when, and where any scoping meeting will be held; and

iii. name and contact information for the applicant's representative designated by the department to answer questions about the proposed project and the EIS.

d. The NOI to prepare an EIS shall be public noticed in a newspaper of general circulation in the project area and shall be distributed to all public and private parties, governmental entities, and agencies that have previously expressed an interest in the proposed project. Distribution of the NOI begins the scoping process for the EIS, which shall allow for a public comment period of 30 days. The department shall announce the location, date, and time of any scoping meetings in the NOI, or by other appropriate means, at least 15 days before the scoping meeting is held.

#### F. Cross-Cutting Environmental Laws

1. All projects receiving funding from the CWSRF shall comply with the following nonexclusive applicable laws respecting the human environment:

a. Archeological and Historic Preservation Act, as amended;

b. Clean Air Act, as amended;

c. Clean Water Act, as amended;

d. Coastal Barrier Resources Act, as amended;

e. Coastal Zone Management Act, as amended;

f. Endangered Species Act, as amended;

g. Environmental Justice, Executive Order 12898, as amended;

h. Farmland Protection Policy Act, as amended;

i. Fish and Wildlife Coordination Act, as amended;

j. Floodplain Management, Executive Order 11988, as amended;

k. National Historic Preservation Act, as amended;

l. Protection of Wetlands, Executive Order 11990, as amended;

m. Safe Drinking Water Act, as amended;

n. Demonstration Cities and Metropolitan Development Act, as amended;

o. Wild and Scenic Rivers Act, as amended; and

p. Wilderness Act, as amended.

2. Because particular federal, state, and/or local agencies are charged with enforcement and/or permitting required under these laws, applicants shall be provided guidance regarding agency contact information and consultation. The department shall require appropriate coordination and project planning with these agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011(D)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 14:862 (December 1988), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2551 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2509 (October 2005), LR 33:2165 (October 2007) amended by the Office of the Secretary, Legal Division, LR 40:774 (April 2014).

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1404#042

## RULE

### Department of Environmental Quality Office of the Secretary Legal Division

#### Regulatory Permit for Stationary Internal Combustion Engines (LAC 33:III.311)(AQ342)

Editor's Note: A hearing was not held pursuant to R.S.49:968(H)(2) to incorporate the changes in this Rule.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.311 (AQ342).

This Rule revision will expand the existing Regulatory Permit for Emergency Engines (LAC3:III.311) to address non-emergency stationary internal combustion engines. R.S. 30:2054(B)(9)(a) allows LDEQ to develop regulatory permits for certain sources of air emissions provided the conditions in R.S.30:2054(B)(9)(b) are satisfied. Pursuant to R.S.30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S.30:2019-Promulgation of rules and regulations (i.e., the Administrative Procedure Act, R.S.49:950 et seq.). The basis and rationale for this Rule are to expand the existing Regulatory Permit for Emergency Engines (LAC 33:III.311)

to address non-emergency stationary internal combustion engines. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part III. Air**

**Chapter 3. Regulatory Permits**

**§311. Regulatory Permit for Stationary Internal Combustion Engines**

**A. Applicability**

1. This regulatory permit authorizes the installation and use of stationary internal combustion engines, including, but not limited to, electrical power generators, firewater pumps, and air compressors, subject to the requirements established herein, upon notification by the administrative authority that the application (i.e., notification form) submitted in accordance with Subsection L of this Section has been determined to be complete. This regulatory permit also authorizes the associated fuel storage tank provided the capacity of the tank is less than 10,000 gallons.

2. This regulatory permit may be used to authorize the use of both permanent and temporary engines.

3. This regulatory permit does not apply to:

a. ...

b. *nonroad engines*, as defined in LAC 33:III.502.A.

4. This regulatory permit shall not be used to authorize use of an engine that combusts noncommercial fuels, including used crankcase oil or any other used oil, facility byproducts, or any other type of waste material.

5. This regulatory permit shall not be used to authorize use of an engine that, when considering potential emissions from the engine and potential emissions from the remainder of the stationary source, would result in the creation of a major source of criteria pollutants, hazardous air pollutants, or toxic air pollutants.

B. ...

\* \* \*

**C. Opacity**

**1. Limitations**

a. **Smoke.** The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one 6-minute period in any 60 consecutive minutes.

b. - c. ...

**2. Monitoring and Recordkeeping for Emergency Engines**

a. - d. ...

**3. Monitoring and Recordkeeping for Nonemergency Engines**

a. The permittee shall inspect each engine's stack for visible emissions no less than once each calendar week. If visible emissions are not detected during the initial six minutes of the inspection, the inspection may be concluded.

b. If visible emissions are detected for more than one six-minute period over a 60 consecutive minute test period using Method 22 of 40 CFR 60, Appendix A, the permittee shall conduct a 6-minute opacity reading in

accordance with Method 9 of 40 CFR 60, Appendix A, within three calendar days.

c. If the shade or appearance of the emission is darker than 20 percent average opacity (per Method 9), the permittee shall take corrective action to return the engine to its proper operating condition, and the 6-minute opacity reading shall be repeated in accordance with Method 9. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after any Method 9 reading in excess of 20 percent average opacity or, for *Part 70 sources*, as defined in LAC 33:III.502.A, in accordance with Part 70 General Condition R of LAC 33:III.535.A. This notification shall include the date the visual check was performed, results of the Method 9 testing, and a record of the corrective action employed.

d. Records of visible emissions checks shall be kept on-site and available for inspection by the Office of Environmental Compliance. These records shall include:

i. the engine's ID number;

ii. the engine's serial number;

iii. the date the visual check was performed;

iv. a record of emissions, if visible emissions were detected for more than one six-minute period;

v. the results of any Method 9 testing conducted; and

vi. a record of any corrective action employed.

4. This Subsection shall not apply to engines described in LAC 33:III.1107.B.1 and 2.

D. - D.2...

E. Operating Time of Emergency Engines

1. - 3. ...

F. Emission Standards

1. New Source Performance Standards

a. Each stationary compression ignition (CI) internal combustion engine (ICE) described in 40 CFR 60.4200(a) shall comply with the applicable provisions of 40 CFR 60, Subpart IIII—Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4200(d) or meets the conditions set forth in 40 CFR 60.4200(e).

b. Each stationary spark ignition (SI) ICE described in 40 CFR 60.4230(a) shall comply with the applicable provisions of 40 CFR 60, Subpart JJJJ—Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 60.4230(e) or meets the conditions set forth in 40 CFR 60.4230(f).

2. National Emissions Standards for Hazardous Air Pollutants. Each stationary reciprocating ICE described in 40 CFR 63.6590 shall comply with the applicable provisions of 40 CFR 63, Subpart ZZZZ—National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, unless the engine is exempted as described in 40 CFR 63.6585(e) or identified in 40 CFR 63.6585(f).

3. Engines that are affected point sources as defined in LAC 33:III.2201.B shall comply with the applicable provisions of LAC 33:III.Chapter 22 – Control of Emissions of Nitrogen Oxides (NOX), including:

a. the appropriate NOX emission factor set forth in Table D-1A or Table D-1B of LAC 33:III.2201.D;



- b. the initial and continuous demonstrations of compliance required by LAC 33:III.2201.G and H; and
- c. the notification, recordkeeping, and reporting requirements of LAC 33:III.2201.I.

G. Performance Testing and Monitoring. The following performance testing and monitoring requirements shall apply to nonemergency engines with a manufacturer's horsepower rating of 500 or above and represented to operate more than 720 hours in any 6-month period on the application submitted in accordance with Subsection L of this Section.

1. No later than 180 days after the engine commences operation, the permittee shall conduct a performance test to determine NOX and CO emissions using Methods 7E (Determination of Nitrogen Oxides Emissions from Stationary Sources) and 10 (Determination of Carbon Monoxide Emissions from Stationary Sources) of 40 CFR 60, Appendix A. Each test run shall be conducted within 80 percent of the engine's maximum rated capacity or within 10 percent of the maximum achievable load. Alternate stack test methods may be used only with the prior approval of the Office of Environmental Services.

a. The permittee shall notify the Office of Environmental Services at least 30 days prior to the performance test in order to provide the department with the opportunity to conduct a pretest meeting and/or observe the test.

b. The permittee shall submit the performance test results to the Office of Environmental Services no later than 60 days after completion of the test.

2. The permittee shall monitor NOX, CO, and oxygen (O2) concentrations in the engine's stack gas semiannually (6 months after the performance test or previous semiannual test, plus or minus 30 days) using a portable analyzer calibrated before each test using a known reference sample. NOX, CO, and O2 concentrations may be monitored annually (12 months after the performance test or previous annual test, plus or minus 30 days) if the engine is equipped with catalytic controls.

3. Where monitoring of NOX or CO is required by 40 CFR 60, Subpart III; 40 CFR 60, Subpart JJJ; 40 CFR 63, Subpart ZZZZ; or LAC 33:III.2201, the performance testing and monitoring requirements of this Subsection shall not apply for that pollutant.

4. This Subsection shall not apply to nonemergency engines identified as being temporary.

H. Temporary Engines

1. Records of each temporary engine brought on-site shall be maintained and made available for inspection by the Office of Environmental Compliance. These records shall include:

- a. the date the unit was delivered;
- b. the make and model;
- c. the manufacturer's rated horsepower;
- d. the fuel type; and
- e. the date the unit was removed from the site.

2. The authorization for the use of any engine identified as being temporary shall remain effective for 12 months following the date on which the administrative authority determines that the application submitted in accordance with Subsection L of this Section is complete. If the permittee determines that an engine originally identified as temporary will remain on-site longer than 12 months, a

new application (i.e., notification form) shall be submitted in accordance with Subsection L of this Section prior to expiration of the authorization to operate under this regulatory permit as provided in this Paragraph.

I. Permanent Engines. Permanent engines authorized by this regulatory permit shall be included in the next renewal or modification of the facility's existing permit.

J. Gasoline storage tanks associated with an engine and with a nominal capacity of more than 250 gallons shall be equipped with a submerged fill pipe.

K. Emissions Inventory. Each facility subject to LAC 33:III.919 shall include emissions from all engines, including temporary units, authorized by this regulatory permit in its annual emissions inventory.

L. Notification Requirements. Written notification describing the planned activity shall be submitted to the Office of Environmental Services using the appropriate form provided by the department. A separate notification shall be submitted for each engine.

M. In accordance with LAC 33:III.Chapter 2, the fee for this regulatory permit is \$713. In accordance with LAC 33:III.209 and 211, the annual maintenance fee associated with this regulatory permit shall be \$143. Applicable surcharges as described in LAC 33:III.211.A shall also be assessed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 35:459 (March 2009), amended LR 37:3221 (November 2011), amended by the Office of the Secretary, Legal Division, LR 40:780 (April 2014).

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1404#041

**RULE**

**Department of Health and Hospitals  
Board of Chiropractic Examiners**

Dry Needling; Interns; Licensure and Certification  
(LAC 46:XXVII.321, 322, 601, and 603)

The Board of Chiropractic Examiners, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and relative to its authority to adopt, amend or repeal rules provided by R.S. 37:2804, has adopted LAC 46:XXVII.321, Dry Needling, LAC 46:XXVII.322, Supervision of Chiropractic Interns, LAC 46:XXVII.601, Licensure for Individuals with Military Training and for Military Spouses, and LAC 46:XXVII.603, Certification of X-ray Proficiency for Individuals with Military Training and for Military Spouses.

The board has adopted LAC 46:XXVII.321, Dry Needling, to establish regulation and standards for the utilization of dry needling techniques by chiropractic physicians. The board has adopted LAC 46:XXVII.322, Supervision of Chiropractic Interns, as part of its regulatory authority over chiropractic licensees in the state. The board has adopted LAC 46:XXVII.601, Licensure for Individuals with Military Training and for Military Spouses, and LAC

46:XXVII.603, Certification of X-ray Proficiency for Individuals with Military Training and for Military Spouses, as directed by the legislature pursuant to R.S. 37:3651. The actions are strictly part of the board enforcement function.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part XXVII. Chiropractors**

#### **Chapter 3. Professional Conduct**

##### **§321. Dry Needling**

A. The purpose of this rule, as authorized by R.S. 37:2803, is to provide for the interpretation of R.S. 37:2801(3)(a) to include dry needling and to provide with respect to utilization of the techniques by chiropractic physicians. Dry needling is a physical rehabilitation measure which requires specialized education and training and which falls within the chiropractic scope of practice under the following terms. Prior to utilization of dry needling techniques chiropractic physicians shall successfully complete a board approved course of study consisting of no fewer than 50 hours of face-to-face instruction in intramuscular dry needling treatment and safety. The practice of dry needling techniques without compliance of this education requirement constitutes unprofessional conduct and subjects the licensee to appropriate discipline by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 40:782 (April 2014).

##### **§322. Supervision of Chiropractic Interns**

A. A licensed chiropractor is not eligible to supervise a chiropractic intern if the licensee has been subject to disciplinary action by the board three or more times in the last 10 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 40:782 (April 2014).

#### **Chapter 6. Individuals with Military Training and Military Spouses**

##### **§601. Licensure for Individuals with Military Training and for Military Spouses**

A. Notwithstanding any other provision of law to the contrary, the board shall issue a license to practice chiropractic to a military trained chiropractor that at the time of application to the board satisfies the following conditions:

1. has completed a military program of training for chiropractic, been awarded a military occupational specialty in chiropractic, and performed in the specialty of chiropractic at a level that is substantially equivalent or which exceeds the requirements for licensure in this state;

2. has engaged in the active practice of chiropractic;

3. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice chiropractic in this state at the time the act was committed.

B. Notwithstanding any other provision of law, the board shall issue a license to practice chiropractic to a military trained applicant if, upon application to the board, the

applicant holds a current license from another jurisdiction and that jurisdiction's requirements for licensure are substantially equivalent to or exceed the requirements for licensure in this state as set forth in R.S. 37:2805.

C. Notwithstanding any other provision of law, the board shall issue a license to practice chiropractic to a military spouse to allow the military spouse to lawfully practice chiropractic in the state of Louisiana, if, upon application, the military spouse satisfies all of the following conditions:

1. holds a current license in another jurisdiction and that jurisdiction's requirements for licensure are substantially equivalent to or exceed the requirements for licensure as set forth in R.S. 37:2805.

2. can demonstrate competency in the occupation through methods as determined by the board, which include:

a. obtaining 18 continuing education units;

b. maintaining a license and active practice in good standing in another jurisdiction for a minimum of two years immediately prior to application with the board.

3. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice chiropractic in this state at the time the act was committed.

4. is in good standing and has not been disciplined by the agency that issued the license, certification, or permit.

D. The board shall issue a temporary permit to a military trained applicant or military spouse applicant while the application for licensure is processed by the board, if the military trained applicant or military spouse applicant is licensed in another jurisdiction and that jurisdiction's requirements for licensure are substantially equivalent to or exceed the requirements for licensure as set forth in R.S. 37:3805. The military trained applicant or military spouse applicant may practice under the temporary permit until the license is granted by the board or until a notice to deny a license is issued by the board, but at no time shall the temporary permit be issued for more than four months. The military trained applicant or military spouse applicant practicing under the temporary permit must comply with all laws governing the practice of chiropractic in this state.

E. The board shall give priority consideration in processing an application for licensure by an individual possessing a temporary permit under the provisions of this Section.

F. Nothing in this Section shall be construed to prohibit a military trained applicant or military spouse applicant from proceeding under the existing licensure requirements established by the board.

G. The provisions of this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 40:782 (April 2014).

##### **§603. Certification of X-ray Proficiency for Individuals with Military Training and for Military Spouses**

A. Notwithstanding any other provision of law to the contrary, the board shall issue a certificate of proficiency in x-ray function to any military-trained chiropractic assistant

that at the time of application to the board satisfies the following conditions:

1. has completed a military program in education and training for x-ray function, at a level that is substantially equivalent to or which exceeds the requirements for certification in this state;

2. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a certificate of proficiency in x-ray function in this state at the time the act was committed.

B. Notwithstanding any other provision of law, the board shall issue a certificate of proficiency in x-ray function to a military spouse, if, upon application, the military spouse satisfies all of the following conditions:

1. holds a current certificate of proficiency in x-ray function in another jurisdiction and that jurisdiction's requirements for certification are substantially equivalent to or exceed the requirements for certification as set forth by R.S. 37:2828;

2. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a certificate of proficiency in x-ray function in this state at the time the act was committed;

3. is in good standing and has not been disciplined by the agency that issued the certification.

C. The board shall issue a temporary permit to a military trained applicant or military spouse applicant while the application for certification is processed by the board, if the military trained applicant or military spouse applicant holds a valid certificate in another jurisdiction and that jurisdiction's requirements for certification are substantially equivalent to or exceed the requirements for certification as set forth in this Chapter. The military trained applicant or military spouse may practice under the temporary permit until the certificate is granted by the board or until a notice to deny a certificate is issued by the board, but at no time shall the temporary permit be issued for more than four months. The military-trained applicant or military spouse practicing under the temporary permit must comply with all laws governing the practice of chiropractic in this state.

D. The board shall give priority consideration in processing an application for a certificate of proficiency in x-ray function to an individual possessing a temporary permit under the provisions of this Section.

E. Nothing in this Section shall be construed to prohibit a military-trained applicant or military spouse from proceeding under the existing certification requirements established by the board.

F. The provisions of this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

G. The holder of the x-ray proficiency certificate must register annually with the board on or before July 31. Failure to register with the board on an annual basis shall result in removal of that person's name from the board's list of x-ray proficiency certificate holders.

H. Any application for certification must be accompanied with payment of the fee fixed by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2804 and R.S. 3650.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Chiropractic Examiners, LR 40:782 (April 2014).

Patricia Oliver  
Executive Director

1404#025

## RULE

### Department of Health and Hospitals Board of Dentistry

#### Examination of Dentists (LAC 46:XXXIII.1709)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry has amended LAC 46:XXXIII.1709.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XXXIII. Dental Health Profession

#### Chapter 17. Licensure Examinations

#### §1709. Examination of Dentists

A. Any person desiring to be licensed as a dentist shall apply to the agency conducting the board approved dental examination and shall verify the information required on the application by oath. There shall be an application fee set by the testing agency.

B. - C.1. ...

2. the Louisiana State Board of Dentistry approved clinical examination. This examination will be named by the board and this approval may be changed or amended as deemed necessary by the board.

D. Examination scores are valid for initial licensure for three years following the candidate's successful completion of an accepted licensing examination. The examinations accepted by the Louisiana State Board of Dentistry for initial licensure by examination are as follows:

1. examinations conducted prior to January 1, 2012, by Council of Interstate Testing Agencies (CITA), Central Regional Dental Testing Service (CRDTS), Northeast Regional Examining Board (NERB), Southern Regional Testing Agency (SRTA), and Western Regional Examining Board (WREB);

2. examinations conducted after January 1, 2012, by Council of Interstate Testing Agencies (CITA);

3. the American Board of Dental Examiners (ADEX) Dental Examination.

E. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002), LR 33:2654 (December 2007), LR 37:1407 (May 2011), LR 37:2151 (July 2011), LR 37:3516 (December 2011), repromulgated LR 38:356 (February

Peyton B. Burkhalter  
Executive Director

1404#084

## RULE

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

#### Dental Benefits Prepaid Ambulatory Health Plan (LAC 50:I.Chapter 21)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:I.Chapter 21 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part I. Administration

#### Subpart 3. Medicaid Coordinated Care

#### Chapter 21. Dental Benefits Prepaid Ambulatory Health Plan

##### §2101. General Provisions

A. Effective May 1, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing shall adopt provisions to establish a comprehensive system of delivery for dental services covered under the Medicaid Program. The dental benefits plan shall be administered under the authority of a 1915(b) waiver by implementing a prepaid ambulatory health plan (PAHP) which shall be responsible for the necessary operational and administrative functions to ensure adequate service coordination and delivery.

B. All Medicaid recipients that are receiving dental services through the fee-for-service system will receive dental services administered by a dental benefit plan manager (DBPM).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:784 (April 2014).

##### §2103. Participation Requirements

A. In order to participate in the Medicaid Program, a DBPM must be a successful bidder, be awarded a contract with the department, and complete the readiness review.

B. A DBPM must:

1. meet the federal definition of a PAHP as defined in 42 CFR §438.2;
2. have a license or certificate of authority issued by the Louisiana Department of Insurance to operate as a Medicaid risk bearing “prepaid entity” pursuant to R.S. 22:1016 and submit with the proposal response;
3. have a certificate from the Louisiana Secretary of State, to conduct business in the state;
4. meet solvency standards as specified in federal regulations and title 22 of the *Louisiana Revised Statutes*;
5. have a network capacity to enroll a minimum of 1,288,625 Medicaid members into the network;

6. is without an actual or perceived conflict of interest that would interfere or give the appearance of impropriety or of interfering with the contractual duties and obligations under this contract or any other contract with DHH, and any and all applicable DHH written policies. Conflict of interest shall include, but is not limited to, the contractor serving, as the Medicaid fiscal intermediary contractor for DHH;

7. is awarded a contract with DHH, and successfully completed the readiness review prior to the start date of operations; and

8. have the ability to provide core dental benefits and services to all assigned members on the day the Dental Benefits Program is implemented.

C. A DBPM shall ensure the provision of core dental benefits and services to all eligible enrollees when the Dental Benefit Program is implemented.

D. Upon request by the Centers for Medicare and Medicaid Services, the Office of Inspector General, the Government Accounting Office, the department or its designee, a DBPM shall make all of its records pertaining to its contract (services provided thereunder and payment for services) with the department available for review, evaluation and audit. The records shall include, but are not limited to the following:

1. pertinent books and documents;
2. financial records;
3. dental records and documents; and
4. provider records and documents involving financial transactions related to the contract.

E. A DBPM shall maintain an automated management information system that collects, analyzes, integrates, and reports data that complies with department and federal reporting requirements.

F. A DBPM shall obtain insurance coverage(s) as specified in the terms of the contract. Subcontractors, if any, shall be covered under these policies or have insurance comparable to the DBPM’s required coverage.

G. A DBPM shall provide all financial reporting as specified in the terms of the contract.

H. A DBPM shall be subject to a retainage of 10 percent from all billings under the contract as surety for performance as specified in the terms of the contract during the life of the contract.

I. In the event of noncompliance with the contract and the department’s guidelines, a DBPM shall be subject to the sanctions specified in the terms of the contract including, but not limited to:

1. corrective action plans;
2. monetary penalties; or
3. suspension and/or termination of the DBPM’s contract.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:784 (April 2014).

##### §2105. Prepaid Ambulatory Health Plan Responsibilities

A. The DBPM shall be responsible for the administration and management of its requirements and responsibilities under the contract with the department and any and all department issued guidance. This includes all subcontracts,

employees, agents and anyone acting for or on behalf of the DBPM.

1. No subcontract or delegation of responsibility shall terminate the legal obligation of the DBPM to the department to ensure that all requirements are carried out.

B. A DBPM shall possess the expertise and resources to ensure the delivery of dental benefits and services to members and to assist in the coordination of covered dental services, as specified in the terms of the contract.

C. A DBPM shall have written policies and procedures governing its operation as specified in the contract and department issued guidance.

D. A DBPM shall not discriminate against enrollees on the basis of race, gender, color, national origin, age, health status or need for dental services, and shall not use any policy or practice that has the effect of discriminating on any such basis.

E. A DBPM shall be required to provide service authorization, referrals, coordination, and/or assistance in scheduling the covered dental services as specified in the terms of the contract.

F. The DBPM shall establish and implement a quality assessment and performance improvement program as specified in the terms of the contract and department issued guidance.

G. A DBPM shall develop and maintain a utilization management program including policies and procedures with defined structures and processes as specified in the terms of the contract and department issued guides.

H. The DBPM must have administrative and management arrangements or procedures, including a mandatory compliance plan, that are designed to guard against fraud and abuse. The DBPM shall comply with all state and federal laws and regulations relating to fraud, abuse, and waste in the Medicaid programs as well all requirements set forth in the contract and department issued guidance.

I. A DBPM shall collect data on enrollees and provider characteristics and on services furnished to members through an encounter data system as specified in the contract and all department issued guidance.

J. A DBPM shall be responsible for conducting routine provider monitoring to ensure:

1. continued access to dental care for eligible Medicaid recipients; and

2. compliance with departmental and contract requirements.

K. A DBPM shall not engage the services of a provider who is in non-payment status with the department or is excluded from participation in federal health care programs (i.e., Medicare, Medicaid, CHIP, etc.).

L. Dental records shall be maintained in accordance with the terms and conditions of the contract. These records shall be safeguarded in such a manner as to protect confidentiality and avoid inappropriate disclosure according to federal and state law.

M. The DBPM shall provide both member and provider services in accordance with the terms of the contract and department issued guides.

1. The DBPM shall submit provider manuals and provider directory to the department for approval prior to distribution, annually and subsequent to any revisions.

a. The DBPM must provide a minimum of 60 days' notice to the department of any proposed material changes to the member handbooks and/or provider manuals.

b. After approval has been received from the department, the DBPM must provide a minimum of 30 days' notice to the members and/or providers of any proposed material changes to the required member education materials and/or provider manuals.

N. Member education materials shall include, but not be limited to:

1. a welcome packet including, but not limited to:

a. a welcome letter highlighting major program features and contact information for the DBPM; and

b. a provider directory when specifically requested by the member (also must be available in searchable format on-line);

2. member rights and protections as specified in 42 CFR §438.100 and the DBPM's contract with the department including, but not limited to:

a. a member's right to change providers within the DBPM;

b. any restrictions on the member's freedom of choice among DBPM providers; and

c. a member's right to refuse to undergo any dental service, diagnoses, or treatment or to accept any service provided by the DBPM if the member objects (or in the case of a child, if the parent or guardian objects) on religious grounds;

3. member responsibilities, appropriate and inappropriate behavior, and any other information deemed essential by the DBPM or the department including, but not limited to reporting to the department's Medicaid Customer Service Unit if the member has or obtains another health insurance policy, including employer sponsored insurance; and

4. the amount, duration, and scope of benefits available under the DBPM's contract with the department in sufficient detail to ensure that members understand the benefits to which they are entitled, including, but not limited to:

a. information about oral health education and promotion programs;

b. the procedures for obtaining benefits, including prior authorization requirements and benefit limits;

c. how members may obtain benefits, including emergency services, from out-of-network providers;

d. the policy on referrals for specialty care; and

e. the extent to which, and how, after-hour services are provided;

5. information to call the Medicaid Customer Service Unit toll free telephone number or visit a local Medicaid eligibility office to report changes in parish of residence, mailing address or family size changes;

6. a description of the DBPM's member services and the toll-free telephone number, fax telephone number, e-mail address and mailing address to contact DBPM's member services department;

7. instructions on how to request multi-lingual interpretation and translation services when needed at no cost to the member. This information shall be included in all versions of the handbook in English, Spanish and Vietnamese; and

8. grievance, appeal and state fair hearing procedures and time frames as described in 42 CFR §438.400 through §438.424 and in the DBPM's contract with the department.

O. The provider manual shall include but not be limited to:

1. description of the DBPM;
2. core dental benefits and services the DBPM must provide;
3. emergency dental service responsibilities;
4. policies and procedures that cover the provider complaint system. This information shall include, but not be limited to:
  - a. specific instructions regarding how to contact the DBPM to file a provider complaint; and
  - b. which individual(s) has the authority to review a provider complaint;
5. information about the DBPM's grievance system, that the provider may file a grievance or appeal on behalf of the member with the member's written consent, the time frames and requirements, the availability of assistance in filing, the toll-free telephone numbers and the member's right to request continuation of services while utilizing the grievance system;
6. medical necessity standards as defined by DHH and practice guidelines;
7. practice protocols, including guidelines pertaining to the treatment of chronic and complex conditions;
8. primary care dentist responsibilities;
9. other provider responsibilities under the subcontract with the DBPM;
10. prior authorization and referral procedures;
11. dental records standards;
12. claims submission protocols and standards, including instructions and all information necessary for a clean and complete claim and samples of clean and complete claims;
13. DBPM prompt pay requirements;
14. notice that provider complaints regarding claims payment shall be sent to the DBPM;
15. quality performance requirements; and
16. provider rights and responsibilities.

P. The provider directory for members shall be developed in two formats:

1. a hard copy directory for members and, upon request, potential members; and
2. a web-based online directory for members and the public.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:784 (April 2014).

#### **§2107. Network Access Standards and Guidelines**

A. The DBPM must maintain and monitor a provider network that is supported by written agreements and is sufficient to provide adequate access to enrollees as required by federal law and the terms as set forth in the contract. The DBPM shall adhere to the federal regulations governing access standards, as well as the specific requirements of the contract and all department-issued guides.

B. The DBPM shall cover all necessary services to treat an emergency dental condition.

1. *Emergency Dental Condition*—a dental or oral condition that requires immediate services for relief of symptoms and stabilization of the condition. Such conditions include:

- a. severe pain;
- b. hemorrhage;
- c. acute infection;
- d. traumatic injury to the teeth and surrounding tissue; or
- e. unusual swelling of the face or gums.

2. Emergency dental services are those services necessary for the treatment of any condition requiring immediate attention for the relief of pain, hemorrhage, acute infection, or traumatic injury to the teeth, supporting structures (periodontal membrane, gingival, alveolar bone), jaws, and tissue of the oral cavity.

C. The DBPM must maintain a provider network and in-area referral providers in sufficient numbers, as determined by the department, to ensure that all of the required core dental benefits and services are available and accessible in a timely manner in accordance with the terms and conditions in the contract and department issued guide.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:786 (April 2014).

#### **§2109. Benefits and Services**

A. Core benefits and services shall be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to enrollees under the Louisiana Medicaid state plan.

1. *Core benefits and services* shall be defined as those oral health care services and benefits required to be provided to Medicaid eligible individuals as specified under the terms of the contract and department-issued guides.

B. The following is a summary listing of the core dental benefits and services that a DBPM is required to provide:

1. diagnostic services which include oral examinations, radiographs and oral/facial images, diagnostic casts and accession of tissue—gross and microscopic examinations;
2. preventive services which include:
  - a. prophylaxis;
  - b. topical fluoride treatments;
  - c. sealants;
  - d. fixed space maintainers; and
  - e. re-cementation of space maintainers;
3. restorative services which include:
  - a. amalgam restorations;
  - b. composite restorations;
  - c. stainless steel and polycarbonate crowns;
  - d. stainless steel crowns with resin window;
  - e. pins, core build-ups, pre-fabricated posts and cores;
  - f. resin-based composite restorations;
  - g. appliance removal;
  - h. unspecified restorative procedures; and
  - i. ancillary medical services;
4. endodontic services which include:
  - a. pulp capping;
  - b. pulpotomy;

c. endodontic therapy on primary and permanent teeth (including treatment plan, clinical procedures, and follow-up care);

- d. apexification/recalcification;
  - e. apicoectomy/periradicular services;
  - f. unspecified endodontic procedures; and
  - g. organ transplant-related services;
5. periodontal services which include:
- a. gingivectomy;
  - b. periodontal scaling and root planning;
  - c. full mouth debridement; and
  - d. unspecified periodontal procedures;
6. removable prosthodontics services which include:
- a. complete dentures;
  - b. partial dentures;
  - c. denture repairs;
  - d. denture relines; and
  - e. unspecified prosthodontics procedures;
7. maxillofacial prosthetics services which include fluoride gel carrier;
8. fixed prosthodontics services which include:
- a. fixed partial denture pontic;
  - b. fixed partial denture retainer; and
  - c. other unspecified fixed partial denture services;
9. oral and maxillofacial surgery services which include:
- a. non-surgical extractions;
  - b. surgical extractions;
  - c. coronal remnants extractions;
  - d. other surgical procedures;
  - e. alveoloplasty;
  - f. surgical incision;
  - g. temporomandibular joint (TMJ) procedure;
  - h. other unspecified repair procedures;
  - i. durable medical equipment and certain supplies;
10. orthodontic services which include:
- a. interceptive and comprehensive orthodontic treatments;
  - b. minor treatment to control harmful habits; and
  - c. other orthodontic services; and
11. adjunctive general services which include:
- a. palliative (emergency) treatment;
  - b. anesthesia;
  - c. professional visits;
  - d. miscellaneous services; and
  - e. unspecified adjunctive procedures.

NOTE: This overview is not all inclusive. The contract, policy transmittals, approved Medicaid State Plan, regulations, provider bulletins, provider manuals, published fee schedules, and guides issued by the department are the final authority regarding services.

C. The core benefits and services provided to the members shall include, but are not limited to, those services specified in the contract policy transmittals, approved Medicaid state plan, regulations, provider bulletins, provider manuals, and fee schedules, issued by the department are the final authority regarding services.

D. Excluded Services. The DBPM is not obligated to provide for services that are experimental, non-FDA approved, investigational, or cosmetic and are specifically excluded from Medicaid coverage and will be deemed "not medically necessary." The Medicaid director, in consultation

with the Medicaid dental director, may consider authorizing services at his/her discretion on a case-by-case basis.

#### E. Utilization Management

1. The DBPM shall develop and maintain policies and procedures with defined structures and processes for a utilization management (UM) program that incorporates utilization review and service authorization, which include, at minimum, procedures to evaluate medical necessity and the process used to review and approve the provision of dental services. The DBPM shall submit an electronic copy of the UM policies and procedures to DHH for written approval within thirty calendar days from the date the contract is signed by the DBPM, but no later than prior to the readiness review, annually thereafter, and prior to any revisions.

2. The UM Program policies and procedures shall meet all Utilization Review Accreditation Commission (URAC) standards or equivalent and include medical management criteria and practice guidelines that:

- a. are adopted in consultation with a contracting dental care professionals;
- b. are objective and based on valid and reliable clinical evidence or a consensus of dental care professionals in the particular field;
- c. are considering the needs of the members; and
- d. are reviewed annually and updated periodically as appropriate.

3. The policies and procedures shall include, but not be limited to:

- a. the methodology utilized to evaluate the medical necessity, appropriateness, efficacy, or efficiency of dental care services;
- b. the data sources and clinical review criteria used in decision making;
- c. the appropriateness of clinical review shall be fully documented;
- d. the process for conducting informal reconsiderations for adverse determinations;
- e. mechanisms to ensure consistent application of review criteria and compatible decisions;
- f. data collection processes and analytical methods used in assessing utilization of dental care services; and
- g. provisions for assuring confidentiality of clinical and proprietary information.

4. The DBPM shall disseminate the practice guidelines to all affected providers and, upon request, to members. The DBPM shall take steps to encourage adoption of the guidelines.

5. The DBPM must identify the source of the dental management criteria used for the review of service authorization requests, including but not limited to:

- a. the vendor must be identified if the criteria were purchased;
- b. the association or society must be identified if the criteria are developed/recommended or endorsed by a national or state dental care provider association or society;
- c. the guideline source must be identified if the criteria are based on national best practice guidelines; and
- d. the individuals who will make medical necessity determinations must be identified if the criteria are based on the dental/medical training, qualifications, and experience of

the DBPM dental director or other qualified and trained professionals.

6. UM Program dental management criteria and practice guidelines shall be disseminated to all affected providers and members upon request. Decisions for utilization management, enrollee education, coverage of services, and other areas to which the guidelines apply should be consistent with the guidelines.

7. The DBPM shall have written procedures listing the information required from a member or dental care provider in order to make medical necessity determinations. Such procedures shall be given verbally to the covered person or healthcare provider when requested. The procedures shall outline the process to be followed in the event the DBPM determines the need for additional information not initially requested.

8. The DBPM shall have written procedures to address the failure or inability of a provider or member to provide all the necessary information for review. In cases where the provider or member will not release necessary information, the DBPM may deny authorization of the requested service(s).

9. The DBPM shall have sufficient staff with clinical expertise and training to apply service authorization medical management criteria and practice guidelines.

10. The DBPM shall use the department's definition of medical necessity for medical necessity determinations. The DBPM shall make medical necessity determinations that are consistent with the department's definition.

11. The DBPM shall submit written policies and processes for DHH approval, within thirty calendar days, but no later than prior to the readiness review, of the contract signed by the DBPM, on how the core dental benefits and services the DBPM provides ensure:

- a. the prevention, diagnosis, and treatment of health impairments;
- b. the ability to achieve age-appropriate growth and development; and
- c. the ability to attain, maintain, or regain functional capacity.

12. The DBPM must identify the qualification of staff who will determine medical necessity. Determinations of medical necessity must be made by qualified and trained practitioners in accordance with state and federal regulations.

13. The DBPM shall ensure that only licensed clinical professionals with appropriate clinical expertise in the treatment of a member's condition or disease shall determine service authorization request denials or authorize a service in an amount, duration or scope that is less than requested.

14. The individual(s) making these determinations shall have no history of disciplinary action or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that raise a substantial question as to the clinical peer reviewer's physical, mental, or professional or moral character.

15. The individual making these determinations is required to attest that no adverse determination will be made regarding any dental procedure or service outside of the scope of such individual's expertise.

16. The DBPM shall provide a mechanism to reduce inappropriate and duplicative use of healthcare services. Services shall be sufficient in an amount, duration, and scope to reasonably be expected to achieve the purpose for which the services are furnished and that are no less than the amount, duration or scope for the same services furnished to eligibles under the Medicaid State Plan. The DBPM shall not arbitrarily deny or reduce the amount, duration or scope of required services solely because of diagnosis, type of illness or condition of the member. The DBPM may place appropriate limits on a service on the basis of medical necessity or for the purposes of utilization control (with the exception of EPSDT services), provided the services furnished can reasonably be expected to achieve their purpose in accordance with 42 CFR 438.210.

17. The DBPM shall ensure that compensation to individuals or entities that conduct UM activities is not structured to provide incentives for the individual or entity to deny, limit, or discontinue medically necessary covered services to any member.

18. The DBPM shall report fraud and abuse information identified through the UM program to DHH's Program Integrity Unit.

19. In accordance with 42 CFR §456.111 and 456.211, the DBPM utilization review plan must provide that each enrollee's record includes information needed for the UR committee to perform UR required under this Section. This information must include, at least, the following:

- a. identification of the enrollee;
- b. the name of the enrollee's dentist;
- c. date of admission and dates of application for, and authorization of, Medicaid benefits if application is made after admission;
- d. the plan of care required under 42 CFR 456.80 and 456.180;
- e. initial and subsequent continued stay review dates described under 42 CFR 456.128, 456.133; 456.233 and 456.234;
- f. date of operating room reservation, if applicable; and
- g. justification of emergency admission, if applicable.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:786 (April 2014).

#### **§2111. Payment Methodology**

A. Payments to the Dental Benefit Plan. The department, or its fiscal intermediary, shall make monthly capitation payments to the dental benefit plan based on a per member, per month (PMPM) rate.

1. The department reserves the right to re-negotiate the PMPM rates:

- a. if the rate floor is removed;
- b. as a result of federal or state budget reductions or increases;
- c. due to the inclusion or removal of a Medicaid covered dental service(s) not incorporated into the monthly capitation rates; or
- d. in order to comply with federal requirements.



2. The rates may also be adjusted based on legislative appropriations and budgetary constraints. Any adjusted rates must continue to be actuarially sound as determined by the department's actuarial contractor and will require an amendment to the contract that is mutually agreed upon by both parties.

B. The DBPM must agree to accept the PMPM rate as payment-in-full from the department and agree not to seek additional payment from a member for any unpaid cost.

C. A DBPM shall assume 100 percent liability for any expenditure above the prepaid premium.

D. A DBPM shall meet all financial reporting requirements specified in the terms of the contract.

E. Any cost sharing imposed on Medicaid members must be in accordance with the federal regulations governing cost sharing and cannot exceed the amounts reflected in the Medicaid state plan, but the amounts can be less than the cost sharing levels in the state plan.

F. The DBPM shall not assign its rights to receive the PMPM payment, or its obligation to pay, to any other entity.

G. In the event that an incorrect payment is made to the DBPM, all parties agree that reconciliation will occur. If an error or overcharge is discovered by the department, it will be handled in accordance with the terms and conditions of the DBPM's contract.

#### H. Network Provider Reimbursement

1. The DBPM shall provide reimbursement for defined core dental benefits and services provided by an in-network provider. The DBPM rate of reimbursement shall be no less than the published Medicaid fee-for-service rate in effect on July 1, 2013, unless the department has granted an exception for a provider-initiated alternative payment arrangement.

2. The network provider may enter into alternative reimbursement arrangements with the DBPM if the network provider initiates the request and it is approved in advance by the department.

I. Emergency or Out-of-Network Provider Reimbursement. The DBPM shall make prompt payment for covered emergency dental services that are furnished by providers that have no arrangements with the DBPM for the provision of such services. Reimbursement by the DBPM to out-of-network providers for the provision of emergency dental services shall be no more than what would be paid under Medicaid FFS.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:788 (April 2014).

### §2113. Prompt Payment of Claims

A. Network Providers. All subcontracts executed by the DBPM shall comply with the terms in the contract. Requirements shall include at a minimum:

1. the name and address of the official payee to whom payment shall be made;
2. the full disclosure of the method and amount of compensation or other consideration to be received from the DBPM; and
3. the standards for the receipt and processing of claims as specified by the department in the DBPM's contract with the department and department-issued guides.

#### B. Network and Out-of-Network Providers

1. The DBPM shall make payments to its network providers, and out-of-network providers, subject to conditions outlined in the contract and department-issued guides.

a. The DBPM shall pay 90 percent of all clean claims, as defined by the department, received from each provider type within 15 business days of the date of receipt.

b. The DBPM shall pay 99 percent of all clean claims within 30 calendar days of the date of receipt.

2. The provider must submit all claims for payment no later than 12 months from the date of service.

3. The DBPM and all providers shall retain any and all supporting financial information and documents that are adequate to ensure that payment is made in accordance with applicable federal and state laws.

a. Any such documents shall be retained for a period of at least six years or until the final resolution of all litigation, claims, financial management reviews, or audits pertaining to the contract.

4. There shall not be any restrictions on the right of the state and federal government to conduct inspections and/or audits as deemed necessary to assure quality, appropriateness or timeliness of services and reasonableness of costs.

#### C. Claims Management

1. The DBPM shall process a provider's claims for covered services provided to members in compliance with all applicable state and federal laws, rules, and regulations as well as all applicable DBPM policies and procedures including, but not limited to:

- a. claims format requirements;
- b. claims processing methodology requirements;
- c. explanation of benefits and related function requirements;
- d. processing of payment errors;
- e. notification to providers requirements; and
- f. timely filing.

#### D. Provider Claims Dispute

1. The DBPM shall:
  - a. have an internal claims dispute procedure that is in compliance with the contract and must be approved by the department;
  - b. contract with independent reviewers to review disputed claims;
  - c. systematically capture the status and resolution of all claim disputes as well as all associate documentation; and
  - d. report the status of all disputes and their resolution to the department on a monthly basis as specified in the contract.

#### E. Claims Payment Accuracy Report

1. The DBPM shall submit an audited claims payment accuracy percentage report to the department on a monthly basis as specified in the contract and department-issued DBPM guides.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:789 (April 2014).

**§2115. Grievance and Appeals Processes**

A. The DBPM shall adhere to the provisions governing the grievance and appeals processes for coordinated care network prepaid models outlined in LAC 50:I.Chapter 37, Subparts B and C.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:790 (April 2014).

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.

Kathy H. Kliebert  
Secretary

1404#077

**RULE**

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

**Disproportionate Share Hospital Payments  
(LAC 50:V.2501 and Chapter 27)**

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.2501 and Chapter 27 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE**

**Part V. Medical Assistance Program—Hospital Services**

**Subpart 3. Disproportionate Share Hospital Payments**

**Chapter 25. Disproportionate Share Hospital Payment Methodologies**

**§2501. General Provisions**

A. - B.3. ...

4. Qualification is based on the hospital’s latest filed cost report and related uncompensated cost data as required by the Department. Qualification for small rural hospitals is based on the latest filed cost report. Hospitals must file cost reports in accordance with Medicare deadlines, including extensions. Hospitals that fail to timely file Medicare cost reports and related uncompensated cost data will be assumed to be ineligible for disproportionate share payments. Only hospitals that return timely disproportionate share qualification documentation will be considered for disproportionate share payments. After the final payment during the state fiscal year has been issued, no adjustment will be given on DSH payments with the exception of public state-operated hospitals, even if subsequently submitted documentation demonstrates an increase in uncompensated care costs for the qualifying hospital. After completion of a Center for Medicare and Medicaid Services’ (CMS) mandated independent audit for the state fiscal year, additional payments may occur subject to the conditions

specified in §2705.D.2 and §2707.B. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital’s utilization.

B.5. - E. ...

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

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

**Chapter 27. Qualifying Hospitals**

**§2701. Non-Rural Community Hospitals**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:655 (April 2008), amended LR 34:2402 (November 2008), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:790 (April 2014).

**§2705. Small Rural Hospitals**

A. - D.1.b. ...

2. Additional payments shall only be made after finalization of the CMS mandated DSH audit for the state fiscal year. Payments shall be limited to the aggregate amount recouped from small rural hospitals based on these reported audit results. If the small rural hospitals’ aggregate amount of underpayments reported per the audit results exceeds the aggregate amount overpaid, the payment redistribution to underpaid shall be paid on a pro rata basis calculated using each hospital’s amount underpaid divided by the sum of underpayments for all small rural hospitals.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:657 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:790 (April 2014).

**§2707. Public State-Operated Hospitals**

A. ...

\* \* \*

B. DSH payments to individual public state-owned or operated hospitals shall be up to 100 percent of the hospital’s net uncompensated costs. Final payment shall be made in accordance with final uncompensated care costs as calculated per the CMS mandated audit for the state fiscal year.

C. - D.2.d. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:658 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:790 (April 2014).

Kathy H. Kliebert  
Secretary

1404#078

**RULE**

**Department of Health and Hospitals  
Bureau of Health Services Financing  
and  
Office of Aging and Adult Services**

Home and Community-Based Services Waivers  
Adult Day Health Care  
Covered Services  
(LAC 50:XXI.2301)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:XXI.2301 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part XXI. Home and Community-Based Services  
Waivers**

**Subpart 3. Adult Day Health Care**

**Chapter 23. Services**

**§2301. Covered Services**

A. ...

1. Adult Day Health Care. ADHC services furnished as specified in the plan of care at the ADHC center, in a non-institutional, community-based setting encompassing both health/medical and social services needed to ensure the optimal functioning of the participant. Services are furnished on a regularly scheduled basis, not to exceed 10 hours a day, 50 hours a week. An adult day health care center shall, at a minimum, furnish the following services:

a. - g. ...

i. monitoring vital signs appropriate to the diagnosis and medication regimen of each recipient no less frequently than monthly;

ii. administering medications and treatments in accordance with physicians' orders;

iii. monitoring self-administration of medications while the recipient is at the ADHC center;

NOTE: All nursing services shall be provided in accordance with acceptable professional practice standards.

A.1.h. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:2036 (September 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2162 (October 2008), repromulgated LR 34:2566 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2625 (September 2011), LR 39:2495 (September 2013), LR 40:791 (April 2014).

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.

Kathy H. Kliebert  
Secretary

1404#079

**RULE**

**Department of Health and Hospitals  
Bureau of Health Services Financing  
and  
Office of Aging and Adult Services**

Home and Community-Based Services Waivers  
Community Choices Waiver  
(LAC 50:XXI.8101, 8307,  
8313, 8329, Chapter 86, and 9501)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:XXI.8101, §8307, §8313 and §9501 and adopted §8329 and Chapter 86 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH—MEDICAL ASSISTANCE  
Part XXI. Home and Community-Based Services  
Waivers**

**Subpart 7. Community Choices Waiver**

**Chapter 81. General Provisions**

**§8101. Introduction**

A. - D.2.b. ...

3. No individual may concurrently serve as a responsible representative for more than two participants in OAAS-operated Medicaid home and community-based service programs. This includes but is not limited to:

a. the Program of All-Inclusive Care for the Elderly;

b. long-term personal care services;

c. the Community Choices Waiver; and

d. the Adult Day Health Care Waiver.

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 and the Office of Aging and Adult Services, LR 37:3517 (December 2011), amended LR 40:791 (April 2014).

**Chapter 83. Covered Services**

**§8307. Personal Assistance Services**

A. - I.6. ...

J. Participants are not permitted to receive PAS while living in a home or property owned, operated, or controlled by an owner, operator, agent, or employee of a licensed provider of long-term care services and providers are prohibited from providing and billing for services under these circumstances. Participants may not live in the home

of a direct support worker unless the direct support is related by blood or marriage to the participant.

1. The provisions of §8307.J may be waived with prior written approval by OAAS or its designee.

K. ...

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 and the Office of Aging and Adult Services, LR 37:3519 (December 2011), amended LR 39:320 (February 2013), LR 39:1778 (July 2013), LR 40:791 (April 2014).

### **§8313. Caregiver Temporary Support Services**

A. - H. ...

I. Caregiver temporary support may be provided for the relief of the principal caregiver for participants who receive monitored in-home caregiving services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3521 (December 2011), amended LR 39:321 (February 2013), LR 40:792 (April 2014).

### **§8329. Monitored In-Home Caregiving Services**

A. Monitored in-home caregiving services are services provided to a participant living in a private home with a principal caregiver. The goal of this service is to provide a community-based option that provides continuous care, supports, and professional oversight. This goal is achieved by promoting a cooperative relationship between a participant, a principal caregiver, the professional staff of a monitored in-home caregiving agency provider, and the participant's support coordinator.

B. The principal caregiver is responsible for supporting the participant to maximize the highest level of independence possible by providing necessary care and supports that may include:

1. supervision or assistance in performing activities of daily living;
2. supervision or assistance in performing instrumental activities of daily living;
3. protective supervision provided solely to assure the health and welfare of a participant;
4. supervision or assistance with health related tasks (any health related procedures governed under the Nurse Practice Act) in accordance with applicable laws governing the delegation of medical tasks/medication administration;
5. supervision or assistance while escorting/accompanying the individual outside of the home to perform tasks, including instrumental activities of daily living, health maintenance or other needs as identified in the plan of care and to provide the same supervision or assistance as would be rendered in the home; and
6. extension of therapy services to maximize independence when the caregiver has been instructed in the performance of the activities by a licensed therapist or registered nurse.

C. The following individuals are prohibited from being paid as a monitored in-home caregiving principal caregiver:

1. the participant's curator;
2. the participant's tutor;
3. the participant's legal guardian;
4. the participant's responsible representative; or
5. the person to whom the participant has given representative and mandate authority (also known as power of attorney).

D. Participants electing monitored in-home caregiving services are not eligible to receive the following community choices waiver services during the period of time that the participant is receiving monitored in-home caregiving services:

1. personal assistance services;
2. adult day health care services; or
3. home delivered meal services.

E. Monitored in-home caregiving providers must be agency providers who employ professional nursing staff and other professionals to train and support caregivers to perform the direct care activities performed in the home. The agency provider must assess and approve the home in which services will be provided, and shall enter into contractual agreements with caregivers who the agency has approved and trained. The agency provider will pay per diem foster care stipends to caregivers.

F. The agency provider must:

1. capture daily notes electronically;
2. use the information collected to monitor participant health and caregiver performance; and
3. make daily notes available to support coordinators and the state, upon request.

G. The Department of Health and Hospitals (DHH) shall reimburse for monitored in-home caregiving services based upon a two-tiered model which is designed to address the participant's acuity.

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 and the Office of Aging and Adult Services, LR 40:792 (April 2014).

## **Chapter 86. Organized Health Care Delivery System**

### **§8601. General Provisions**

A. An organized health care delivery system (OHCDs) is an entity with an identifiable component within its mission to provide services to individuals receiving Community Choices Waiver services. The entity must be a qualified and enrolled Medicaid provider and must directly render at least one service offered in the Community Choices Waiver. As long as the entity furnishes at least one waiver service itself, it may contract with other qualified providers to furnish the other required waiver services.

B. Entities that function as an OHCDs must ensure that subcontracted entities meet all of the applicable provider qualification standards for the services they are rendering.

C. The OHCDs must attest that all provider qualifications are met in accordance with all of the applicable waiver provider qualifications as set forth in the waiver document.

D. Prior to enrollment, an OHCDs must show the ability to provide all of the services available in the Community

Choices Waiver on December 1, 2012, with the exceptions of support coordination, transition intensive support coordination, transition services, and adult day health care if there is no licensed adult day health care provider in the service area.

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 and the Office of Aging and Adult Services, LR 40:792 (April 2014).

## **Chapter 95. Reimbursement**

### **§9501. Reimbursement Methodology**

A. - A.6. ...

B. The following services shall be reimbursed at the authorized rate or approved amount of the assessment, inspection, installation/fitting, maintenance, repairs, adaptation, device, equipment, or supply item and when the service has been prior authorized by the plan of care:

1. - 2. ...

3. home delivered meals (not to exceed the maximum limit set by OAAS);

4. transition expenses up to a lifetime maximum of \$1500; and

5. the assessment performed by the monitored in-home caregiving provider.

C. The following services shall be reimbursed at a per diem rate:

1. caregiver temporary support services when rendered by the following providers:

a. ...

b. nursing facility; or

c. respite center; and

2. monitored in-home caregiving services.

a. The per diem rate for monitored in-home caregiving services does not include payment for room and board, and federal financial participation is not claimed for room and board.

D. - L.1. ...

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 and the Office of Aging and Adult Services, LR 37:3525 (December 2011), amended LR 39:322 (February 2013), LR 39:508, (March 2013), repromulgated LR 39:1048 (April 2013), amended LR 39:1779 (July 2013), LR 40:793 (April 2014).

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.

Kathy H. Kliebert  
Secretary

1404#080

## **RULE**

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

Nursing Facilities

Reimbursement Methodology

Low Income and Needy Care Collaboration

(LAC 50:II.20025)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:II.20025 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### **Title 50**

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

#### **Part II. Nursing Facilities**

#### **Subpart 5. Reimbursement**

#### **Chapter 200. Reimbursement Methodology**

#### **§20025. Low Income and Needy Care Collaboration**

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

B. Qualifying Criteria. In order to qualify for the supplemental payment, the nursing facility must be affiliated with a state or local governmental entity through a low income and needy care nursing facility collaboration agreement.

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

2. A low income and needy care nursing facility collaboration agreement is defined as an agreement between a nursing facility and a state or local governmental entity to collaborate for purposes of providing healthcare services to low income and needy patients.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:793 (April 2014).

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.

Kathy H. Kliebert  
Secretary

1404#081

## RULE

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:II.20010 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

##### Part II. Nursing Facilities

##### Subpart 5. Reimbursement

#### Chapter 200. Reimbursement Methodology

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

##### Adjustments for Private Room Conversion

##### [Formerly LAC 50:VII.1310]

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

3. Resident days used in the fair rental value per diem calculation will be the greater of the annualized actual resident days from the base year cost report or 85 percent of the revised annual bed days available after the change in licensed beds.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1646 (August 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:794 (April 2014).

Kathy H. Kliebert  
Secretary

1404#082

## RULE

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

Pregnant Women Extended Services  
Substance Abuse Screening and Intervention Services  
(LAC 50:XV.Chapter 163)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:XV.Chapter 163 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

#### Title 50

#### PUBLIC HEALTH—MEDICAL ASSISTANCE

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

##### Subpart 13. Pregnant Women Extended Services

#### Chapter 163. Substance Abuse Screening and Intervention Services

#### §16301. General Provisions

A. Effective for dates of service on or after April 1, 2011, the department shall provide coverage of substance abuse screening and brief intervention services rendered to Medicaid-eligible pregnant women with the Louisiana health assessment referral and treatment system.

B. Substance abuse screening and intervention services may be performed with the Louisiana health assessment referral and treatment system at the discretion of the medical professional providing care to the pregnant woman.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:794 (April 2014).

#### §16303. Scope of Services

A. Screening services shall include the screening of pregnant women with the Louisiana health assessment referral and treatment system for the use of:

1. alcohol;
2. tobacco;
3. drugs; and/or
4. domestic violence.

B. Intervention services shall include a brief 15-30 minute counseling session with a health care professional intended to help motivate the recipient to develop a plan to moderate or cease their use of alcohol, tobacco, or drugs.

C. Service Limits. Substance abuse screening and intervention services shall be limited to one occurrence each per pregnancy, or once every 270 days.

1. If the patient experiences a miscarriage or fetal death and becomes pregnant within the 270-day period, all LaHART screening and brief intervention services will be reimbursed for the subsequent pregnancy.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:794 (April 2014).

### §16305. Reimbursement Methodology

A. Effective for dates of service on or after April 1, 2011, the Medicaid Program shall provide reimbursement for substance abuse screening and intervention services rendered to Medicaid-eligible pregnant women.

B. Reimbursement for these services shall be a flat fee based on the appropriate Healthcare Common Procedure Coding (HCPC) code.

C. Effective for dates of service on or after January 1, 2013, Medicaid reimbursement for substance abuse screening and intervention services shall only be made to providers with documented use of the LaHART system.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:795 (April 2014).

Kathy H. Kliebert  
Secretary

1404#083

## RULE

### Department of Insurance Office of the Commissioner

#### Regulation 66—Requirements for Officers, Directors, and Trustees of Domestic Regulated Entities (LAC 37:XIII.Chapter 51)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., notice is hereby given that the Department of Insurance has amended Regulation 66. The purposes of the amendment are to update the requirements and applicability of Regulation 66 in light of legislation that has passed since the initial promulgation of Regulation 66, to clarify and enumerate items to be submitted pursuant to Regulation 66, and to enable officers, directors, and trustees of domestic regulated entities to address, resolve, and report potential conflicts of interest.

#### Title 37

#### INSURANCE

#### Part XIII. Regulations

### Chapter 51. Regulation 66—Requirements for Officers, Directors, and Trustees of Domestic Regulated Entities

#### §5101. Authority

A. Regulation 66 is promulgated pursuant to the authority vested in the commissioner under the Louisiana Insurance Code, R.S. 22:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:795 (April 2014).

#### §5103. Purpose

##### [Formerly §5101]

A. The purpose of Regulation 66 is to require that officers, directors and trustees of domestic regulated entities, as herein defined, file biographical and other applicable, relevant, and appropriate information with the commissioner for review and approval. The purpose of this review and approval is to determine and ensure that a domestic regulated entity continues to meet minimum standards with regard to its officers, directors, and trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:78 (January 1999), amended LR 40:795 (April 2014).

#### §5105. Scope and Applicability

##### [Formerly §5113]

A. Regulation 66, as amended, shall apply to all individuals serving as an officer, director, or trustee of a domestic regulated entity and to all individuals nominated or otherwise suggested for such positions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:79 (January 1999), amended LR 40:795 (April 2014).

#### §5107. Definitions

##### [Formerly §5103]

A. For the purpose of Regulation 66, the following definitions shall be applicable.

*Director*—person(s) designated in the articles of incorporation, by-laws, or other organizational documents as such, and person(s) designated, elected, or appointed by any other name or title to act as *director(s)*, and their successor(s).

*Domestic Regulated Entity*—any Louisiana domiciled entity which is required to obtain a license or certificate of authority from or register with the commissioner. This definition shall include, but is not limited to, all *domestic regulated entities* such as stock and mutual insurers, domestic captive insurers, mutual holding companies, non-profit funeral service associations, domestic service insurers, reciprocal insurers, Lloyd's plans, fraternal benefit societies, viatical settlement providers, viatical settlement investment agents, viatical settlement brokers, vehicle mechanical breakdown insurers, property residual value insurers, health maintenance organizations, risk indemnification trusts, third party administrators, interlocal risk management agencies, or any plan of self-insurance providing health and accident or workers compensation coverage to employees of two or more employers. This term shall not include motor vehicle rental insurers, insurance agencies, brokers, managing general agents, producers, reinsurance intermediary brokers, claims adjusters, public adjusters, or insurance producers acting as viatical settlement brokers pursuant to R.S. 22:1792(A)(1).

*Officer*—a president, vice-president, treasurer, secretary, controller, actuary, partner, and any other person who performs for the domestic regulated entity a part of the substantive functions corresponding to those performed by

the foregoing *officers*. *Officer* shall also include the administrator of a plan of self-insurance providing health and accident or workers' compensation coverage to employees of two or more employers or a risk indemnification trust.

*Trustee*—the *trustee* of a trust, which provides health and accident or workers' compensation coverage to employees of two or more employers or of a risk indemnification trust.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:78 (January 1999), amended LR 40:795 (April 2014).

**§5109. Review of Officers, Directors and Trustees by Commissioner Required [Formerly §5105]**

A. No person shall serve as an officer, director, or trustee of a domestic regulated entity who has not first submitted the information required by §5111 to the commissioner or to whom, after review of the information required by §5111, the commissioner has refused to issue a letter of no objection.

B. No domestic regulated entity may elect, appoint or otherwise accept as an officer, director, or trustee any individual who has failed to submit the information required by §5111 to the commissioner or to whom, after review of the information required by §5111, the commissioner has refused to issue a letter of no objection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:78 (January 1999), amended LR 40:796 (April 2014).

**§5111. Procedure for Requesting Letter of No Objection from Commissioner [Formerly §5107]**

A. Each person elected, appointed or who otherwise becomes an officer, director or trustee of a domestic regulated entity shall, within 30 days of being elected, appointed, or otherwise chosen, submit to the commissioner a request for a letter of no objection regarding his service in that capacity. The request shall be made by the domestic regulated entity, in writing, in a form approved by the commissioner.

B. Each request for a letter of no objection shall include:

1. a biographical affidavit;
2. a third party background verification;
3. fingerprints submitted by card or electronic means;
4. a statement from the domestic regulated entity indicating the position for which the individual has been elected, appointed, or otherwise chosen;
5. a sworn statement from the individual confirming that he has no conflict of interest which would interfere with his service in the position or confirmation from the domestic regulated entity that the individual has disclosed any conflicts to that entity and that the entity has waived any such conflicts; and
6. a true copy of an acceptance of trust, an oath of office, or other such document signed by the individual. The form of these documents shall include a sworn statement that

the individual agrees to abide by and direct the activities of the domestic regulated entity in compliance with all applicable provisions of the statutory and regulatory laws of Louisiana.

C. The commissioner may request additional information to determine the competence, experience, and integrity of the individual and to ensure that the individual will not jeopardize the policyholders, members of the domestic regulated entity, or of the public.

D. The fingerprint card and any criminal background information obtained pursuant to Regulation 66 shall be maintained by the fraud section of the department as confidential and shall not be subject to public disclosure pursuant to R.S. 22:1929.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:79 (January 1999), amended LR 40:796 (April 2014).

**§5113. Conditions for Refusal of Letter of No Objection [Formerly §5109]**

A. The commissioner may refuse to issue a letter of no objection if he finds:

1. the competence, experience, and integrity of the individual are such that it would not be in the best interest of policyholders, members or clients of the domestic regulated entity, or of the public to allow the person to serve in the proposed position;
2. the individual has been convicted of, has pled guilty or *nolo contendere* to, or has participated in a pretrial diversion program pursuant to any charge of any felony or misdemeanor involving moral turpitude, public corruption, or a felony involving dishonesty or breach of trust;
3. the individual knowingly makes a materially false statement or omission of material information in the request for a letter of no objection;
4. any other reason now or hereinafter as applicable statutes and regulations may provide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:79 (January 1999), amended LR 40:796 (April 2014).

**§5115. Waiver of Submission of Biographical and Other Applicable, Relevant, and Appropriate Information [Formerly §5111]**

A. The commissioner may waive the requirement that an individual submit a biographical affidavit, third party background verification, and fingerprint card under the following conditions:

1. the individual has served as an officer, director, or trustee of a domestic regulated entity for a period of five consecutive years; or
2. the individual has received a letter of no objection from the commissioner within one year of being elected, appointed, or otherwise chosen as an officer, director, or trustee, and the individual has attested to the fact that no material change has occurred in the biographical and other applicable, relevant, and appropriate information submitted in support of that request.



B. Individuals who qualify for a waiver of the submission of the biographical and other applicable, relevant, and appropriate information must submit a true copy of the conflict of interest statement required by §5111.B.5, and the acceptance of trust, oath of office, or other such document signed by the individual, witnessed, and notarized, as required by §5111.B.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:79 (January 1999), amended LR 40:796 (April 2014).

#### §5117. Rescission of Letter of No Objection

A. The commissioner may rescind a letter of no objection if he finds that the individual submitted materially false information or omitted any material information in association with the request for a letter of no objection, or if subsequent events occur that cause the commissioner to question the competence, experience, and integrity of the individual, or if the individual has been convicted of, has pled guilty or *nolo contendere* to, or has participated in a pretrial diversion program pursuant to any charge of any felony or misdemeanor involving moral turpitude, public corruption, or a felony involving dishonesty or breach of trust.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:797 (April 2014).

#### §5119. Effective Date

A. Regulation 66, as amended, shall become effective on April 20, 2014.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 372, 392, 467, 1772, 1804, 1922, and 2198, R.S. 23:1200.1, and R.S. 33:1348 and 1358.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:797 (April 2014).

James J. Donelon  
Commissioner

1404#024

### RULE

#### Department of Public Safety and Corrections Office of State Police

Towing, Recovery and Storage  
(LAC 55:I.Chapter 19)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 32:1711 et seq., hereby promulgates multiple and varied amendments to the regulatory requirements regarding the

towing and storage industry. The Sections to be amended are listed above.

### Title 55 PUBLIC SAFETY Part I. State Police

#### Chapter 19. Towing, Recovery, and Storage Subchapter A. Authority, Exemptions, Definitions, Scope §1905. Definitions

A. The definitions found in the Louisiana Highway Regulatory Act, specifically R.S. 32:1 and the Towing and Storage Act, specifically, R.S. 32:1711 et seq., are applicable to these rules and shall have the same meaning indicated unless the context clearly indicates otherwise.

\*\*\*

*Non-Consensual Storage*—the storage or possession of a vehicle by an individual or storage facility operator without prior consent or authorization of the vehicle's owner or operator for the purpose of charging fees or obtaining ownership. Prior consent or authorization shall be documented by the storage facility by providing a written storage contract as outlined in R.S. 32:1722(C).

*Non-Consensual Towing*—the movement or transportation of a vehicle by a tow truck without the prior consent or authorization of the owner or operator of the vehicle. This includes private property tows conducted in accordance with the provisions of R.S. 32:1736 and tows by law enforcement or other public agencies. Whenever an owner or operator of a vehicle requests a law enforcement officer or other public agency to initiate a tow, such tow shall be considered non-consensual and subject to Louisiana Public Service Commission tow rates.

\*\*\*

*Place of Business*—a permanent structure located within Louisiana used for business, staffed during regular business hours, equipped with phone and utility services including water, sewer, and electric, and houses records and other appropriate or required documents.

\*\*\*

*Tow Truck*—any motor vehicle equipped with a boom or booms, winches, slings, tilt beds, semi-trailers, and/or similar equipment designed for the towing and/or recovery of vehicles and other objects which cannot operate under their own power or for some reason must be transported by means of towing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:854 (May 2006), amended LR 36:2575 (November 2010), LR 40:797 (April 2014).

#### §1907. Administrative Penalty Assessment; Arbitration; Recovery of Penalties

A. - A.3. ...

4. Schedule of Fines

<b>Schedule of Fines</b>	
The following range of fines will be set for violations cited under the corresponding sections. When citing specific violations, the department will set the fine within the corresponding range.	
1. Exemptions and Other Laws (§1903, 1905, and §1909)	\$50-\$500
Code of Conduct (§1911)	\$100-\$500
Tow Truck License Plate (§1913)	\$50-\$500
Insurance Requirements (§1915)	\$50-\$500
Driver's License Required Skills (§1917)	\$50-\$500
Tow Truck Lighting; Equipment (§1919)	\$25-\$100
Required Equipment (§1921)	\$25-\$100
Capacities of Tow Equipment (§1923)	\$100-\$500
Tow Truck Load Limitations (§1925)	\$100-\$500
Inspections by the Department (§1927)	\$100-\$500
Towing Service to Use Due Care (§1929)	\$100-\$500
Vehicles Towed from Private Prop. (§1930)	\$200-\$500
Storage Facility; Licensing Requirements (§1931)	\$100-\$500
Requirements for ORSV (§1933)	\$100-\$500
<b>Schedule of Fines</b>	
The following range of fines will be set for violations cited under the corresponding sections. When citing specific violations, the department will set the fine within the corresponding range.	
Owner Notification of Stored Vehicle (§1935)	\$100-\$500
Administrative Fees (§1937)	\$100-\$500
Permits to Sell and Dismantle (§1939)	\$100-\$500
Towing/Storage Facilities Requirement (§1941)	\$50-\$500
Storage Rates (§1943)	\$100-\$500
Gate Fees (§1945)	\$100-\$500
Law Enforcement Rotation Lists (§1947)	\$50-\$500

5. Effective January 1, 2014 suspensions may be imposed on a third or subsequent violation when a towing or storage facility has been found in violation on at least two prior and separate inspections within a 12-month period. Suspensions shall be a minimum of 30 days. Violations of these rules or the Towing and Storage Act during the suspension or a violation of the terms of the suspension shall result in an automatic revocation of the storage license.

6. Effective January 1, 2014 revocations may be imposed when a storage facility has met the requirements for a second suspension within a 3-year period. The immediate revocation of a storage license may be imposed when a towing or storage facility is determined by the inspecting officer to not have the proper insurance as required by this Chapter or is in violation of "dutiful conduct" as found in §1911.B.2.e of this Chapter. Revocations for no or improper insurance shall be recalled and the license reinstated once the facility provides proof of required insurance.

B. - B.4. ...

5. For the purpose of this Part, removal from the Louisiana State Police tow truck rotation list shall not constitute a department action subject to review under Subsection B of this Section. Placement on the Louisiana State Police rotation list is a privilege, not a right. Any tow truck owner may submit a written appeal to the region major requesting a review of an investigation and/or suspension. Review hearings will be held within 10 business days, after a request is made.

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:854 (May 2006), amended LR 35:2201 (October 2009), LR 36:2576 (November 2010), LR 40:797 (April 2014).

## Subchapter B. Tow Truck License Plate; Required Insurance

### §1913. Tow Truck License Plate

A. - A.1. ...

a. Car carrier companies which transport less than five motor vehicles and do not store or hold motor vehicles shall be licensed as tow trucks upon application and submission of an affidavit to the Department of Public Safety and Corrections stating that the company does not store or hold motor vehicles and does not carry garage keeper's legal liability or garage liability insurance. These companies shall receive a "car carrier" endorsement on their required motor vehicle registration. This does not exclude the car carrier company from any other regulations as set by the Louisiana Towing and Storage Act.

2. - 2.b. ...

c. legal business entities such as corporations, limited liability companies, partnerships, limited liability partnerships, or other such legally recognized entities, whether registered with the office of the Secretary of State or not, should use their legally registered trade name as their business name. Such legally acknowledged entities shall include in the application:

i. the names of corporate officers;

ii. the name and address of the corporation's registered agent for service of process; and

iii. the names of shareholders;

2.d. - 3.b. ...

c. Tow truck operators or owners shall permanently affix and prominently display on both sides of tow trucks the legal trade name of their business, telephone number and city of the vehicle's domicile in lettering at least 2 1/2 inches in height and not less than 1/4 inch in width. Truck and trailer combinations used to transport vehicles may choose to mark either the truck or trailer.

A.3.d. - B.3.a.i. ...

ii. a tow truck has a GVWR or GCVWR of 10,000 pounds or less and it shall not be used for towing vehicles for compensation; unless the year of manufacture is prior to 2007, in which case, a GVWR of 10,000 pounds shall not be cause for denial; or

B.3.a.iii. - C.1.c. ...

d. the applicant or employee that operates a tow truck is found to have been convicted of a felony relating to auto theft, vehicle insurance fraud, burglary of a vehicle and/or possession of a stolen vehicle(s) or stolen vehicle parts or employs someone convicted of one of the above stated offenses.

D. - D.1.c. ...

d. obtaining a tow truck license plate under false pretenses; or the applicant or employee that operates a tow truck is found to have been convicted of a felony relating to auto theft, vehicle insurance fraud, burglary of a vehicle and/or possession of stolen vehicle(s) or stolen vehicle parts or employs someone convicted of one of the above stated offenses;

e. - h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR

32:856 (May 2006), amended LR 36:1270 (June 2010), LR 36:2579 (November 2010), LR 40:798 (April 2014).

### **Subchapter C. Safety**

#### **§1917. Driver's License; Required Skills and**

##### **Knowledge**

A. - A.5. ...

6. the operator of a tow truck has not been convicted of a felony relating to vehicle thefts and is not registered or required to be registered as a sex offender or child predator as required in R.S. 15:542.

7. the operator of a tow truck shall have a safety belt properly fastened about his or her body at all times when the tow truck is in forward motion. This shall not apply when the operator of a tow truck in the process of maneuvering the tow truck while recovering or loading a vehicle.

8. the operator of a tow truck shall wear reflective uniform or clothing equivalent to the ANSI Class II or III standard as federally required when working on or near the roadway during a vehicle recovery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:858 (May 2006), amended LR 40:799 (April 2014).

#### **§1919. Tow Truck Lighting; Equipment**

A. Tow truck operators and towing services shall ensure tow trucks are equipped with, and use, required lighting, pursuant to state law and CFR Title 49. Auxiliary tow lighting shall be required and used if the rear tail lamps, stop lamps or turn signals on a combination of vehicles are obscured, inoperative, or not visible to the rear by approaching traffic. When auxiliary tow lights are required, they shall include a minimum of two properly functioning tail lamps, stop lamps and turn signals, which may be combined and shall be attached as far apart as practical on the rearmost portion of the towed vehicle and visible to the rear by approaching traffic.

B. Tow trucks shall comply with all equipment requirements found in, or adopted pursuant to Louisiana Revised Statutes Title 32, Chapter 1, Part V (Equipment of Vehicles), 32:1711 et seq., and, if applicable, CFR Title 49.

C. Tow truck shall be equipped with only amber colored flashing warning lights, strobes, light bars or beacons with sufficient strength and mounted in a location to be visible at 360 degrees at a distance of no less than 1,000 feet under normal atmospheric conditions. Each tow truck shall be equipped with at least one amber colored light bar or beacon mounted to the roof or a higher location on a tow truck. Tow trucks used solely to transport vehicles on an attached trailer are exempt from this requirement provided they do not conduct roadside recovery operations or participate on any law enforcement rotation list.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:858 (May 2006), amended LR 40:799 (April 2014).

#### **§1921. Required Equipment**

A. - A.8.b. ...

9. Tow truck components including, but not limited to, winches, booms, cables, synthetic rope, cable clamps,

thimbles, sheaves, guides, controls, blocks, slings, chains, hooks, bed locks, hydraulic components, etc., shall be in good working order and maintained to manufacturer/factory specifications.

B. - B.1.b ...

c. Acceptable securement devices are chains, cables or synthetic webbing with a combined working load limit equal to or greater than one-half the gross weight of the transported vehicle and customarily used for securing a vehicle or load. Acceptable securement devices shall meet all requirements in CFR 49.

2. - 2.c ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:858 (May 2006), amended LR 40:799 (April 2014).

#### **§1927. Inspections by the Department**

A. - B.1.c. ...

d. Tow trucks may be stopped and inspected at anytime while being operated on a public roadway to promote compliance with the provisions of this Chapter. Tow trucks transporting a vehicle where the owner or operator of that vehicle is present or when the driver provides a previous inspection report conducted within the last 24 hours shall not be delayed for an inspection unless there is an obvious safety violation. Inspecting officers shall consider the safety of passing motorists, the operator of the tow truck, and themselves when selecting an inspection location.

2. - 6.b.i. ...

c. Penalty

i. Any tow truck owner or tow truck operator violating the provisions of Subparagraph B.6.a (drivers) of this Section shall be fined no less than \$250 and no more than \$500

ii. Any tow truck owner violating the provisions of Subparagraph B.6.b (tow trucks) of this Section shall be fined \$500.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:859 (May 2006), amended LR 40:799 (April 2014).

#### **§1929. Towing Services to Use Due Care**

A. ...

B. Tow truck and/or storage facility owners and operators shall adhere to any lawful orders or direction of a department law enforcement officer. No tow truck owner, operator, or employee shall be required to follow a directive or order that is unsafe or beyond the operational standard or capacity of any equipment being used in cleanup or in the removing the roadway hazard. If a tow truck owner or operator refuses to follow a directive or order because of an unsafe condition, no adverse action by a law enforcement agency shall be taken against such owner or operator including removal from any rotation list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 36:2579 (November 2010), amended LR 40:799 (April 2014).

## Subchapter D. Vehicle Storage

### §1931. Storage Facility; Licensing, Fees, Inspection, Requirements

A. - B.8. ...

9. The place of business shall meet all requirements as defined in §1905 of this Chapter. This provision shall only apply to new storage facility applicants effective January 1, 2013 and will not affect licensed facilities seeking a renewal.

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:861 (May 2006), amended LR 36:2579 (November 2010), LR 40:800 (April 2014).

### §1939. Permits to Sell and Permits to Dismantle

A. - D. ...

E. Storage facilities shall maintain copies of the permits to sell, permits to dismantle, and bills of sale with buyer's name as may be applicable for each vehicle stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:861 (May 2006), amended LR 36:2579 (November 2010), LR 40:800 (April 2014).

### §1941. Storage and Towing Facilities; General Requirements; Procedures

A. ...

B. Vehicles shall be released immediately to the vehicle owner or lien holder, or authorized representative once payment is made, any applicable lien holder requirements (R.S. 32:1720.1) are met, and any applicable documented law enforcement or department hold orders are released.

1. Authorized representative shall mean anyone who has obtained written authorization from the vehicle owner or lien holder. Written authorization shall contain the name of the authorized agent, the name and signature of the vehicle owner or lien holder, a phone number for the vehicle owner or lien holder, and a description of the vehicle including the year, make, model, and color. Written authorization does not need to be notarized if signature of the owner or lien holder is witnessed and contains a photocopy of the owner's government issued photo identification. Written authorization shall be maintained with the vehicle file at the towing and/or storage facility's place of business. The requirement of written authorization shall not apply to an insurance company or its representative as provided in R.S. 22:1292(C)(2).

C. - P.3.d. ...

e. a copy of a towing and storage report issued by a law enforcement or other public agency shall exempt the towing company from the invoice requirements for the initial tow. The towing invoice shall be completed once the vehicle arrives at the storage facility or other destination as directed by the law enforcement agency or the owner or operator of the vehicle.

Q. - Q.9. ...

10. records from the sale of a vehicle including the bill of sale with sale price, copies of the permit to sell, name of the buyer; and

11. proof of law enforcement notification as required in R.S. 32:1718.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:862 (May 2006), amended LR 36:2580 (November 2010), LR 40:800 (April 2014).

### §1943. Storage Rates

A. ...

B. Towing and/or storage facilities shall be staffed and open for business Monday thru Friday, 8 a.m. to 5 p.m., excluding state holidays. Employees staffing the facility must have access to vehicle storage records to assist in administrative inspections by the department and be able to release vehicles and/or belongings. All storage records since the date of the last annual storage inspection must be readily accessible and available. Storage records prior to the last annual inspection, if not readily available, shall be made available by the end of the next business day.

1. Licensed storage facilities that operate as a mechanic or repair shop and do not conduct non-consensual tows may set their own business hours provided they do not charge gate fees and give notice to the Department by noting their days and hours of operation on their storage license application or renewal form. The storage facility must be open for business at least five days a week. These hours must be clearly posted along with other required information in accordance with §1941.D of this Chapter. Storage Facilities that do not adhere to the hours of operation listed on their storage license application or renewal form shall be in violation of failing to staff their facility. Towing and/or storage facilities shall be staffed and open for business Monday thru Friday, 8 a.m. to 5 p.m., excluding state holidays.

C. ...

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:863 (May 2006), amended LR 40:800 (April 2014).

## Subchapter E. Rotation List

### §1947. Law Enforcement Tow Truck Rotation List

A. - A.5.d. ...

6. No law enforcement officer shall recommend to the vehicle owner or operator a specific tow company to conduct a tow. All tows shall be referred to the law enforcement rotation list or the authorized contractor for the law enforcement agency. When the owner or operator exercises their option to select the tow company, such selection shall be duly noted on the tow invoice or the law enforcement record of the incident.

B. ...

1. Every person, firm, corporation or other entity who participates in a law enforcement Tow Rotation Program, and is engaged in, or associated with the towing, removal or storage of any wrecked, abandoned, disabled or other designated vehicle, shall comply with the department's procedural orders and all applicable state laws, and administrative regulations governing the towing and storage of vehicles including, but not limited to, R.S. 32:1711 et seq., and LAC 55:I.1901 et seq.

C. - C.4. ...

5. not be owned, operated by, or knowingly employ any person that operates tow trucks who has been convicted of a felony relating to auto theft, vehicle insurance fraud, burglary of a vehicle, possession of stolen vehicles or vehicle parts.

C.6. - F. ...

1. Each tow truck and operator shall meet all operational requirements mandated for tow trucks in R.S. 23, 32, and 47 as well as LAC 55. All tow trucks in a business's fleet shall also be equipped with the following:

1.a. - 2.f. ...

g. wear an approved ANSI Class II or III reflective vest that is in good condition and fits the operator when working on or near the roadway during crash or vehicle recovery.

F.3. - G.5.a. ...

6. Interference with commissioned officers at the scene or failure to comply with the officer's instructions is prohibited. No tow truck owner, operator, or employee shall be required to follow a directive or order that is unsafe or beyond the operational standard or capacity of any equipment being used in cleanup or in the removing of the roadway hazard. If a tow truck owner or operator refuses to follow a directive or order because of an unsafe condition, no adverse action by a law enforcement agency shall be taken against such owner or operator including removal from any rotation list.

G.7. - H.2.a.iv.(b). ...

(c). at least 100 feet of wire or synthetic rope, except that a slide back and tilt bed carrier may have only 50 feet of wire or synthetic rope, with a minimum diameter of 3/8 inch, rated at a minimum of 12,000 pounds breaking strength.

a.v. - b.iv.(a). ...

(b). power winch rated not less than 20,000 pounds, dual winches must have a minimum of 150 feet wire or synthetic rope per winch with a breaking strength of 21,000 pounds and 1/2 inch in diameter.

v. - vi.(b). ...

(c). at least 50 feet of 3/8 inch cable or synthetic rope.

b.vi.(d). - c.iv.(b). ...

(c). minimum of 200 feet of wire or synthetic rope per winch of at least 9/16 inch diameter and rated at breaking strength of 27,000 pounds.

H.2.c.v. - J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1714.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of the State Police, LR 32:863 (May 2006), amended LR 36:546 (March 2010), LR 36:2580 (November 2010), LR 40:800 (April 2014).

Jill P. Boudreaux  
Undersecretary

1404#023

## RULE

### Department of Revenue Policy Services Division

#### Filing Extensions for Partnerships Filing Composite Returns (LAC 61:III.2505)

Under the authority of R.S. 47:1511, 1514, 201.1, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has adopted LAC 61:III.2505, to mandate the electronic filing of a request for an extension to file composite return for nonresident partners or members.

The secretary of revenue is authorized, but not required, to grant a reasonable extension of time to file a composite return. Current law provides that the composite return be submitted electronically. Beginning with returns due on or after May 15, 2014, partnerships needing additional time to file a composite return must electronically submit a request for an extension of time to file on or before the return due date.

### Title 61

#### REVENUE AND TAXATION

#### Part III. Administrative Provisions and Miscellaneous Chapter 25. Returns

#### §2505. Filing Extensions for Partnerships filing Composite Returns

A. Revised Statute Title 47, Section 1514 provides that the secretary may grant a reasonable extension file any tax return due under this subtitle, not to exceed six months, from the date the return is due.

1. To obtain a filing extension for filing a composite return, partnerships must make the request on or before the tax return's due date.

2. A partnerships must request a state filing extension by submitting an electronic application.

3. An electronic application may be submitted via:

a. the Department of Revenue's web site at [www.revenue.louisiana.gov/extensions](http://www.revenue.louisiana.gov/extensions);

b. tax preparation software; or

c. any other electronic method authorized by the secretary.

B. Filing extension does not extend time to pay tax.

1. A filing extension granted by the secretary only allows for an extension of time to file the tax return. The extension does not allow an extension of time to pay the tax due.

2. To avoid interest and penalty assessments, income taxes due must be prepaid on or before the original due date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and 47:1514.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 40:801 (April 2014).

Tim Barfield  
Secretary

1404#030

## RULE

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Catfish Regulations in Louisiana/Texas Border Waters (LAC 76:VII.110)

The Wildlife and Fisheries Commission does hereby amend the recreational harvest regulations for blue and channel catfish on the waters of the Louisiana-Texas border, specifically Toledo Bend Reservoir, Caddo Lake, and the Sabine River, in accordance with the reciprocal agreement between Texas and Louisiana.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this final Rule.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 1. Freshwater Sports and Commercial Fishing

#### §110. Texas Border Waters Recreational Creel, Size, and Possession Limits

##### A. Purpose

1. Pursuant to Louisiana Revised Statute 56:673 and the July 1, 2010 memorandum of understanding between Louisiana Department of Wildlife and Fisheries and Texas Parks and Wildlife, the commission hereby ratifies and enters into an agreement with the Texas Parks and Wildlife Department to establish uniform and reciprocal regulations for the recreational harvest of freshwater game fish on the waters of the Louisiana-Texas border, specifically Toledo Bend Reservoir, Caddo Lake, and the Sabine River. Those regulations are as follows.

##### B. Toledo Bend Reservoir

1. The recreational daily creel limit (daily take) for largemouth bass (*Micropterus salmoides*) and spotted bass (*Micropterus punctulatus*) is set at eight fish, in aggregate. The minimum total length limit for largemouth bass (*M. salmoides*) is 14 inches. There is no minimum length limit on spotted bass. For enforcement purposes, a spotted bass shall be defined as a black bass with a tooth patch on its tongue.

2. The daily creel limit for white bass (*Morone chrysops*) is 25 fish and there is no minimum length limit.

3. There is no limit on the daily take of Yellow Bass (*Morone mississippiensis*).

4. The recreational daily creel limit for black crappie (*Pomoxis nigromaculatus*) and white crappie (*Pomoxis annularis*) is set at 25 fish, in the aggregate, and there is no minimum length limit.

5. The recreational daily creel limit for channel catfish (*Ictalurus punctatus*) and blue catfish (*Ictalurus furcatus*) is set at 50 fish in the aggregate, there is no minimum length limit and not more than five fish may exceed 30 inches in total length.

6. The recreational daily creel limit for flathead catfish (*Pylodictis olivaris*) is set at 10 fish. The minimum length limit is 18 inches.

##### C. Caddo Lake

1. Harvest regulations for black basses (largemouth bass, *Micropterus salmoides* and spotted bass, *Micropterus punctulatus*) on Caddo Lake are as follows.

a. Largemouth Bass Size Limits—14-18 inch slot. A 14-18 inch slot limit means that it is illegal to keep or possess a largemouth bass whose maximum total length is between 14 inches and 18 inches, both measurements inclusive.

b. Spotted Bass Size Limits—no minimum length limit. For enforcement purposes, a spotted bass shall be defined as a black bass with a tooth patch on its tongue.

c. The daily creel limit (daily take) for black bass (*Micropterus spp.*) is set at eight fish, in the aggregate, of which no more than four largemouth bass may exceed 18 inches maximum total length.

2. The daily creel limit for white bass (*Morone chrysops*) is 25 fish and there is no minimum length limit.

3. There is no daily creel limit on yellow bass (*Morone mississippiensis*), and there is no minimum length limit.

4. The recreational daily creel limit for black crappie (*Pomoxis nigromaculatus*) and white crappie (*Pomoxis annularis*) is set at 25 fish, in the aggregate, and there is no minimum length limit.

5. The recreational daily creel limit for channel catfish (*Ictalurus punctatus*) and blue catfish (*Ictalurus furcatus*) is set at 50 fish in the aggregate, there is no minimum length limit and not more than five fish may exceed 30 inches in total length.

6. The recreational daily creel limit for flathead catfish (*Pylodictis olivaris*) is set at 10 fish. The minimum length limit is 18 inches.

##### D. Sabine River

1. For purposes of this Section the Sabine River shall be defined as river proper from the Toledo Bend Dam downstream to the Interstate 10 bridge and the river proper upstream from Toledo Bend Reservoir to the point at which the entire river enters Texas as marked by state line sign.

2. The recreational daily creel limit (daily take) for largemouth bass (*Micropterus salmoides*) and spotted bass (*Micropterus punctulatus*) is set at eight fish, in aggregate. The minimum length limit for largemouth bass (*M. salmoides*) is 14 inches. There is no minimum length limit on spotted bass. For enforcement purposes, a spotted bass shall be defined as a black bass with a tooth patch on its tongue.

3. The daily creel limit for striped bass (*Morone saxatilis*) is set at five fish. There is no minimum length limit and only two fish may be over 30 inches in total length.

4. The daily creel limit for white bass (*Morone chrysops*) is 25 fish and there is no minimum length limit.

5. There is no daily creel limit on yellow bass (*Morone mississippiensis*), and there is no minimum length limit.

6. The recreational daily creel limit for black crappie (*Pomoxis nigromaculatus*) and white crappie (*Pomoxis annularis*) is set at 25 fish, in the aggregate, and there is no minimum length limit.

7. The recreational daily creel limit for channel catfish (*Ictalurus punctatus*) and blue catfish (*Ictalurus furcatus*) is set at 50 fish in the aggregate, there is no minimum length limit and not more than five fish may exceed 30 inches in total length.

8. The recreational daily creel limit for flathead catfish (*Pylodictis olivaris*) is set at 10 fish. The minimum length limit is 18 inches.

E. Daily Possession Limit: Toledo Bend Reservoir, Caddo Lake, and the Sabine River

1. The following possession limits apply to all persons while on the waters of Toledo Bend Reservoir, Caddo Lake, or the Sabine River. No person shall possess any species of fish in excess of a one day creel limit. No person shall at any time possess in excess of the daily creel limit of any species, except that a two day creel limit may be possessed on the land, if the fish were caught on more than one day and no daily creel limits were exceeded. No person shall possess any fillets of any fish species while on the water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325(C), R.S. 56:326.3, and R.S. 56:673.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:548 (August 1988), amended LR 17:278 (March 1991), LR 17:1123 (November 1991), LR 19:790 (June 1993), LR 23:999 (August 1997), LR 31:948 (April 2005), LR 37:2439 (August 2011), LR 40:802 (April 2014).

Billy Broussard  
Chairman

1404#049

## RULE

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Largemouth Bass Regulations (LAC 76:VII.149 and 191)

The Wildlife and Fisheries Commission does hereby amend the recreational harvest regulations for largemouth bass on Black Bayou Lake, Chicot Lake, Cross Lake, Lake Rodemacher, Spanish Lake, and Vernon Lake, Louisiana.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this final Rule.

#### Title 76

#### WILDLIFE AND FISHERIES

#### Part VII. Fish and Other Aquatic Life

#### Chapter 1. Freshwater Sports and Commercial Fishing

#### §149. Black Bass Regulations—Daily Take and Size Limits

A. The Wildlife and Fisheries Commission establishes a statewide daily take (creel limit) of 10 fish for black bass (*Micropterus spp.*). The possession limit shall be the same as the daily take on water and twice the daily take off water.

B. In addition, the commission establishes special size and daily take regulations for black bass on the following water bodies:

1. Caney Creek Reservoir (Jackson Parish):
  - a. size limit—15-inch to 19-inch slot. A 15 to 19-inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measurements inclusive;
  - b. daily take—8 fish of which no more than 2 fish may exceed 19 inches maximum total length;\*
  - c. possession limit:
    - i. on water—same as daily take;
    - ii. off water—twice the daily take;
2. John K. Kelly-Grand Bayou Reservoir (Red River Parish):
  - a. size limit—14-inch to 17-inch slot. A 14-to 17-inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive;
  - b. daily take—eight fish of which no more than four fish may exceed 17 inches maximum total length;\*
  - c. possession limit:
    - i. on water—same as daily take;
    - ii. off water—twice the daily take;
3. False River (Pointe Coupee Parish):
  - a. size limit—14-inch minimum size limit;
  - b. daily take—5 fish;
  - c. possession limit:
    - i. on water—same as daily take;
    - ii. off water—twice the daily take;
4. Poverty Point Reservoir (Richland Parish):
  - a. size limit—15 inch-19inch slot. A 15-19 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measured inclusive;
  - b. daily take—8 fish with only one fish over 19 inches per person:
    - i. on water possession—same as daily limit per person;

5. Louisiana-Texas Border Waters—Toledo Bend Reservoir, Caddo Lake, and Sabine River:

a. the size, daily take, and possession limits for black bass for water bodies located on the Louisiana-Texas border (Toledo Bend Reservoir, Caddo Lake and the Sabine River) are established in §110 of this Chapter.

\*Maximum total length—the distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25) (a), R.S. 56:325(C), R.S. 56:326.3, and R.S. 56:673.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR:14:364 (June 1988), amended LR 17:277 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998), LR 26:97 (January 2000), LR 28:104 (January 2002), LR 29:373 (March 2003), LR 30:2339 (October 2004), repromulgated LR 30: (October 2004), repromulgated LR 30:2495 (November 2004), amended LR 37:2440 (August 2011), LR 39:1833 (July 2013), LR 40:803 (April 2014).

#### §191. Black Bass Regulations—Spanish Lake Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), R.S. 56:325(C) and R.S. 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 25:2263 (November 1999), repealed LR 40:803 (April 2014).

Billy Broussard  
Chairman

1404#050

## RULE

### Department of Wildlife and Fisheries Wildlife and Fisheries Commission

#### Wild Seafood Certification Program (LAC 76:1.701, 704, 705, and 709)

The secretary of wildlife and fisheries hereby establishes rules and regulations which require product registration and supply chain verification for certain participants in the Louisiana Wild Seafood Certification Program (R.S. 56:578.15). The changes to the Louisiana Wild Seafood Certification Program will enable the department to better verify and monitor seafood products and businesses using the programs logo. The seafood certification program strives to increase consumer confidence and increase demand for Louisiana seafood. The primary mission with this origin-based certification program is to build a unified brand that will attract not only consumers, but also food service and seafood distribution buyers who want to be sure they are sourcing the best tasting seafood in the world: Louisiana seafood.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this final Rule.

#### Title 76

### WILDLIFE AND FISHERIES

#### Part I. Wildlife and Fisheries Commission and Agencies Thereunder

#### Chapter 7. Louisiana Wild Seafood Certification Program

#### §701. Declaration of Policy, Purposes, and Intent

A. ...

B. For the purpose of this Chapter, the following will be defined as:

*Commingle*d—to cause to blend together, mix or combine; particularly as it applies to mixing non-certified seafood with LWSCP products;

*Landed*—taken and brought ashore;

*LDAF*—Louisiana Department of Agriculture and Forestry;

*LDHH*—Louisiana Department of Health and Hospitals;

*LDWF*—Louisiana Department of Wildlife and Fisheries;

*LWSCP*—Louisiana Wild Seafood Certification Program;

*Origin Test*—method of verifying product was taken from the Gulf of Mexico or Louisiana waters;

*Packaged*—product that is contained in a closed and sealed package or container for sale which contains product labeling and designated weight, count, or volume;

*Processed*—any method of preparing fish or fish products for market including drying to a point of

dehydration, canning, salting, freezing, breeding, or cooking for immediate consumption, but not simple packing of fresh fish in a sack, bag, package, crate, box, lug or vat for transport or holding.

#### C. Policy

1. Participation in the LWSCP is voluntary and limited to those individuals or entities meeting the following criteria:

a. must possess one of the following resident or non-resident Louisiana licenses:

- i. commercial fisherman's license;
- ii. senior commercial license;
- iii. fresh products dealer license;
- iv. seafood wholesale/retail dealer;
- v. seafood retail dealer;

b. wholesale/retail dealers must have their facility located within Louisiana. Retailers are not required to have their facility located within Louisiana;

c. eligible participants not requiring an LDWF license include in-state restaurants or grocers who only sell seafood that is fully prepared by cooking for immediate consumption by the consumer, and all out-of-state retailers;

d. must possess and be in compliance with all other state and federal permits, licenses, and laws regarding the buying, acquiring, or handling, from any person, by any means whatsoever, any species of fish or seafood products, whether fresh, frozen, processed, or unprocessed, for sale or resale, whether on a commission basis or otherwise. Including but not limited to any LDWF, LDHH or LDAF permits regulations;

e. if required, retailers and restaurants which meet the supply chain verification requirements as specified in §704 of this Chapter.

2. Product considered eligible to possess the LWSCP logo must meet the following criteria:

a. eligible wild seafood includes crab, oysters, freshwater finfish, saltwater finfish, crawfish, and shrimp. Seafood must be wild-caught, taken from Louisiana waters or from the Gulf of Mexico and any other adjacent state waters, and landed in Louisiana. Farmed and/or aquaculture products are excluded from program participation;

b. seafood must be taken by a Louisiana licensed commercial fishermen. Seafood must be landed in Louisiana and either be sold under a LWSCP-participating fresh products dealer license, or be purchased and/or physically acquired by a wholesale/retail seafood dealer participating in the LWSCP. Transfer of product throughout the supply chain must be between LWSCP participants until the product has been placed in a sealed and LWSCP-labeled retail packaging;

c. seafood commingled with any other seafood that does not meet the above requirements, domestic or foreign, shall be prohibited from possessing the LWSCP label;

d. seafood products that are properly registered as required by §704 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:578.15 and R.S. 56:23.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of the Secretary, LR 38:1999 (August 2012), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 39:1062 (April 2013), LR 40:804 (April 2014).



#### **§704. Product Registration and Supply Chain Verification**

A. Seafood or seafood products that are packaged for retail sale shall be registered with LDWF. No packaged retail seafood product shall possess the LWSCP logo unless it has been registered. Seafood products which are produced, packaged, and sold exclusively at the location of retail sale shall be exempt from the registration requirement.

1. Applications for product registration shall only be submitted by either the person packing the product or the person who owns the brand.

2. Product registrations are valid for one year, beginning on January 1 of each calendar year and expiring on December 31 of the same calendar year.

3. Applications for product registration shall be accepted at any time of the year for the current calendar year, and from November 15 for the immediately following calendar year.

4. Persons applying to register a product shall submit to LDWF the following information:

- a. the brand name of the product to be registered;
- b. the person who owns the brand name listed;
- c. the person who packages the product;
- d. list of each variety, form, size, and packaging type, of the product to be registered;
- e. invoices from the previous three months showing LWSCP-certified seafood purchases specific to the product being registered from a vendor who possesses an LWSCP permit. Exceptions to invoice submission requirements may be considered on a case-by-case basis for the following reasons:
  - i. bulk purchases;
  - ii. purchases from a vendor who has applied for, but does not yet possess an LWSCP permit, upon application approval and issuance of an LWSCP permit to the vendor.

B. Retailers and restaurants selling and/or serving unpackaged seafood, prepared or not prepared, who wish to identify such seafood with the LWSCP logo shall provide, at the time of initial application, invoices from the previous three months showing LWSCP-certified seafood purchases from a vendor who possesses an LWSCP permit at the time of their application.

1. At each annual permit renewal thereafter, invoices meeting these provisions from 6 months out of the last 12 months shall be submitted.

2. Exceptions to invoice submission requirements may be considered on a case-by-case basis for the following reasons:

- a. bulk purchases;
- b. purchases from a vendor who has applied for, but does not yet possess an LWSCP permit, upon application approval and issuance of an LWSCP permit to the vendor;
- c. persons possessing an LWSCP less than 12 months at the time or renewal.

C. Invoices required under the provisions of this Section shall not be required to disclose pricing information. Pricing information may be redacted, so long as the remainder of the invoice remains unaltered and intact. Invoices provided

under the provisions of this Section are for verification purposes only and the only record to be maintained shall be digital image of the submitted invoice. With the exception of invoice date, LDWF shall not enter information contained on submitted invoices into any database or other electronic format whatsoever. Invoices submitted under the provisions of this Section shall be considered fisheries-dependent data under LAC 76:I.321.F and held confidential and shall not be subject to public records requests.

D. Persons participating in an LDWF-approved electronic traceability program and who allow LDWF access for verification purposes shall be exempt from all invoice submission provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:578.15 and R.S. 56:23.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:805 (April 2014).

#### **§705. Logo Use Guidelines and Standards**

A. - F. ...

G. When the LWSCP logo is utilized for general marketing purposes as described in Paragraphs 3, 5, 7, and 8 of Subsection E, and when it is not associated with a specifically named product, one of following statements must appear immediately below the LWSCP logo:

1. "Ask us about our certified products;" or
2. "Ask us about our certified menu items."

a. Similar alternative statements may be approved by LDWF on a case-by-case basis upon request.

H. The secretary may authorize use of the logo in materials promoting the LWSCP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:578.15 and R.S. 56:23.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of the Secretary, LR 38:2000 (August 2012), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:805 (April 2014).

#### **§709. Monitoring and Enforcement**

A. - D. ...

E. LWSCP Violations

1. Any violation of the above LWSCP program rules shall constitute a class 1 violation under the authority of R.S. 56:23. The provisions of this Section do not exempt any person from other laws, rules, regulation, and license requirements for this or other jurisdictions.

2. If any required licenses or permits (LDWF, LDAF, LDHH) are revoked or temporarily suspended, the participant shall be automatically removed from the LWSCP and shall not be able to use the LWSCP logo. When the license(s) or permit(s) are reinstated, participant can be reinstated into the LWSCP via the renewal application process.

3.a. The following program violations involving LWSCP-labeled seafood products shall result in its seizure:

- i. commingling non-certified seafood with certified seafood;
- ii. intentional misrepresentation of program seafood;
- iii. any trademark infringement practices with LWSCP trademark and trade name;

iv. fraudulent trip tickets and/or record keeping;  
and

v. short weight violations.

b. Any seizures or forfeitures of LWSCP-labeled seafood product or materials shall be disposed of in accordance with LAC 76:I.305.B.

4. The department shall not issue a permit or register a product to any person convicted of the following offenses for the specified length of time from date of conviction.

Offense	Ineligible Period
Commingling non-certified seafood into certified program packaging	36 months
Misrepresentation of program seafood	36 months
Any trademark infringement practices with LWSCP trademark and trade name	36 months
Falsification or lack of trip tickets or other sales records, invoices, or bills of lading required by the program	36 months
Submission of fraudulent LWSCP application	36 months
Short weights	First offense 12 months; second offense 36 months
Scale tampering	First offense 12 months; second offense 36 months
Not adhering to labeling guidelines	First offense 12 months; second offense 36 months

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:578.15, R.S. 56:23, and 56:301.4.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of the Secretary, LR 38:2001 (August 2012), repromulgated LR 38:2566 (October 2012), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:805 (April 2014).

Robert J. Barham  
Secretary

1404#048

## RULE

### Workforce Commission Office of Unemployment Insurance Administration

#### Waiver of Overpayment Recovery and Electronic Filing (LAC 40:IV.377)

Pursuant to the authority granted in R.S. 23:1653, R.S. 23:1654, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Workforce Commission has promulgated §377.

The purpose of §377 is to clarify the requirement to file quarterly reports electronically, as required by R.S. 23:1531.1, and to provide guidance as to acceptable payment methods and the posting of contribution payments.

## Title 40

### LABOR AND EMPLOYMENT

#### Part IV. Employment Security

##### Subpart 1. Board of Review

#### Chapter 3. Employment Security Law

##### §377. Electronic Filing of Wage and Tax Reports

###### Required; Payment of Unemployment

###### Contributions by Electronic Funds Transfer,

###### Paper Check, ACH, or Other Method Approved

###### by the Executive Director

A. All employers must file quarterly, annual, and amended wage reports electronically for any reports due after January 31, 2014.

B. All employer's agents and professional employer organizations, as defined in R.S. 23:1761, must file quarterly, annual, and amended wage reports electronically for any employer's reports due after January 31, 2014.

C. Contributions must be paid by the following methods:

1. electronic funds transfer (EFT);
2. automated clearing house (ACH);
3. paper check; or
4. any other method of payment approved by the executive director.

D.1. If an employer, agent or professional employer organization elects to pay the contributions due by paper check, it must be accompanied by the appropriate voucher downloaded from the Workforce Commission's portal and mailed only to the address printed on the voucher. Payments made by paper check are not credited to the employer's account until the check is received.

2. The failure to mail the voucher and paper check to the address given on the voucher may result in the imposition of penalties and interest as authorized by R.S. 23:1543.

E. The electronic reporting requirement may be waived by the executive director only upon a showing by the employer, agent or professional employer organization that electronic reporting has created a hardship. All applications for a waiver must be in writing and submitted to the executive director, setting forth detailed reasons the requirement to file electronically creates a hardship.

1. The term *hardship* includes, without limitation:

a. a financial burden or expense which significantly impairs the employer's ability to continue to conduct its business;

b. electronic filing would impose a *hardship* due to a physical disability or geographic barrier;

c. the requirement to file electronically is contrary to equity or good conscience due to the specific circumstances of the employer requesting the waiver.

2. A request for a waiver must be in writing and must be delivered to the administrator after January 1, 2014, but before April 30, 2014.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1631.

HISTORICAL NOTE: Promulgated by the Workforce Commission, Office of Unemployment Insurance, LR 40:806 (April 2014).

Curt Eysink  
Executive Director

1404#035

# Notices of Intent

## NOTICE OF INTENT

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Boll Weevil Eradication Commission

Boll Weevil Eradication (LAC 7:XV.123 and Chapter 3)

Under the enabling authority of R.S. 3:1604.1, R.S. 3:1652 and R.S. 3:1655, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, and the Boll Weevil Eradication Commission intend to amend these rules and regulations (“the proposed action”) to establish a fee for the inspection and certification of cotton for the presence of the boll weevil, and to define the established fee as a “maintenance inspection fee.” This proposed action deletes the term “assessment” and replaces it with “maintenance inspection fee,” deletes reference to both the 2003 referendum and voter eligibility in any referendum, and replaces wording, modifies sentence structure, verbiage, and sentence location to provide clarity regarding the context of the regulation.

This proposed action will also amend these rules and regulations to add the boll weevil to the plant pest/disease and host materials listing. Other additions to this listing include Asian citrus psyllid, citrus greening, citrus canker, Texas Phoenix decline, and the respective hosts of these pests or diseases. Sugarcane pests/diseases also are amended in the listing. These changes are necessary to address additional pests and diseases threatening Louisiana agriculture.

In 2003, the cotton producers and the landlords of cotton producers agreed, by a 90 percent favorable vote, to participate in and fund the Boll Weevil Eradication Program. By the end of 2011, the boll weevil was successfully eradicated in the state of Louisiana. Currently, over \$170,000,000 have been spent on boll weevil eradication (\$77.6 million by the state, \$25,000,000 by the United States Department of Agriculture, and \$68,000,000 by the cotton producers).

This proposed action is required because the October, 2013 Louisiana Supreme Court ruling in *Krielow v. Louisiana Department of Agriculture and Forestry*, which declared R.S. 3:3534 and R.S. 3:3544, statutes that allow a voting majority of rice producers to levy an assessment on all producers, to be unconstitutional, calls into question the constitutionality of the current boll weevil assessment voted on by referendum of the cotton producers. This proposed action is further required in order to provide for cotton producers in the state of Louisiana a means to continue their

support of the program and protect the huge investment that has been made, thus insuring the marketability of Louisiana cotton in commerce while maintaining Louisiana’s boll weevil-free status.

Louisiana’s Boll Weevil Eradication Program is essential to the health, safety and welfare of the citizens of this state. The program has significantly reduced the amount of insecticides applied to cotton (by as much as 70 percent) resulting in a slower buildup of insect resistance to insecticides, increases in the numbers of beneficial insects in cotton, and increases in the utilization of integrated pest management practices. In addition to these environmental benefits, Louisiana’s cotton producers have experienced an average increase in yield of approximately 50 percent since the inception of the program, resulting in an average economic benefit of \$231 per acre per year from eradication.

Moreover, this proposed action will allow program personnel to continue to inspect, monitor and certify that all cotton in this state and any equipment and regulated articles moving into and out of the state are free of boll weevils. Failure to adopt and amend these Rules would have long-lasting detrimental effects on the Louisiana cotton industry, and could require crop quarantines restricting interstate shipment of cotton to mills, restrict interstate movement of equipment and regulated articles, and adversely affect the implementation of integrated pest management practices which help protect the environment. Further, failure to adopt and amend these rules would jeopardize the more than \$170,000,000 investment made to successfully eradicate the boll weevil in Louisiana by restricting or preventing inspection mechanisms currently in place aimed at detecting any boll weevil re-introduction or re-infestation.

For these reasons, the re-introduction or re-infestation of the boll weevil poses an imminent peril to the health and welfare of the Louisiana’s citizens and the state’s commercial cotton industry. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by establishing the maintenance inspection fee set out in these regulations.

This Rule shall have the force and effect of law five days after its promulgation in the official journal of the state of Louisiana.

#### Title 7

#### AGRICULTURE AND ANIMALS

#### Part XV. Plant Protection and Quarantine

#### Chapter 1. Crop Pests and Diseases

#### Subchapter A. General Plant Quarantine Provisions

#### §123. Host Materials

A. The following materials are declared to be host materials for the plant pests or diseases indicated.

Plant Pest/Disease	Host Materials
	* * *
D. All sugarcane pests and diseases	Sugar cane plants, stalks, cuttings and seed, maize.
	* * *
K. Asian citrus psyllid <i>Diaphorina citri</i>	All plants and plant parts, including but not limited to nursery stock, cuttings, and budwood, except seed and fruit, of: <i>Aegle marmelos</i> , <i>Aeglopsis chevalieri</i> , <i>Afraegle gabonensis</i> , <i>Afraegle paniculata</i> , <i>Amyris madrensis</i> , <i>Atalantia</i> spp. (including <i>Atalantia monophylla</i> ), <i>Balsamocitrus dawei</i> , <i>Berbera</i> (= <i>Murraya</i> ) <i>koenigii</i> , <i>Calodendrum capense</i> , <i>Choisya ternata</i> , <i>Choisya arizonica</i> , X <i>Citroncirus webberi</i> , <i>Citropsis articulata</i> , <i>Citropsis gillettiana</i> , <i>Citrus madurensis</i> (= X <i>Citrofortunella microcarpa</i> ), <i>Citrus</i> spp., <i>Clausena anisum-olens</i> , <i>Clausena excavata</i> , <i>Clausena indica</i> , <i>Clausena lansium</i> , <i>Eremocitrus glauca</i> , <i>Eremocitrus hybrid</i> , <i>Esenbeckia berlandieri</i> , <i>Fortunella</i> spp., <i>Limonia acidissima</i> , <i>Merrillia caloxylon</i> , <i>Microcitrus australasica</i> , <i>Microcitrus australis</i> , <i>Microcitrus papuana</i> , X <i>Microcitronella</i> spp., <i>Murraya</i> spp., <i>Naringi crenulata</i> , <i>Pamburus missionis</i> , <i>Poncirus trifoliata</i> , <i>Severinia buxifolia</i> , <i>Swinglea glutinosa</i> , <i>Tetradium ruticarpum</i> , <i>Toddalia asiatica</i> , <i>Triphasia trifolia</i> , <i>Vepris</i> (= <i>Toddalia</i> ) <i>lanceolata</i> , and <i>Zanthoxylum fagara</i> .
L. Citrus greening (Huanglongbing) <i>Candidatus Liberibacter asiaticus</i>	All plants and plant parts, including but not limited to nursery stock, cuttings, budwood, and propagative seed (but excluding fruit), of: <i>Aegle marmelos</i> , <i>Aeglopsis chevalieri</i> , <i>Afraegle gabonensis</i> , <i>Afraegle paniculata</i> , <i>Amyris madrensis</i> , <i>Atalantia</i> spp. (including <i>Atalantia monophylla</i> ), <i>Balsamocitrus dawei</i> , <i>Berbera</i> (= <i>Murraya</i> ) <i>koenigii</i> , <i>Calodendrum capense</i> , <i>Choisya ternata</i> , <i>Choisya arizonica</i> , X <i>Citroncirus webberi</i> , <i>Citropsis articulata</i> , <i>Citropsis gillettiana</i> , <i>Citrus madurensis</i> (= X <i>Citrofortunella microcarpa</i> ), <i>Citrus</i> spp., <i>Clausena anisum-olens</i> , <i>Clausena excavata</i> , <i>Clausena indica</i> , <i>Clausena lansium</i> , <i>Eremocitrus glauca</i> , <i>Eremocitrus hybrid</i> , <i>Esenbeckia berlandieri</i> , <i>Fortunella</i> spp., <i>Limonia acidissima</i> , <i>Merrillia caloxylon</i> , <i>Microcitrus australasica</i> , <i>Microcitrus australis</i> , <i>Microcitrus papuana</i> , X <i>Microcitronella</i> spp., <i>Murraya</i> spp., <i>Naringi crenulata</i> , <i>Pamburus missionis</i> , <i>Poncirus trifoliata</i> , <i>Severinia buxifolia</i> , <i>Swinglea glutinosa</i> , <i>Tetradium ruticarpum</i> , <i>Toddalia asiatica</i> , <i>Triphasia trifolia</i> , <i>Vepris</i> (= <i>Toddalia</i> ) <i>lanceolata</i> , and <i>Zanthoxylum fagara</i> .
M. Citrus canker <i>Xanthomonas axonopodis</i> pv <i>citri</i>	All plants or plant parts, including fruit and seeds, of any of the following: All species, clones, cultivars, strains, varieties, and hybrids of the genera <i>Citrus</i> and <i>Fortunella</i> , and all clones, cultivars, strains, varieties, and hybrids of the species <i>Clausena lansium</i> , and <i>Poncirus trifoliata</i> , and <i>Swinglea glutinosa</i> . The most common of these are: lemon, pummelo, grapefruit, key lime, persian lime, tangerine, satsuma, tangor, citron, sweet orange, sour orange, mandarin, tangelo, ethrog, kumquat, limequat, calamondin, trifoliolate orange, tabog, and wampi.
N. Texas Phoenix decline A phytoplasma disease	All <i>Phoenix</i> spp. palms, queen palm <i>Syagrus romanzoffiana</i> and cabbage palm <i>Sabal palmetto</i> .
O. Boll weevil <i>Anthonomus grandis</i> Boheman	All parts of cotton and wild cotton plants of the genus <i>Gossypium</i> , seed cotton, cottonseed, cotton lint, gin trash, used cotton harvesting equipment, and any other farm products, equipment, means of conveyance and any other articles which may serve as host materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:319 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 16:294 (April 1990), LR 18:701 (July 1992), amended by the by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 40:

### Chapter 3. Boll Weevil

#### §301. Maintenance Inspection Fee

A. In accordance with R.S. 3:1655(D), the state entomologist is authorized to assess fees to defray the costs of inspections or the issuance of certificates or permits for the shipment of agricultural products, commodities, packaging, or equipment. There is hereby established a fee for the inspection and certification of cotton for the presence of the boll weevil to ensure the marketability of cotton in commerce and maintain Louisiana's boll weevil-free status. The fee shall be \$6 per acre for each acre of cotton planted in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 40:

#### §303. Definitions Applicable to Boll Weevil

A. ...

B. The following words and terms are defined for the purposes of this Chapter.

\* \* \*

*Boll Weevil Eradication Program*—a program which includes the survey, inspection, and monitoring of all regulated articles for the presence of boll weevil, and the subsequent activities, which include but are not limited to the issuance of certificates or permits, required to maintain Louisiana's boll weevil-free status and eradicate the boll weevil should one or more be detected.

\* \* \*

*Maintenance Inspection Fee*—the fee paid by cotton producers to finance, in whole or in part, a program to inspect cotton for the presence of the boll weevil in the state and to issue certificates or permits in accordance with R.S. 3:1655(D). The charge to the producer is calculated at the rate of \$6 per acre for each acre of cotton planted in the state.

*Penalty Fee*—the fee assessed against a cotton producer for late reporting of acreage, underreporting of acreage, or late payment of maintenance inspection fees. It does not refer to penalty or fine assessed for any violation of the regulations.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011), LR 40:

### **§307. Conditions Governing Movement and Handling of Regulated Articles**

A. - B. ...

1. The commissioner may issue certificates for the movement of regulated articles when such articles:

a. - b. ...

c. have been grown, manufactured, stored or handled in such a manner that, in the judgment of the commissioner, no infestation would be transmitted; or

d. have been examined by the commissioner and found to be free from infestation.

2. The commissioner may issue permits for the movement of noncertified regulated articles in order to allow movement of such articles into, within or from the state of Louisiana, in accordance with procedures approved by the commissioner, when the commissioner has determined that movement will not result in the spread of the boll weevil.

C. ...

1. The commissioner may grant a certificate, permit or written waiver. Any person who claims movement under the terms of a certificate, permit or written waiver shall have the burden of proof as to the issuance of any such certificate, permit or written waiver and any other related matter.

2. The commissioner may cancel any certificate, permit or written waiver good cause, including but not limited to, a determination that the holder thereof has failed to comply with any condition for the use of such certificate, permit, written waiver or with any terms or conditions of a compliance agreement or has obtained a certificate, permit or written waiver on falsified information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:18 (January 1995), amended LR 40:

### **§309. Compliance Agreements**

A. The commissioner may, as a condition of issuance of a certificate, permit or written waiver, require a compliance agreement stipulating one or more expressed conditions of the certificate, permit or written waiver, as required by the commissioner, which may include but are not limited to:

1. - 4. ...

B. The commissioner may cancel any compliance agreement for good cause, including but not limited to a finding that the holder has failed to comply with any conditions of the agreement, and the commissioner may do so summarily and ex parte if he finds that public health, safety or welfare requires emergency action. The commissioner may cancel or void any compliance agreement upon a determination that the compliance agreement is no longer consistent with the purposes of the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental

Sciences, Boll Weevil Eradication Commission, LR 21:18 (January 1995), amended LR 40:

### **§311. Inspection, Movement and Enforcement**

A. The commissioner is authorized to stop any person and inspect any regulated article or means of conveyance moving into, within or from the state of Louisiana when he has reason to believe that such regulated article or means of conveyance is infested with the boll weevil. The commissioner is authorized to issue a stop order on, seize or treat any regulated article found to be infested with the boll weevil moving in violation of the boll weevil eradication law or this Chapter and may destroy or otherwise dispose of any infested cotton where the destruction of the cotton is necessary to effectuate the purposes of the boll weevil eradication program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:18 (January 1995), amended LR 40:

### **§313. Purchase and Destruction of Cotton to Effectuate Program Objectives**

A. When the commissioner deems the purchase of cotton necessary to effectuate the purposes of the boll weevil eradication program, he shall make a written determination to purchase.

1. The written determination to purchase shall contain the reasons for the determination, the purchase price, and shall be mailed to or served upon the cotton producer. The purchase price shall be determined by appraisal, the appraisal shall have been completed within 72 hours of the mailing or issuance for service of the written determination to purchase, and the appraisal shall, to the extent practical, utilize the ASCS farm-established yield for the current year.

2. The cotton producer shall promptly take all steps necessary to convey title to the commissioner. In the event that the cotton producer fails to take all steps necessary to convey title to the commissioner within 10 days of receipt of a written determination to purchase, the commissioner may destroy the cotton, compensating the cotton producer for the purchase price less the loss of the resale price and cost of destruction.

3. ...

B. Whenever the commissioner has reason to believe that the destruction of cotton is necessary to effectuate the purposes of the boll weevil eradication program, he shall make a written determination of destruction.

1. The written determination of destruction shall contain the reason for the destruction, the payment to the cotton producer, if applicable, and shall be mailed to or served upon the cotton producer. The cotton producer shall take all steps necessary to cooperate with the commissioner in the destruction of the cotton. In the event that the cotton producer fails to take all steps necessary to cooperate in the destruction of the cotton, the cotton producer shall be in violation of this Chapter.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1610.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:19 (January 1995), amended LR 40:

### **§315. Quarantine: Authority and Procedures**

A. - E. ...

F. All persons and all parties affected by a quarantine shall cooperate in the affectation of the quarantine and shall do nothing to cause a breach of the terms of the quarantine order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1608.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:19 (January 1995), amended LR 40:

### **§319. Reporting of Cotton Acreage**

A. All cotton producers growing cotton in the state of Louisiana shall certify their planted cotton acreage by the later of July 15 or at final certification of the current growing season at the FSA office responsible for the parish or parishes in which they produce cotton. The certification shall be filed for each year of the program and shall include the actual acreage and location of cotton planted during the current growing season.

B. All cotton producers growing cotton in the state of Louisiana shall, for each year of the program, also complete and sign a cotton acreage reporting and payment form provided by the commissioner and return the signed and completed form to the department along with FSA Form 578 at the time that the maintenance inspection fee is paid to the department.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1607, 1609, and 1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011), LR 40:

### **§321. Maintenance Inspection Fees, Payment and Penalties**

A. The annual maintenance inspection fee on cotton producers in the Louisiana eradication zone shall be \$6 per acre for each acre of cotton planted in the state. Each cotton producer shall pay his annual maintenance inspection fee directly to the department no later than July 15 or final certification with the FSA for that growing season, whichever is later. The signed and completed cotton acreage reporting and payment form with FSA Form 578 attached shall be submitted with the annual payment of the maintenance inspection fee.

B. A cotton producer may request a waiver of all or part of the maintenance inspection fee for any crop year in which he plants cotton in accordance with the following procedure. The decision to grant a waiver of all or part of any maintenance inspection fee for a crop year is within the discretion of the commission.

1. A cotton producer who requests a waiver of the maintenance inspection fee for a crop year must submit a written request for a waiver to the commission.

2. The commission must receive the written request, through mail, fax or other form of actual delivery, on or before 4:30 p.m. central time on August 1 of the crop year for which the waiver is requested. A written request for a waiver will be deemed to be timely when the papers are mailed on or before the due date. Timeliness of the mailing

shall be shown only by an official United States postmark or by official receipt or certificate from the United States Postal Service made at the time of mailing which indicates the date thereof. A fax will be deemed to be timely only upon proof of actual receipt of the transmission.

3. ...

4. Each cotton producer who has filed a timely request for a waiver with the commission shall be notified of the date, time and place that the commission is scheduled to consider the request for a waiver at least 10 days prior to the commission meeting. The commission shall not consider an untimely written request.

5. A cotton producer, whose timely request for a waiver is denied by the commission, shall be entitled to pay his maintenance inspection fee without imposition of a per acre penalty fee if he pays the maintenance inspection fee within 30 days after receiving written notification of the commission's decision.

6. The commission has the authority to inspect any cotton field in which a cotton producer has claimed to have destroyed the cotton crop. Failure of the cotton producer to allow inspection shall be a violation of this Chapter.

C. Any cotton producer planting a fraction of an acre shall be assessed at a prorated maintenance inspection fee rate for that fractional acre.

D. Any cotton producer failing to certify his planted cotton acreage by the later of July 15 or the date of final certification of the current growing season shall, in addition to the maintenance inspection fee and other applicable penalties, be subject to a penalty fee of \$2 per acre.

E. Any cotton producer failing to pay all maintenance inspection fees by the later of July 15 or the date of final certification of the current growing season shall, in addition to the maintenance inspection fee and other applicable penalties, be subject to a penalty fee of \$1.50 per acre.

F. Reserved.

G. Failure to pay all program costs, including maintenance inspection fees and penalty fees, shall be a violation of this Chapter. Any cotton growing on a cotton producer's acreage which is subject to the maintenance inspection fee shall be subject to destruction by the commissioner should the cotton producer fail to pay all program costs, including maintenance inspection fees and penalty fees, within 30 days of notification of the default.

H. The commissioner shall have the right to collect some or all of the program costs, including maintenance inspection fees and penalty fees, by contracting with another entity, public or private, for collection. The commissioner shall provide notification of any such decision to all affected parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1604.1, 1609, 1610, 1612, 1652, and 1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999), LR 29:859 (June 2003), LR 30:1142 (June 2004), LR 30:2443 (November 2004), LR 37:2583 (September 2011), LR 40:

### **§323. Program Participation [Formerly §327]**

A. All cotton producers growing cotton in Louisiana shall participate in the boll weevil eradication program in

accordance with the Louisiana boll weevil eradication law and these regulations.

B. Cotton producers shall destroy cotton stalks in every field planted in cotton, on or before December 31 of each crop year. Cotton stalk destruction shall consist of shredding or disking in a manner that destroys standing cotton stalks. Cotton stalks that come up in a failed field must also be destroyed by December 31 of the crop year. Failure to destroy stalks by December 31 of each crop year shall be a violation of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, 1612, 1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 27:280 (March 2001), amended LR 30:2444 (November 2004), LR 40:

### **§325. Voter Eligibility**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1613.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:21 (January 1995), repealed LR 40:

### **§327. Program Participation**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1609, 1612.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 27:280 (March 2001), amended LR 30:2444 (November 2004), repealed LR 40:

#### **Family Impact Statement**

It is anticipated that the proposed action will have no significant effect on the: (1). stability of the family; (2). authority and rights of parents regarding the education and supervision of their children; (3). functioning of the family; (4). family earnings and family budget; (5). behavior and personal responsibility of children; or (6). ability of the family or a local government to perform the function as contained in the proposed action.

#### **Poverty Impact Statement**

It is anticipated that the proposed action will have no significant effect on: (1). household income, assets, and financial security; (2). early childhood or educational development; (3). employment and workforce development; (4). taxes and tax credits; or (5). child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Statement**

It is anticipated that the proposed action will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed action to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

#### **Public Comments**

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed action. Written submissions are to be directed to Marc Bordelon, Director of the Boll Weevil Eradication Commission, Department of Agriculture and Forestry; telephone (225)

952-1338); fax # (225) 237-5775; mailing address 5825 Florida Boulevard, Baton Rouge, LA 70806. The written submissions must be received no later than 4 p.m. on May 25, 2014. No preamble regarding these proposed regulations is available.

Mike Strain, DVM  
Commissioner

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Boll Weevil Eradication****

### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed action is not anticipated to have a direct material effect on state or local governmental unit expenditures.

### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed action is not anticipated to have a direct material effect on state or local governmental revenues.

The proposed action establishes a fee for the inspection and certification of cotton for the presence of the boll weevil, and defines the established fee as a "maintenance inspection fee". The proposed action deletes the term "assessment" and replaces it with "maintenance inspection fee", deletes reference to both the 2003 referendum and voter eligibility in any referendum, replaces wording, and modifies sentence structure and sentence location to provide clarity regarding the context of the regulation.

The proposed action is required because the October, 2013 Louisiana Supreme Court ruling in Krielow v. Louisiana Department of Agriculture and Forestry, which declared La. R.S. 3:3534 and La. R.S. 3:3544, statutes that allow a voting majority of rice producers to levy an assessment on all producers, to be unconstitutional, calls into question the constitutionality of the current boll weevil assessment voted on by referendum of the cotton producers.

The proposed action is further required in order to provide for cotton producers in the State of Louisiana a means to continue their support of the program and protect the huge investment that has been made, thus insuring the marketability of Louisiana cotton in commerce while maintaining Louisiana's boll weevil-free status. The proposed action will allow program personnel to continue to inspect, monitor and certify that all cotton in this state and any equipment and regulated articles moving into and out of the state are free of boll weevils.

The proposed action will establish a maintenance inspection fee of six dollars (\$6) per acre for each acre of cotton planted in the State of Louisiana. This fee will replace and will be in lieu of the constitutionally suspect assessment of six dollars (\$6) per acre that was collected for each acre of cotton planted in this state. In other words, the Department will still collect the exact same amount of funds through the fee as it has collected with the assessment. Thus, there is no change in anticipated revenue as the revenue generated by proposed action will be identical to what the revenue generated would be if the Department continued to collect the assessment.

The proposed action will also amend these rules and regulations to add the boll weevil to the plant pest/disease and host materials listing. Other additions to this listing include Asian citrus psyllid, citrus greening, citrus canker, Texas Phoenix decline, and the respective hosts of these pests or diseases. Sugarcane pests/diseases also are amended in the listing. These changes are necessary to address additional pests and diseases threatening Louisiana agriculture.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed action is not anticipated to have any costs and/or economic benefit to directly affected persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is not anticipated to have a direct material effect on competition or employment.

Dane Morgan  
Assistant Commissioner  
1404#033

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 111—The Louisiana School,  
District and State Accountability System

(LAC 28:LXXXIII.301, 303, 409, 413, 517, 521, 603, 611, 613, 1301, 2301, 3101, 3301, 3303, 4101, 4301, and 4317)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District and State Accountability System*: §301, School Performance Score Goal; §303, Transition from Fall 2013 to Spring 2015 (2014 and 2015 SPS Release); §409, Calculating a 9-12 Assessment Index; §413, Dropout/Credit Accumulation Index Calculations; §517, Inclusion of Students; §521, Pairing/Sharing of Schools with Insufficient Test Data; §603, Determining a Cohort for a Graduation §611, Documenting a Graduation Index; §613, Calculating a Graduation Index; §1301, Reward Eligibility; §2301, Schools Requiring Reconstitution/Alternate Governance Plans; §3101, Appeals/Waivers and Data Certification Processes; §3301, Inclusion of New Schools; §3303, Reconfigured Schools; §4101, Valid Data Considerations; §4301, Inclusion of All Districts; and §4317, District Accountability Data Corrections. The proposed policy revisions align the accountability program with the new Jump Start career education programs and ensure fairness and consistency during the transition to new assessments.

**Title 28**

**EDUCATION**

**Part LXXXIII. Bulletin 111—The Louisiana School,  
District and State Accountability System**

**Chapter 3. School Performance Score Component**

**§301. School Performance Score Goal**

A. A school performance score (SPS) shall be calculated for each school. This score shall range from 0.0 to 150.0.

B. Each school shall receive its school performance scores under one site code regardless of its grade structure.

C. Preliminary school performance scores shall be released in the summer for schools that receive a letter grade of F. Final accountability results shall be issued by the fall semester of each year and all accountability reports will reflect the configuration of the school as it existed the prior spring semester.

1. For K-7 schools, the school performance score will consist entirely of one index based on assessments and progress points listed in the table below.

2. For K-8 schools, the school performance score will consist of an assessment index, dropout/credit accumulation index, and progress points.

K-8 School Performance Score Indices and Weights		
LEAP, iLEAP, LAA 1 and LAA 2	Grades K-7	100 percent
	Grades K-8	95 percent
Dropout/Credit Accumulation Index	Grade 8	5 percent
Progress points	Grades 3 to 8	Up to 10 points

3. For schools with a grade 12, the school performance scores will include four indicators weighted equally and progress points as outlined in the table below.

High School Performance Score Indices and Weights		
End of Course Tests, LAA 1	Grades 9-12	25 percent
ACT* (Beginning in 2015-16, the ACT index shall also recognize WorkKeys. A concordance table comparing ACT to WorkKeys will be produced after the Spring 2015 administration.)	Grade 12	25 percent
Graduation Index	Grade 12	25 percent
Graduation Rate	Grade 12	25 percent
Progress points	Grades 10 and 12	Up to 10 points

\*When calculating a school's ACT index score, students participating in the LAA 1 assessment shall not be included in the denominator of such calculation.

4. A combination school (a school with a grade configuration that includes a combination from both categories of schools, K-8 and 9-12), will receive a score from a weighted average of the SPS from the K-8 grades and the SPS from the 9-12 grades.

a. The K-8 SPS will be weighted by the number of students eligible to test during the spring test administration.

b. The 9-12 SPS will be weighted by the sum of:

i. assessment units from students who are initial testers for EOC + the students eligible to test ACT (students with EOC and ACT will count only one time);

ii. cohort graduation units from the number of members of the cohort used as the denominator in the graduation index calculation and the graduation rate (students in cohort will count only one time).

5. For schools with configurations that include grades 9-11, but do not have a grade 12, the school performance score will consist of the indices available.

**D. Progress Points**

1. The school performance score will also be affected by the progress points earned from growth calculated for the non-proficient student subgroup (i.e., super subgroup).

2. To be eligible for K-8 progress points, the school must have:

a. at least 10 students in the non-proficient subgroup, as identified for subgroup membership based on prior year assessment scores only (i.e. students may be proficient or non-proficient in the current year) in ELA or mathematics; and



b. more than 50 percent (i.e. 50.001+) of the students in the non-proficient subgroup exceed their expected score, as determined by the value-added model for students in grades K-8;

c. if Subparagraphs 2.a and 2.b are met, then the number and the percent of students will be multiplied by 0.1, and the higher of the two products will be used to assign progress points. For students who earn an unsatisfactory on LEAP or iLEAP, the multiplier will be 0.1. For students who earn an approaching basic on LEAP or iLEAP in the prior year, the multiplier will be 0.05.

3. To be eligible for high school progress points, the school must have:

a. at least 10 students in the non-proficient subgroup, as identified for subgroup membership based on the most recent of the two previous years' state assessment scores in ELA or mathematics; and

b. a minimum of 30 percent of the students in the non-proficient subgroup score at the top of the expected score range or higher, as determined by the ACT series;

NOTE: EXPLORE predicts PLAN and PLAN predicts ACT.

As an example, if EXPLORE predicted a student would score between 17 and 19 on the PLAN, the student must score a 19 or higher in order to potentially earn progress points for the school.

c. if Subparagraphs 3.a and 3.b are met, then the number and the percent of students will be multiplied by 0.1, and the higher of the two products will be used to assign progress points. For students who earned an unsatisfactory on LEAP or iLEAP or needs improvement on end-of-course tests in prior year(s), the multiplier will be 0.2. For students who earned an approaching basic on LEAP or iLEAP or a fair on end-of-course tests in prior year(s), the multiplier will be 0.1.

4. Schools can earn a maximum of 10 progress points to be added to the SPS.

a. For combination schools that include both middle and high school grades (e.g., 6-12), the progress points shall be calculated by adding the points earned from each test group together. For sums that are greater than 10, a maximum of 10 points will be awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034, 2035 (November 2006), LR 33:424 (March 2007), LR 33:2349 (November 2007), LR 33:2593 (December 2007), LR 34:430 (March 2008), LR 35:639 (April 2009), LR 36:1987 (September 2010), LR 38:3105 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 39:2441 (September 2013), LR 40:

**§303. Transition from Fall 2013 to Spring 2015 (2014 and 2015 SPS Release)**

A. Schools shall receive an annual 2013 SPS using the 150-point scale, as approved for the 2012-13 school year and as described in Chapters 3-6 of this bulletin.

B.1. The LDE shall ensure that the distribution of school letter grades remains constant throughout this transition by assigning school letter grades for the 2013-2014 and 2014-2015 school years based on the distribution of school letter grades by school type (e.g., K-8 v. combination v. high school) from the 2012-2013 school year.

a. If schools generally decline in performance scores, then the distributions (K-8, combination and high school) shall remain the same as in 2012-13 so as not to punish schools during the transition.

b. Any school or district that maintains or improves its annual performance score as compared to the 2012-13 performance scores shall not experience a decrease in its letter grade. Thus, if schools generally improve in performance scores, then the distributions shall improve as they would in any other year.

2. Prior to the creation of the transitional ninth grade, some schools were categorized as combination schools, rather than high schools, simply because they offered 8th grade courses to a select group of students ineligible for 9th grade. Such schools shall be classified as high schools and the 12-13 distributions shall be adjusted to reflect this shift.

C. By the fall of 2015, BESE shall determine, in consultation with the Accountability Commission, the timeline and benchmarks needed to gradually raise the standard for student proficiency such that the average student in a school or district with a letter grade of "A" achieves at least "mastery" (level 4) on state assessments no later than the 2024-2025 school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:2442 (September 2013), amended LR 40:

**Chapter 4. Assessment and Dropout/Credit Accumulation Index Calculations**

**§409. Calculating a 9-12 Assessment Index**

A. - A.2. ...

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3. EOC proficient test scores of "good" or "excellent" earned by students at a middle school will be included in the SPS calculations of the high school to which the student transfers. The scores will be included in the accountability cycle that corresponds with the students' first year of high school. Middle schools will earn incentive points for all EOC test passing scores the same year in which the test was administered.

a. Incentive points will be awarded as follows:

- i. excellent = 50;
- ii. good = 25.

4. EOC test scores considered "not proficient" (needs improvement, fair) will not be transferred, or banked, to the high school. Students will retake the test at the high school, and the first administration of the test at the high school will be used in the calculation of the assessment index the same year in which it was earned.

5. ...

B.1. The ACT composite score will be used in the calculation of the ACT assessment index as described in the chart below. To the extent practicable, a student's highest earned score for any ACT administration shall be used in the calculation.

ACT Composite	Index Pts
0-17	0
18	100
19	102.8
20	105.6
21	108.4

ACT Composite	Index Pts
22	111.2
23	114
24	116.8
25	119.6
26	122.4
27	125.2
28	128
29	130.8
30	133.6
31	136.4
32	139.2
33	142
34	144.8
35	147.6
36	150.4

2.a. Starting in the 2015-16 school year, student performance on the WorkKeys shall be included within the ACT index, where a student takes both assessments but achieved a higher score on the WorkKeys than on the ACT.

b. The state will produce a concordance table comparing ACT scores with WorkKeys scores at the conclusion of the 2014-15 school year and the table shall be used to award points in the 2015-16 school performance score results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 33:252 (February 2007), LR 36:1989 (September 2010), LR 37:2118 (July 2011), repromulgated LR 37:2382 (August 2011), amended LR 37:3200 (November 2011), LR 38:1212 (May 2012), LR 38:2357 (September 2012), LR 38:3106 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 39: 2443 (September 2013), LR 40:

**§413. Dropout/Credit Accumulation Index Calculations**

A. - B.1.a. ...

b. if earning Carnegie units, have been considered full academic year during the transitional ninth, or traditional ninth grade year for the first ninth grade record.

2. Carnegie units earned in summer school after transitional ninth or traditional ninth grade will not be included.

3. Students who are considered dropouts in transitional ninth or traditional ninth grade based on SIS records shall be included in the calculation and earn zero points.

4. Students who are completing their third year in grade 8 shall be included in the calculation and earn zero points.

Number of Carnegie Units	Index Point Award
6 or more	150
5.5	125
5	100
4.5	75
4	50
3.5	25
3 or less	0
3rd year 8th grade student	0
Dropout	0

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 36:1990 (September 2010), LR 38:3107 (December 2012), LR 40:

**Chapter 5. Inclusion in Accountability §517. Inclusion of Students**

A. The test score of every student who is enrolled in any school in an LEA on October 1 of the academic year and who is eligible to take a test at a given school within the same LEA shall be included in the LEA's district performance score (DPS). The score of every student that will count in the DPS will be counted at the school where the student was enrolled on February 1 for SPS and subgroup AYP.

1. For EOC tests taken in December the scores will count in the SPS at the school where the students is enrolled for the test.

2. For ACT, a grade 12 student will be considered full academic year at the school and district from which the student graduated in December of the current school year if the student was enrolled in the district on October 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:1512 (July 2005), LR 31:2422 (October 2005), LR 31:2764 (November 2005), LR 33:2594 (December 2007), LR 38:3107 (December 2012), LR 39:305 (February 2013), LR 40:

**§521. Pairing/Sharing of Schools with Insufficient Test Data**

A. - F. ...

G. Requirements for the number of test/graduation index units shall be the sum of the units used to calculate the school's SPS (see §519).

H. If a school has too few test units to be a "stand-alone" school, it may request to be considered stand-alone.

1. It shall receive an SPS that is calculated solely on that school's data, despite the small number of test units.

2. The request shall be in writing to the LDE from the LEA superintendent.

3. The school forfeits any right to appeal its SPS and status based on minimum test unit counts.

I. Once the identification of "paired" schools has been made, this decision is binding for 10 years. An appeal to the BESE may be made to change this decision prior to the end of 10 years, when redistricting or other grade configuration and/or membership changes occur.

J. If 10 years has not elapsed, but a paired/shared school acquires a sufficient number of testing units, then the pair/share relationship will be broken, and the school will be treated as a stand-alone school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 30:1445 (July 2004), LR 32:1023 (June 2006), LR 36:1991 (September 2010), LR 38:3108 (December 2012), LR 40:

**Chapter 6. Graduation Cohort, Index, and Rate §603. Determining a Cohort for a Graduation**

A. A cohort of students is all students who entered 9th grade for the first time in the state of Louisiana in a given academic year.

B. Each cohort of students will be tracked for four years, from entry as first-time ninth graders through four academic years. Transitional ninth graders will enter automatically the first-time ninth grade cohort in the year after enrolling in transitional ninth grade.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 33:424 (March 2007), LR 33:2031 (October 2007), LR 35:2312 (November 2009), LR 36:2242 (October 2010), LR 36:2840 (December 2010), LR 38:3108 (December 2012), LR 40:

**§611. Documenting a Graduation Index**

A. Beginning with academic year 2005-2006, all schools are required to maintain the following documentation if the corresponding exit code is used.

Exit Code Documentation		
Code	Descriptions	Required Documentation
01	Expelled	Due process documentation supporting expulsion. Students must be enrolled on October 1 of the following year.
03	Illness	Letter from a physician stating the student's date(s) of care written on the doctor office's letterhead with the doctor's original signature. Students must be enrolled on October 1 of the following year.
04	Graduate with Diploma	Official transcript showing successful completion of requirements along with records supporting any academic or career/technical endorsements.
05	GED only	LDE confirmation document and entry/exit in SIS.
06	Certificate of Achievement (Special Education)	Official transcript showing successful completion of requirements
07	Death (of student) or permanent incapacitation	Letter from parent or obituary.
08	Transferred to another public school within district	SIS (Student Information System) record indicating transfer.
09	Transferred to another public school within Louisiana	SIS record indicating transfer.
10	Transferred out of state or country	Request for records from the receiving school (out of state). Request for records or a statement signed by the parent. Documentation proving a student was a foreign exchange student.
12	Transferred to Correctional Institution	SIS record indicating transfer.
13	Transferred to Vocational Technical School	SIS record indicating transfer.
14	Transferred to non-public school (must award high school diplomas)	Request for records from the receiving school
15	Exit from grade for reassignment to another grade	Test results, summer school grades or similar forms located in the student's cumulative records supporting the grade change
16	Transferred to home study/in-school Private Schooling	LDE Approval letter
19	Exit from non-mandatory program	Documentation of participation in specific program.

Exit Code Documentation		
Code	Descriptions	Required Documentation
20	Transferred to Early College Admissions Program	School withdrawal form and request for records from the College or University and proof of full-time enrollment in an academic program
22	Options Program Completer: GED and Industry Based Certificate	STS and/or CATE (Career and Technical Education) record
24	Options Program Completer: Industry Based Certification	STS and/or CATE record
27	Exit under SBESE Academic School Choice Policy	SIS record indicating transfer.
28	Exit under SBESE Unsafe School Choice Policy	SIS record indicating transfer.
34	Correctional Institution/State Custody (ages 17 and above)*	SIS record indicating transfer.
35	Transferred to LEA monitored Adult Education to pursue GED	SIS record indicating transfer.
36	Completer: Skills Certificate Only	SIS record and documentation of certificate earned
40	Transferred under Student Scholarship for Excellence within student's district of residence	SIS record indicating transfer.
41	Transferred under Student Scholarship for Excellence in a district other than the student's district of residence	SIS record indicating transfer.
42	Transferred under Student Scholarship for Excellence to a non-public school	SIS record indicating transfer.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 35:639 (April 2009), LR 35:2312 (November 2009), LR 36:2242 (October 2010), LR 36:2841 (December 2010), LR 38:3108 (December 2012), LR 40:

**§613. Calculating a Graduation Index**

A. For the 2013-14 school year (2012-13 graduates), points shall be assigned for each member of a cohort during the cohort's fourth year of high school according to the following table.

Student Result	Points
HS Diploma plus AP score of at least 3 OR IB Score of at least 4	150
BESE Approved Industry Based Certification OR Dual Enrollment OR AP score of 1 or 2 OR IB score of 1, 2, or 3 if the corresponding course is passed.	110
Regular HS Diploma	100
GED	25
Non-graduate without GED	0
5th Year Graduate plus AP score of at least 3 OR IB Score of at least 4	140
5th Year Graduates	75

B. For 2014-15 only (2013-14 graduates), points shall be assigned for each member of a cohort according to the following table.

Student Result	Points
HS Diploma plus (a) AP score of 3 or higher, IB Score of 4 or higher, or CLEP score of 50 or higher OR (b) Advanced statewide Jump Start credential *Students achieving both (a) and (b) will generate 160 points.	150
HS Diploma plus (a) At least one passing course grade of the following type: AP, college credit, dual enrollment, or IB OR (b) Basic statewide Jump Start credential *Students achieving both (a) and (b) will generate 115 points, if the passing course grade for (a) is earned in a TOPS core curriculum course.	110
Four-year graduate (includes Career Diploma student with a regional Jump Start credential)	100
Five-year graduate with any diploma *Five-year graduates who earn an AP score of 3 or higher, an IB score of 4 or higher, or a CLEP score of 50 or higher will generate 140 points.	75
Six-year graduate with any diploma	50
HiSET	25
Non-graduate without HiSET	0

C. Beginning in 2015-16 (2014-15 graduates), points shall be assigned for each member of a cohort according to the following table.

Student Result	Points
HS Diploma plus (a) AP score of 3 or higher, IB Score of 4 or higher, or CLEP score of 50 or higher OR (b) Advanced statewide Jump Start credential *Students achieving both (a) and (b) will generate 160 points.	150
HS Diploma plus (a) At least one passing course grade for TOPS core curriculum credit of the following type: AP, college credit, dual enrollment, or IB OR (b) Basic statewide Jump Start credential *Students achieving both (a) and (b) will generate 115 points.	110
Four-year graduate (includes Career Diploma student with a regional Jump Start credential)	100
Five-year graduate with any diploma *Five-year graduates who earn an AP score of 3 or higher, an IB score of 4 or higher, or a CLEP score of 50 or higher will generate 140 points.	75
Six-year graduate with any diploma	50
HiSET	25
Non-graduate without HiSET	0

D. The graduation index of a school shall be the average number of points earned by cohort members.

E.1. The diploma must be earned no later than the third administration of the summer retest following the fourth year of high school of the students' cohort.

a. For example, a student who finishes the fourth year of high school in 2012 must complete the assessment requirements before or during the 2014 summer test administration.

2. When related to awarding fifth year graduate points, the enrollment must be continuous and consist of at least 45 calendar days.

F. To ensure the accuracy of data used to calculate the graduation index, the calculation shall lag one year behind the collection of the data. (The index earned by the graduating class of 2012 will be used for 2013 accountability calculations.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006), amended LR 33:2031 (October 2007), LR 33:2594 (December 2007), LR 35:1472 (August 2009), LR 36:1769 (August 2010), repromulgated LR 36:1994 (September 2010), amended LR 36:2243 (October 2010), LR 37:3201 (November 2011), LR 38:1391 (June 2012), LR 38:3109 (December 2012), LR 39:306 (February 2013), LR 39:2444 (September 2013), LR 40:

### Chapter 13. Rewards/Recognition

#### §1301. Reward Eligibility

A. A school shall be labeled a "reward school" if it meets the following growth goals.

1. For schools labeled an "A" for the previous academic year, such schools shall improve their SPS by five points. If an "A" school is within five points of the total possible points (i.e., 150), then the school shall need to reach an overall score of 150.

2. For schools labeled "B," "C," "D," or "F," such schools shall improve their SPS by 10 points.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2744 (December 2003), amended LR 30:1446 (July 2004), LR 31:1513 (July 2005), LR 33:1334 (July 2007), LR 33:2595 (December 2007), LR 38:3111 (December 2012), LR 40:

### Chapter 23. Reconstitution/Alternate Governance Plans

#### §2301. Schools Requiring Reconstitution/Alternate Governance Plans

A. Districts shall notify SBESE of all school closures and reconstitution by December 31 of the previous academic year. Notice shall include requests for site code changes, grade reconfigurations, and attendance zone changes. Requests to close schools after October 1 will not be approved until the end of the current academic year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2749 (December 2003), amended LR 31:1516 (July 2005), LR 31:2765 (November 2005), LR 33:2599 (December 2007), LR 38:3113 (December 2012), LR 40:

### Chapter 31. Data Correction and Appeals/Waivers Procedure

#### §3101. Appeals/Waivers and Data Certification Processes

A. - A.2. ...

3. Each LEA must collect supporting documentation for every data element that is corrected and maintain the documentation on file for at least four years.

A.4. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), amended LR 30:1620 (August 2004), repromulgated LR

30:1996 (September 2004), amended LR 30:2257 (October 2004), LR 31:2422 (October 2005), LR 35:2313 (November 2009), LR 38:3113 (December 2012), LR 40:

### **Chapter 33. New Schools and/or Significantly Reconfigured Schools**

#### **§3301. Inclusion of New Schools**

A. - D.2. ...

E. Schools that do not align with the patterns described in this Section will be included in accountability as soon as the required data is available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 31:2765 (November 2005), LR 33:2599 (December 2007), LR 36:1992 (September 2010), LR 37:3201 (November 2011), LR 38:2358 (September 2012), LR 38:3114 (December 2012), LR 40:

#### **§3303. Reconfigured Schools**

A. - E. ...

F. The LDE will consult with the district concerning the SPS calculation when unusual circumstances or configurations exist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2753 (December 2003), amended LR 30:2446 (November 2004), LR 31:2765 (November 2005), LR 33:2600 (December 2007), LR 36:1993 (September 2010), LR 37:3201 (November 2011), LR 38:3114 (December 2012), LR 40:

### **Chapter 41. Data Collection and Data Verification**

#### **§4101. Valid Data Considerations**

A.1. - A.2.c. ...

B. A test score shall be entered for all eligible students within a given school. For any eligible student who does not take the test, including those who are absent, a score of "0" on the CRT and NRT shall be calculated in the school's SPS. To assist a school in dealing with absent students, the Louisiana Department of Education shall provide an extended testing period for test administration. The only exceptions to this policy are students who were sick during the test and re-testing periods and who have formal documentation for that period.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 30:2446 (November 2004), LR 32:1028 (June 2006), LR 38:3115 (December 2012), LR 40:

### **Chapter 43. District Accountability**

#### **§4301. Inclusion of All Districts**

A. - B.2. ...

C. District Performance Score (DPS). A district performance score (DPS) shall be calculated in the same manner as a combination school performance score, aggregating all of the students in the district.

1. Assessment data from students enrolled in a district for a full academic year shall be used to calculate the DPS, as well as performance on graduation index, cohort graduation rate, dropout/credit accumulation index and any progress points for which the district is eligible.

2. The DPS shall be reported as a numeric value and a letter grade shall be assigned based on the numeric value, except as otherwise outlined in §303 of this bulletin.

D. Subgroup Component. District AYP shall be determined by evaluating the aggregate performance of subgroups.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2755 (December 2003), amended LR 30:1446 (July 2004), LR 32:543 (April 2006), LR 37:2119 (July 2011), LR 38:3116 (December 2012), LR 40:

#### **§4317. District Accountability Data Corrections**

A. Since data used for district accountability results are derived from school-level data, district accountability data corrections should be handled during the school accountability appeals period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2446 (November 2004), amended LR 40:

#### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits?  
No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

**Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 111—The Louisiana School, District and State Accountability System**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy revisions do not impact costs for state or local governmental units. The policy was already required.

The proposed policy revisions revise the graduation index to reward points for career credentials. The changes refine policies related to school and district letter grade methodology for 2013-2014 and 2014-2015 to ensure fairness and consistency for schools during the transition to new assessments. The policy will allow the WorkKeys test to be used for the ACT Index.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This policy will have no determinable effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1404#022

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 118—Statewide Assessment Standards and Practices (LAC 28: CXI.701, 2209, and 3501)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District and State Accountability System*, §701.Overview of Assessment Programs in Louisiana, §2209.WorkKeys, and §3501.Approved Home Study Program Students. The proposed policy revisions

**Title 28**

**EDUCATION**

**Part CXI. Bulletin 118—Statewide Assessment Standards and Practices**

**Chapter 7. Assessment Program Overview**

**§701. Overview of Assessment Programs in Louisiana**

**A. Norm-Referenced and Criterion-Referenced Testing Programs Since 1986**

Name of Assessment Program	Assessment Population	Administered
<b>Kindergarten Screening</b>		
Kindergarten Developmental Readiness Screening Program (KDRSP)	Kindergarten	fall 1987–
<b>Norm-Referenced Tests (NRTs)</b>		
California Achievement Test (CAT/F)	grades 4, 6, and 9	spring 1988–spring 1992 (no longer administered)
California Achievement Test (CAT/5)	grades 4 and 6 grade 8	spring 1993–spring 1997 spring 1997 only (no longer administered)
Iowa Tests of Basic Skills (ITBS) (form L) and Iowa Tests of Educational Development (ITED) (form M)	grades 4, 6, 8, 9, 10, and 11	spring 1998 (no longer administered)
ITBS ITED (form M)	grades 3, 5, 6, and 7 grade 9	spring 1999–spring 2002 (no longer administered)
ITBS ITED (form B)	grades 3, 5, 6, and 7 grade 9	spring 2003–spring 2005 (no longer administered)
ITBS	grade 2	spring 2012–
<b>Criterion-Referenced Tests (CRTs)</b>		
National Assessment of Educational Progress (NAEP)	grades 4, 8, and 12	spring 1990–
Louisiana Educational Assessment Program (LEAP)	grades 3, 5, and 7	spring 1989–spring 1998 (no longer administered)

Name of Assessment Program	Assessment Population	Administered
Graduation Exit Examination ("old" GEE)	grades 10 and 11	spring 1989— spring 2003 (state administered) fall 2003— (district administered)
Louisiana Educational Assessment Program (LEAP) (ELA and Mathematics)	grades 4 and 8	spring 1999—
LEAP (Science and Social Studies)	grades 4 and 8	spring 2000—
Graduation Exit Examination (GEE) (ELA and Mathematics)	grade 10	spring 2001—
GEE (Science and Social Studies)	grade 11	spring 2002—
End-Of-Course Tests (EOCT)	Algebra I	fall 2007—
EOCT	English II	fall 2008—
EOCT	Geometry	fall 2009—
EOCT	Biology	fall 2010—
EOCT	Applied Algebra I form	spring 2011—
EOCT	English III	fall 2011—
EOCT	U.S. History	fall 2012—
EXPLORE	grades 8 and 9	spring 2013
PLAN	grade 10	spring 2013
ACT	grade 11	spring 2013
WorkKeys	grade 11	spring 2015
<b>Integrated NRT/CRT</b>		
Integrated Louisiana Educational Assessment Program (iLEAP)	grades 3, 5, 7, and 9	spring 2006
iLEAP	grade 9	spring 2010 (last administration of grade 9 iLEAP)
<b>Special Population Assessments</b>		
Louisiana Alternate Assessment, Level 1 (LAA 1)	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3–11	spring 2000–2007
LAA 1	ELA and Mathematics (grade spans 3–4; 5–6; 7–8; 9–10); Science (grades 4, 8, and 11)	Revised spring 2008—
LAA 1 ELA and Mathematics	grade 9	spring 2010 (last administration of grade 9 LAA 1)
Louisiana Alternate Assessment, Level 2 (LAA 2) ELA and Mathematics (Grades 4, 8, and 10) Science and Social Studies (Grade 11)	grades 4, 8, 10, and 11	spring 2006—
LAA 2 ELA and Mathematics	grades 5, 6, 7, and 9	spring 2007—
LAA 2 ELA and Mathematics	grade 9	spring 2010 (last administration of grade 9 LAA 2)
LAA 2 Science and Social Studies	grades 4 and 8	spring 2008—

Name of Assessment Program	Assessment Population	Administered
Louisiana Alternate Assessment-B (LAA-B) ["out-of-level" test]	Students with Individualized Education Programs (IEPs) who met eligibility criteria in grades 3–11.	spring 1999–spring 2003 (no longer administered)
English Language Development Assessment (ELDA)	Limited English Proficient (LEP) students in grades K–12	spring 2005—
Academic Skills Assessment (ASA) and ASA LAA 2 form	Students pursuing a State-Approved Skills Certificate (SASC) or GED	spring 2012 (one administration only, spring 2012)

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1534 (July 2005), amended LR 32:235 (February 2006), LR 34:66 (January 2008), LR 34:1352 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010), LR 37:858 (March 2011), LR 38:34 (January 2012), LR 38:34 (January 2012), LR 39:74 (January 2013), LR 39:1019 (April 2013), LR 40:

## Chapter 22. ACT Program

### §2209. WorkKeys

A. The ACT WorkKeys assessment for 11th grade students in the Jump Start program assesses the academic and career skills that are needed to be successful in the workplace. It assists in identifying educational pathways that can further develop the proficiencies that are critical to job success. WorkKeys matches student skills to job profiles in order to support students in developing successful career pathways.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:

## Chapter 35. Assessment of Students in Special Circumstances

### §3501. Approved Home Study Program Students

A. - H. ...

I. Students enrolled in state-approved home study programs are not eligible to participate in LAA 1, LAA 2, ELDA, EOC, or the state administration of EXPLORE, PLAN, WorkKeys or ACT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:236.1-17.236.2, R.S. 17:6 (A) (10) (11) (15), R. S. 17:10, R. S. 17:22 (6), R. S. 17:391.1-17.391.10, R. S. 17:411.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended by the Board of Elementary and Secondary Education, LR 32:240 (February 2006), LR 33:264 (February 2007), LR 36:983 (May 2010), LR 37:821 (March 2011), LR 39:1430 (June 2013), LR 40:

### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Bulletin 118—Statewide Assessment Standards and Practices**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy revisions may have some impact on state costs, but because this is an optional assessment it is impossible to estimate the cost. Any costs incurred will be paid using funds appropriated to the Department of Education. There will be no additional costs to local school systems.

The proposed policy revision adds the WorkKeys as a state assessment.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This policy will have no determinable effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1404#047

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Board of Elementary and Secondary Education**

#### **Bulletin 119—Louisiana School Transportation Specifications and Procedures (LAC 28: CXIII.2509)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 119—Louisiana School Transportation Specifications and Procedures*, §2509, Used School Buses. The proposed policy revision gives districts the opportunity to purchase buses within a wider window of life expectancy.

### **Title 28 EDUCATION**

#### **Part CXIII. Bulletin 119—Louisiana School Transportation Specifications and Procedures Chapter 25. Purchase, Sale, Lease, and Repair of School Buses**

#### **§2509. Used School Buses**

A. Any used school bus purchased for use in Louisiana by or for a school system shall meet current legal requirements of the Louisiana Revised Statutes for motor vehicles and shall meet Louisiana specifications for school buses that were in effect on the date the vehicle was manufactured. No vehicle with rated capacity of more than 10 passengers shall be classified as a school bus and thereby



used to transport students to and from school and school-related activities unless said vehicle originally was manufactured and certified as a school bus and maintained the certification as a school bus all in accordance with federal and state requirements throughout the life of the vehicle.

B. All replacement school buses, at the time they are acquired by the owner, must be 10 or less model years old for all owners/operators and school districts, unless acquired from an owner who operated the school bus for not less than the two previous years in the same school district as the school bus will be operated after acquisition. The number of years shall be reckoned from the date of the model year (see Calculating the Age of School Buses, §3103).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 26:639 (April 2000), LR 27:187 (February 2001), LR 36:1479 (July 2010), LR 37:3204 (November 2011), LR 40:

#### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 119—Louisiana School Transportation Specifications and Procedures**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy revisions could have a small savings for local school districts who are able to purchase older school buses. It is not possible to predict the savings.

The proposed policy revision gives districts the opportunity to purchase buses within a wider window of life expectancy.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This policy will have no determinable effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1404#021

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 126—Charter Schools  
(LAC 28:CXXXIX.103, 105, 505, 1101, 1103, 1303,  
1503, 1903, 1905, 2301, 2303, 2713, 2907, and 2909)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 126—Charter Schools*: §103, Definitions; §105, Purpose of Charter Schools; §505, Eligibility to Apply for a Type 4 Charter School; §1101, Charter School Evaluation; §1103, Alternate Evaluation of Charter Schools; §1303, Extension Review; §1503, Charter Renewal Process and Timeline; §1903, Material Amendments for BESE-Authorized Charter Schools; §1905, Non-Material Amendments for BESE-Authorized Charter Schools; §2301, State Funding; §2303, Federal Funding; §2713, At-Risk Students; §2907, Leave of Absence; and §2909, Employee Benefits. The policy changes will set standards for future charter school extensions and renewals, create an extension and renewal evaluation process for alternative charter schools, edit typos, and remove out-of-date policy. These processes already exist and the policy simply raises the standards involved.

#### Title 28

#### EDUCATION

#### Part CXXXIX. Bulletin 126—Charter Schools

#### Chapter 1. General Provisions

#### §103. Definitions

A. The words defined in this Section shall have the meanings set forth below whenever they appear in this policy, unless:

1. the context in which they are used clearly requires a different meaning; or
2. a different definition is prescribed for a particular provision.

*Appropriate Technical Infrastructure*—any servers, programs, internet access, and/or management systems that allow user interaction, provide sufficient bandwidth to host courses or online services, and sustain peak periods of usage without a reduction in performance.

*At-Risk Pupil*—any pupil about whom at least one of the following is true:

- i. is eligible to participate in the federal free or reduced lunch program by demonstrating that he meets the income requirements established for participation in the program, not necessarily by participating in the program;
- ii. is under the age of 20 and has been withdrawn from school prior to graduation for not less than one semester;
- iii. is under the age of 20 and has failed to achieve the required score on any portion of the examination required for high school graduation;
- iv. is in the eighth grade or below and is reading two or more grade levels below grade level as determined by one or more of the tests required pursuant to R.S. 17:24.4;
- v. has been identified as an exceptional child as defined in R.S. 17:1943, not including gifted and talented; or
- vi. is the mother or father of a child.

*BESE and/or Board*—the state Board of Elementary and Secondary Education as created by the Louisiana Constitution and the *Louisiana Revised Statutes*.

*Charter*—the agreement and authorization to operate a charter school, which includes the charter contracts and exhibits.

*Chartering Authority*—a local school board or the state Board of Elementary and Secondary Education.

*Charter Operator*—the nonprofit corporation or school board authorized to operate a charter school.

*Charter School*—an independent public school that provides a program of elementary and/or secondary education established pursuant to and in accordance with the provisions of the Louisiana charter school law to provide a learning environment that will improve pupil achievement.

*Charter School Application*—the proposal submitted to BESE, which includes but is not limited to, responses to questions concerning:

- i. a charter school's education program;
- ii. governance, leadership, and management;
- iii. financial plan; and
- iv. facilities.

*Charter School Law*—Louisiana laws, R.S. 17:3971 et seq., governing the operation of a charter school.

*Core Subject*—shall include those subjects defined as core subjects in Bulletin 741.

*Department of Education or LDE or Department*—the Louisiana Department of Education. The Department of Education includes the recovery school district, or RSD, where references are made to type 5 charter schools.

*Hearing Officer*—the individual assigned by BESE to perform adjudicatory functions at charter school revocation hearings.

*Instructional and Communication Hardware*—any equipment used to ensure students can access and engage with the educational program (e.g., headphones, wireless air cards, learning management systems, web-based communication tools).

*Instructional Coach*—a parent or guardian, extended adult family member, or other adult designated by the parent or guardian who works in person with each virtual charter school student under the guidance of the Louisiana-licensed professional teacher.

*Local School Board*—any city, parish, or other local education agency.

*Management Organization*—a for-profit company that manages academic, fiscal, and operational services on behalf of boards of directors of BESE-authorized charter schools through contractual agreements.

*Public Service Organization*—any community-based group of 50 or more persons incorporated under the laws of this state that meets all of the following requirements:

- i. has a charitable, eleemosynary, or philanthropic purpose; and is qualified as a tax-exempt organization under section 501(c) of the United States *Internal Revenue Code* and is organized for a public purpose.

*State Superintendent*—the superintendent of education, who is the chief administrative officer of the Louisiana Department of Education, and who shall administer, coordinate, and supervise the activities of the department in accordance with law, regulation, and policy.

*Technical Access*—computer and internet availability sufficient to ensure access for all students.

*Virtual School*—an educational program operated for a minimum of one academic year and covering specified educational learning objectives for the purpose of obtaining a Louisiana certified diploma, the delivery of such a program being through an electronic medium such that the students are not required to be at a specific location in order to receive instruction from a teacher, but instead access instruction remotely through computers and other technology, which may separate the student and teacher by time and space. This does not preclude the ability of said program to host face-to-face meetings, including field trips, extracurricular activities, conferences between the student, parents, and teachers, or any such related events.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3973.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1357 (July 2008), amended LR 37:867 (March 2011), LR 37:2383 (August 2011), LR 38:37 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 39:3062 (November 2013), LR 40:

### **§105. Purpose of Charter Schools**

A. The Charter School Law was enacted by the Louisiana legislature to create a structure whereby city, parish, and other local public school boards and BESE can authorize the creation of innovative kinds of independent public schools for students in Louisiana.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3972, and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1358 (July 2008), amended LR 40:

### **Chapter 5. Charter School Application and Approval Process**

#### **§505. Eligibility to Apply for a Type 4 Charter School**

A. - A.3. ...

B. The eligibility criteria set forth in this Section shall be the minimum criteria necessary to be approved for a type 4 charter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1360 (July 2008), amended LR 39:1431 (June 2013), LR 40:

### **Chapter 11. Ongoing Review of Charter Schools**

#### **§1101. Charter School Evaluation**

A. - E. ...

F. BESE shall receive a report on the review of type 2, type 4, and type 5 charter schools not later than January of each year. This annual report will include charter contract extension determinations.

F.1. - I.4. ...

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 34:1363 (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:

### **§1103. Alternate Evaluation of Charter Schools**

A. - B. ...

C. BESE-Authorized Alternative Charter School Frameworks

1. BESE may approve alternative charter school extension and renewal frameworks that set forth specific criteria the LDE will use to annually evaluate the student performance of certain BESE-authorized alternative charter schools. Criteria used in the frameworks shall correspond to student performance criteria. The charter school performance compact shall be used to annually evaluate the financial and organizational performance of schools evaluated.

a. A charter school eligible for evaluation with an alternative charter school extension and renewal framework shall:

i. serve a non-traditional student population and mission as reflected in its approved charter;

ii. elect to be evaluated by the alternate framework;

iii. receive approval by BESE as an alternative charter school and meet the requirements of Bulletin 111, §3501.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 34:1366 (July 2008), amended LR 40:

### **Chapter 13. Charter Term**

#### **§1303. Extension Review**

A. ...

B. Each type 2, type 4, and type 5 charter school's extension review shall be used to determine if the school will receive a one-year extension, as follows.

1. Contract Extension

a. Each charter school shall be reviewed based on academic, financial, and legal and contractual performance data collected by the Department of Education. If such performance data reveal that the charter school is achieving the following goals and objectives, the board shall extend the duration of the charter for a maximum initial term of five years.

i. For the December 2014 and December 2015 extension processes, a charter school shall:

(a) meet or approach expectations on the most recent evaluation in financial performance according to the charter school performance compact and a financial risk assessment rating that has not been deemed to require "dialogue" as set forth in §1101.E; and

(b) have no violation of legal or contractual standards as defined in §1101.I.3; and

(c) meet one of the following student performance standards that aligns with the structure of the school.

(i). Turnaround schools, schools qualified to receive a letter grade of "T" per Bulletin 111, §1105, school has earned a letter grade of "D" or higher based on performance data from the school's third year of operation; or school has made an average of 5 or more points of growth per year of the charter contract (from the pre-assessment index to the last year of data).

(ii). Non-turnaround schools, school has earned a letter grade of “D” or higher based on performance data from the school’s third year of operation;

(iii). Alternative charter schools, schools approved by the department to use an alternative charter school extension and renewal framework, school has met the standards for extension from an alternative charter school extension and renewal framework

2. - 3.b. ...

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:

**Chapter 15. Charter Renewal**

**§1503. Charter Renewal Process and Timeline**

A. ...

B. Student Performance

1. Each charter school is required to make demonstrable improvements in student performance over the term of its charter contract.

a. BESE will rely on data from the state’s assessment and accountability program as objective and verifiable measures of student achievement and school performance. Student performance is the primary indicator of school quality; therefore, BESE will heavily factor each charter school’s student performance data in all renewal decisions.

2. Consistent with the philosophy of rewarding strong performance and providing incentives for schools to strive for continual improvement, the renewal terms for BESE-authorized charter schools will be linked to each school’s letter grade (based on the school’s performance on the state assessment in the year prior to the renewal application) in accordance with the table that follows.

Maximum Charter Renewal Terms	
Letter Grades	Maximum Renewal Term
F	3 years
D	3 Years
C	6 Years
B	7 Years
A	10 years

3. A charter school in its initial term where fewer than 50 percent of its enrolled grades are testable under state accountability will be eligible for a renewal term of three years.

4. For the December 2014 renewal process, a BESE-authorized charter school receiving a letter grade of “F,” in the prior academic year will not be eligible for renewal, unless one of these conditions are met:

a. a charter school that by contract serves a unique student population where an alternate evaluation tool, including a BESE-approved alternative charter school extension and renewal framework, has been established between the charter operator and the board may be renewed for a term not to exceed five years;

b. a turnaround charter school that qualified to receive a letter grade of “T” per Bulletin 111. §1105 that has made an average of 5 or more points of growth per year of

the charter contract (from the pre-assessment index to the last year of data).

5. For initial renewals during the December 2015 renewal process, a BESE-authorized charter school receiving a letter grade of “F” in the prior academic year will not be eligible for renewal, unless one of these conditions are met:

a. a charter school that by contract serves a unique student population where an alternate evaluation tool, including a BESE-approved alternative charter school extension and renewal framework, has been established between the charter operator and the board may be renewed for a term not to exceed five years;

b. a turnaround charter school that qualified to receive a letter grade of “T” per Bulletin 111. §1105 that has made an average of 5 or more points of growth per year of the charter contract (from the pre-assessment index to the last year of data).

6. For subsequent renewals during the December 2015 renewal process, 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:

a. a charter school that by contract serves a unique student population where an alternate evaluation tool, including a BESE-approved alternative charter school extension and renewal framework, has been established between the charter operator and the board may be renewed for a term not to exceed five years;

b. a turnaround charter school that qualified to receive a letter grade of “T” per Bulletin 111, §1105 that has made an average of 5 or more points of assessment index growth per year of the charter contract.

7. If, in the state superintendent’s judgment, the non-renewal of a charter school that does not meet the criteria for renewal in its initial or subsequent charter term would likely require many students to attend lower performing schools, and the state superintendent recommends its renewal, the charter may be renewed for a term not to exceed three years. Prior to recommending such renewal, the state superintendent must demonstrate that efforts to find a new, high-quality operator for the school were unsuccessful.

C. Financial Performance

1. Each charter operator is required to engage in financial practices, financial reporting, and financial audits to ensure the proper use of public funds and the successful fiscal operation of the charter school. The charter school shall be evaluated using the financial risk assessment and the financial indicators included in the charter school performance compact.

C.2. - E.5. ...

F. Subsequent Renewal for BESE-Authorized Charter Schools

1. The department will establish a process by which each charter school shall be required to indicate whether it will be seeking a subsequent renewal.

2. Not later than January of the charter school’s final contract year, the state superintendent of education will make a recommendation to BESE about the disposition of any school seeking renewal. The basis for the recommendation will be the charter school’s student, financial, legal and contractual performance during its current charter contract.

3. Based on the school's academic, financial, and legal and contractual performance over the current charter contract term, the superintendent may recommend one of the following actions:

- a. renewal for the maximum term identified in the maximum charter renewal terms table in Subsection B, above not to exceed a maximum term of 10 years;
- b. renewal for a shorter term (based on deficiencies in financial and/or organizational performance); or
- c. non-renewal.

4. A recommendation for non-renewal may also include a recommendation that a new charter provider operate the school.

#### G. Automatic Renewal of Charter Schools

1. A charter school which has met or exceeded for the three preceding school years the benchmarks established for it in accordance with the school and district accountability system, has demonstrated growth in student academic achievement for the three preceding schools years, and has had no significant audit findings during the term of the charter agreement shall be deemed a high-performing school, and such school's charter shall be automatically renewed.

2. A charter school that meets the following conditions shall be automatically renewed and shall be exempted from the renewal process requirements listed in this Section, as appropriate:

- a. has received a letter grade of A or B;
- b. has demonstrated growth in student academic achievement as measured by an increasing school performance score over the three preceding school years;
- c. has received a "meets expectations" designation in its most recent evaluation in organizational performance according to the charter school performance compact; and
- d. has received a "meets expectations" designation in its most recent evaluation in financial performance according to the charter school performance compact.

3. The automatic renewal term shall be in line with the terms specified in Paragraph B.2 of this Section.

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:

### Chapter 19. Amendments to BESE-Authorized Charters

#### §1903. Material Amendments for BESE-Authorized Charter Schools

A. - C. ...

D. The LDE shall make recommendations to BESE on each material amendment request it receives from a charter operator.

E. BESE shall delegate authority to the department to approve a material amendment regarding Paragraphs A.2 and A.3 of this Section for any charter school meeting the following conditions, as determined by the department:

1. no violations of legal or contractual standards, as defined in §1101.F.3; and

2. is not in "dialogue" with the department, as defined in §1101.E.5.c; and

3. one of the following student performance standards:

- a. the school's most recent performance label was a "C" or higher; or
- b. not allowing the expansion into new grades or acceptance of greater numbers of students would result in students attending a lower performing school; or
- c. the school has made ten points of SPS growth over the previous two years.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1369 (July 2008), amended LR 37:873 (March 2011), LR 37:2389 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3120 (December 2012), LR 39:3067 (November 2013), LR 40:

### §1905. Non-Material Amendments for

#### BESE-Authorized Charter Schools

A. A non-material amendment to a charter is an amendment that makes non-substantive changes to a school's charter. Non-material amendments may include:

1. changes to the mailing address, telephone, and/or facsimile number of the charter school;
2. changes to the designated contact person for the charter operator or changes to the contact person located at the charter school site; and
3. changes in any option expressed in the charter contract exhibits with respect to Teachers' Retirement System of Louisiana.

B. - 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 in LR 34:1370 (July 2008), amended LR 37:873 (March 2011), LR 39:3068 (November 2013), amended LR 40:

### Chapter 23. Charter School Funding

#### §2301. State Funding

A. - E.2. ...

F. Type 2 charter schools approved prior to July 1, 2008 shall receive a per pupil amount from the Louisiana Department of Education each year based on the October 1 membership count of the charter school and using state funds specifically provided for this purpose. In order to provide for adjustments in allocations made to type 2 charter schools as a result of changes in enrollment, BESE may provide annually for a February pupil membership count to reflect any changes in pupil enrollment that may occur after October 1 of each year. Type 2 charter schools authorized by the state Board of Elementary and Secondary Education after July 1, 2008, shall receive a per pupil amount each year as provided in the Minimum Foundation Program approved formula.

F.1. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1371 (July 2008), amended LR 37:874 (March 2011), LR 39:3250 (December 2013), LR 40:

### §2303. Federal Funding

A. - B. ...

C. For each pupil enrolled in a charter school who is entitled to special education services, any state special education funding beyond that provided in the Minimum Foundation Program and any federal funds for special education for that pupil that would have been allocated for that pupil shall be allocated to the charter school which the pupil attends.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1372 (July 2008), amended LR 39:3251 (December 2013), LR 40:

### Chapter 27. Charter School Recruitment and Enrollment

#### §2713. At-Risk Students

A. Except as otherwise provided by charter school law, type 1 and type 2 charter schools created as new schools shall maintain an at-risk student population percentage, based on the October 1 pupil membership count, that is equal to the percentage of students eligible for the federal free or reduced lunch program in the district in which the charter school is located or the average of districts from which students served by the charter school reside.

1. The charter school's at-risk population shall consist of 85 percent of students who are eligible for the federal free and reduced lunch program and thus defined as at-risk pursuant to §103 of this bulletin.

2. The remaining 15 percent of a charter school's at-risk population may consist of at students defined as at-risk in §103 of this bulletin.

B. A charter school's required at-risk percentage, based on the percentages of a city or parish school system, shall remain fixed during the term of its approved charter at the percentage which existed during the school year that the charter proposal was approved, unless otherwise specified in the charter that the charter school will reflect the current year's at-risk percentage.

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:

### Chapter 29. Charter School Staff

#### §2907. Leave of Absence

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1376 (July 2008), amended LR 37:876 (March 2011), repealed LR 40:

#### §2909. Employee Benefits

A. All potential charter school employees shall be notified of the specific benefits they will be offered, as specified in the charter operator's charter.

B. Charter school employees shall be eligible for participation in any or all benefits which would otherwise accrue to employees in any other elementary or secondary school including, but not limited to, the school employees' and teachers' retirement systems, subject to the school's approved charter, which must provide for such participation.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3997.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1376 (July 2008), amended LR 40:

#### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? 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? Yes.

#### Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

## Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Bulletin 126—Charter Schools**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
The proposed policy changes will have no effect on costs or savings to state or local governmental units.  
The policy changes will set standards for future charter school extensions and renewals, create an extension and renewal evaluation process for alternative charter schools, edit typos, and remove out-of-date policy. These processes already exist and the policy simply raises the standards involved.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The policy changes will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
There will be no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)  
This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1404#020

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 138—Jump Start Program  
(LAC 28:CLXIII.101, 201, 301, 303, and 305)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District and State Accountability System*, §101.Overview, §201.Jump Start Program Authorization, §301.General Provisions, §303.Jump Start Instructional Staff, and §305.Student Participation in Jump Start Programs. The proposed policy defines the rules for the establishment of Jump Start Programs by regional teams. Jump Start is Louisiana's new program for school districts, colleges, and businesses to collaborate in providing career courses and workplace experiences to high school students, allowing them to continue their education after high school while certifying them for the career fields most likely to lead to high-wage careers.

## Title 28 EDUCATION

### Part CLXIII. Bulletin 138—Jump Start Program Chapter 1. General Provisions §101. Overview

A. Louisiana's dynamic economy will increasingly demand young adults who are literate and numerate problem solvers capable of lifelong learning. To effectively prepare Louisiana public school students to graduate high school with the knowledge and skills required for employment in this economy, the Louisiana Department of Education (LDE) shall administer locally-developed comprehensive career and technical education (CTE) programs, hereinafter referred to as Jump Start.

B. Jump Start programs shall fulfill and replace CTE areas of concentration required in Bulletin 741, Section 2319, by prescribing the academic preparation and CTE courses and training experiences by which students will meet the requirements to attain a high school diploma and earn industry credentials certifying their readiness to participate in key job sectors.

C. Jump start programs shall prepare students to earn statewide industry-based certifications (IBCs) aligned with high-growth, high-wage job sectors as approved by Louisiana's Workforce Investment Council (WIC) pursuant to R.S. 23:2065. Pathways preparing students to earn statewide IBCs shall be augmented by regionally-relevant CTE programs, hereinafter referred to as regional CTE pathways, jointly developed by local stakeholders and approved by BESE. BESE shall annually authorize regional CTE pathways pursuant to a review and a favorable recommendation by the state superintendent of education.

D. Jump start programs shall prepare participating students to participate in high-growth, high-wage and regionally-relevant job sectors while also enabling them to continue their post-secondary education and career development.

E. Courses and training provided through approved jump start programs shall be offered to all high school students regardless of chosen diploma pathway, including as elective credit for students pursuing a college diploma; however, students must complete an approved jump start program in order to receive a career diploma, pursuant to Bulletin 741, Section 2319.

F. Jump start programs shall be developed jointly by regional teams consisting of LEAs, technical and community colleges, business and industry leaders, and economic and workforce development experts, pursuant to rules adopted by BESE and guidelines set forth by the LDE.

G. LEAs shall receive technical assistance from the LDE in developing jump start programs, may receive funds through the Minimum Foundation Program formula to support the launch and implementation of such programs, and shall receive points in the school and district accountability system for successful student outcomes, as provided in Bulletin 111.

H. This bulletin sets forth the rules and regulations governing the development, approval, implementation, review, and reauthorization of jump start programs and student participation in jump start programs. Nothing herein

shall be construed to relieve LEAs of complying with policies contained in other bulletins unless specifically authorized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:183.2, R.S. 17:2930, and R.S. 23:2065;

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:

## **Chapter 2. Jump Start Regional Teams and Program Authorization**

### **§201. Jump Start Program Authorization**

A. Jump Start regional teams shall consist of:

1. partnering LEAs, including local school systems that shall make every reasonable attempt to partner with charter school LEAs in the region;

2. one or more public postsecondary education institutions, with priority consideration given to the state's technical and community colleges; and

3. one or more of the following:

a. local business and industry leaders, including industry association leaders; or

b. local and regional economic development or workforce development experts.

B. The state superintendent of education shall recommend for the board's approval a framework and timeline for the submission and evaluation of jump start program proposals that may include, but not be limited to, the following:

1. a list of the stakeholders on the regional team, including a description of how the regional team has engaged all LEAs in the region, including charter school LEAs, in an effort to address student and school needs;

2. a vision statement of what the regional team hopes to achieve; describing targeted student outcomes; instructional partners and resources required to achieve the targeted student outcomes across the region; the team of stakeholders committed to working collaboratively to achieve targeted student career outcomes; and the types of course offerings and career readiness experiences that regional stakeholders plan to deliver to achieve the targeted student career outcomes;

3. indications of regional job demand by targeted industry sector, provided by the Louisiana Workforce Commission (LWC), a Louisiana post-secondary institution, or an equivalently-credible source;

4. descriptions of the competencies and skills that leading local industries desire in entry-level hires;

5. descriptions of targeted student learning outcomes by CTE pathway, including sequences of courses, testing, and workplace experiences or certifications necessary to document positive student outcomes;

6. plans for implementing a career readiness course;

7. descriptions of appropriate education and training providers, such as industry, other LEAs or schools, or technical colleges, that can provide effective work-based learning opportunities for students;

8. plans to support students at all levels of academic preparation master core academic content early in high school so that less remediation time is required;

9. identification of logistical challenges of students being educated or trained at different campuses or worksites, as well as solutions to these challenges;

10. plans for a formalized process whereby school counselors and staff can provide high-quality career awareness education and counseling beginning in middle school and throughout high school;

11. preliminary budgetary and implementation plans to successfully launch, fund and sustain regional CTE pathways, including logistics and counseling needs and the utilization of any state financial support for career and technical education;

12. description of how the proposed regional CTE pathways will be accessible to all students; and

13. plans for evaluation and continuous improvement for each proposed regional CTE pathway, including indications of how critical data will be compiled and analyzed.

C. Approved regional CTE pathways shall adhere to the same academic requirements as statewide IBC pathways, enabling students to continue their education post-high school graduation.

D. The LDE shall collaborate with the LWC and the Louisiana Department of Economic Development (LED) to evaluate proposed regional CTE pathways and Jump Start regional team proposals. The evaluation process may include but will not necessarily be limited to assessments of:

1. the depth and commitment of each regional team;

2. the appropriateness and rigor of each proposed regional CTE graduation pathway;

3. the implementation readiness of each regional team; and

4. the quality of proposed student outcomes.

E. Following the evaluation of each proposed regional CTE pathway and the review of the entire Jump Start program proposal, the state superintendent of education shall recommend BESE's approval of all proposals receiving a favorable evaluation. The state superintendent may recommend approval of all, some, or none of the proposed regional CTE pathways based on the evaluation process described in this section.

F. The LDE shall regularly evaluate all approved regional CTE pathways to determine the extent to which they are producing positive student outcomes. The LDE shall incorporate into its evaluations factors that may include but will not necessarily be limited to:

1. student graduation rates, including comparative graduation rates between students in a regionally-relevant CTE programs and other students enrolled in participating LEAs;

2. formal and informal feedback from regional employers on the skill levels and work-readiness of graduates from each approved regional CTE pathway;

3. assessment results by cohorts in each regional CTE graduation pathway; and

4. other relevant factors discussed and reviewed with the LEAs implementing these regional CTE graduation pathways.

G. The state superintendent of education shall not recommend any previously approved regional CTE pathway that does not receive a favorable recommendation for continued approval, unless the LEA has submitted a satisfactory improvement plan to address the program's weaknesses.



H. The LDE shall maintain an inventory of all approved regional CTE pathways and associated application materials, making all materials available for review by regional teams throughout the state as a way of promoting best practices and replicating high-quality regional CTE pathways.

I. The LDE shall provide technical assistance to each jump start regional team, which may include:

1. examples of jump start regional teams' vision statements to guide creation of vision statements and Jump Start proposals;

2. identification of target industry sectors for each region, supported by documented regional job opportunities;

3. sample graduation pathways for each targeted job sector, specifying course progressions (by course title and content) and industry testing or certification requirements;

4. identification and confirmation of instructional capacity to teach required courses in targeted career pathways;

5. identification of required inventory of authentic workplace experiences, such as job shadowing, day-at-work, and internships for each CTE pathway, indicating locations and participating industry partners. This will include workplace visitation agreements, work shadowing agreements and apprenticeship agreements, as well as regional plans for developing a sustainable portfolio of authentic workplace experiences;

6. identification of student career counseling models and supports;

7. identification of instructional assessment methodologies and implementation of quality assurance and quality control methods and metrics;

8. development of operational plans for any pilot programs to be implemented as early as the 2014-2015 school year and thereafter;

9. articulation agreements with post-secondary education institutions;

10. CTE pathway evaluation plans, including data collection and analysis plans;

11. regional team meeting participation and/or facilitation; and

12. assistance in developing components of Jump Start proposals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:183.2, and R.S. 17:2930.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:

### **Chapter 3. Jump Start Program Requirements**

#### **§301. General Provisions**

A. All academic and technical training experiences, student services, and student activities associated with approved Jump Start programs must be in compliance with all applicable state and federal laws, rules, and regulations.

B. Approved jump start programs shall maintain the following quality components:

1. strategic budgeting that covers annual expenses and invests strategically in long-term capacity;

2. formal and informal collaborations, contractual arrangements and affiliations with local employers and post-secondary education institutions;

3. adequate staffing and facilities capacity required to implement high-quality CTE pathways;

4. a plan for recruiting and training instructors needed to deliver approved courses and training to students; and

5. a program evaluation plan that includes and prioritizes student outcome data.

C. LEAs shall serve students with exceptionalities participating in jump start programs in accordance with their Individualized Education Plan. Students entitled to special education services shall receive such services through the LEA in which they are enrolled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:183.2, and R.S. 17:2930.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:

#### **§303. Jump Start Instructional Staff**

A. City, parish, and other local public school board instructors of approved jump start programs must meet the minimum requirements set forth in *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, or be in compliance with the reciprocal instructor certification policy for instructors who reside in other states but who are employed by authorized course providers to satisfy the state certification requirements pursuant to state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S.17.1 and R.S. 17:4002.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:

#### **§305. Student Participation in Jump Start Programs**

A. Each LEA participating in a regional team shall establish policies and procedures for students participating in an approved jump start program. Such policies and procedures shall include, but not be limited to the following:

1. credits earned through approved jump start program courses and training experiences shall appear on each such student's official transcript and shall satisfy graduation requirements as applicable;

2. assessments required pursuant to Bulletin 118 shall be administered to each such student;

3. all services to which each such student attending public school would be entitled if attending the school in which he is enrolled full-time for all courses, including but not limited to special education services pursuant to the student's Individualized Education Plan, shall be provided; and

4. each LEA that provides transportation for students within its jurisdiction shall also provide students participating in Jump Start transportation services within the same jurisdiction.

B. 1. Each LEA participating in a regional team shall make available to all students the courses and training experiences included in approved Jump Start programs in order to meet Career Diploma graduation requirements or to satisfy elective credit requirements.

2. Jump Start programs shall include a required career readiness course to teach students the employability skills needed to succeed in a high-performance work organization, including workplace, interpersonal, communication, leadership, and basic soft skills. The focus of career readiness courses shall be to teach students transferable skills necessary to succeed in the ever-changing workplace through teamwork, problem solving, communication, and self-management.

C. Enrollment of students in courses offered by approved course or training providers shall satisfy the requirements of Louisiana's compulsory attendance laws.

D. Each LEA participating in a regional team shall assure that all students enrolled in grades nine through twelve, including transitional ninth grade, are afforded the opportunity to participate in and benefit from approved Jump Start programs. Students who have not yet completed required core academic content may participate in Jump Start programs if deemed appropriate by the LEA, in order to assist them in:

1. facilitating the transition from middle school or junior high school to high school;
2. improving study skills;
3. building self-esteem and social skills;
4. developing critical thinking and problem-solving strategies;
5. acquiring employment skills;
6. promoting self-reflection and self-advocacy skills;
7. increasing school attendance;
8. improving attitudes toward school;
9. avoiding dropping out of school; and
10. establishing life and career goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:183.2, and R.S. 17:2930.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:

#### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 138—Jump Start Program**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy may result in possible costs to state or local governmental units. It is impossible at this time to determine the costs each stakeholder will incur, since participation is optional, regional teams are only now forming and each program will be tailored to regional needs and priorities. The Department of Education may incur costs for staffing, travel, career counseling support, and training for districts. Any costs will be covered by the Department of Education budget and 8(g) funds. Districts may incur costs related to instruction, transportation, equipment, and training. Any costs can be paid with MFP funding, grants, Perkins funding and possible in-kind private sector funding.

The proposed policy defines the rules for the establishment of Jump Start Programs by regional teams. Jump Start is Louisiana's new program for school districts, colleges, and businesses to collaborate in providing career courses and workplace experiences to high school students, allowing them to continue their education after high school while certifying them for the career fields most likely to lead to high-wage careers.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

It is hoped that the long term impact of Jump Start is that students will be trained for high-wage jobs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

This policy will have no determinable effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1404#046

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 741—Louisiana Handbook for School  
Administrators—Curriculum and Instruction  
(LAC 28: CXV.2317 and 2318)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*, §2317. High Schools and §2318. The College Diploma. The proposed policy revisions align high school entrance requirements with the new Jump Start career education program and phase out the Basic Core graduation requirements.

**Title 28**

**EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for  
School Administrators**

**Chapter 23. Curriculum and Instruction**

**Subchapter A. Standards and Curricula**

**§2317. High Schools**

A. - D. ...

E. A Louisiana state high school diploma cannot be denied to a student who meets the state minimum high school graduation requirements.

F. - G. ...

H. Prior to the beginning of the school year, students may switch diploma pathways provided they have the consent of their parent or guardian and have been advised by a school counselor.

I. Community Service Diploma Endorsement

1. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:154, R.S. 17:1944, and R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 36:1485 (July 2010), LR 37:1137 (April 2011), LR 38:754 (March 2012), LR 39:1038 (April 2013), LR 39:2216 (August 2013), LR 40:

**§2318. The College Diploma**

A. Curriculum Requirements

1. For incoming freshmen in 2008-2009 through 2013-2014, the 24 units required for the college diploma shall include 16 required units and 8 elective units for the Louisiana Basic Core Curriculum, or 21 required units and 3 elective units for the Louisiana Core 4 Curriculum; the elective units can be earned at technical colleges as provided in §2389. For incoming freshmen in 2010-2011 through 2013-2014, students completing the basic core curriculum must complete a career area of concentration or a Jump Start program to earn a high school diploma.

2. For incoming freshmen in 2008-2009 through 2013-2014, all ninth graders in the college and career

diploma pathway will be enrolled in the Louisiana Core 4 Curriculum.

a. After the student has attended high school for a minimum of two years as determined by the school, the student and the student's parent, guardian, or custodian may request that the student be exempt from completing the Louisiana Core 4 Curriculum.

b. The following conditions shall be satisfied for consideration of the exemption of a student from completing the Louisiana Core 4 Curriculum.

i. The student, the student's parent, guardian, or custodian and the school counselor (or other staff member who assists students in course selection) shall meet to discuss the student's progress and determine what is in the student's best interest for the continuation of his educational pursuit and future educational plan.

ii. During the meeting, the student's parent, guardian, or custodian shall determine whether the student will achieve greater educational benefits by continuing the Louisiana Core 4 Curriculum or completing the Louisiana Basic Core Curriculum.

iii. The student's parent, guardian, or custodian shall sign and file with the school a written statement asserting their consent to the student graduating without completing the Louisiana Core 4 Curriculum and acknowledging that one consequence of not completing the Louisiana Core 4 Curriculum may be ineligibility to enroll in into a Louisiana four-year public college or university. The statement will then be approved upon the signature of the principal or the principal's designee.

iv. The student, the student's parent, guardian, or custodian and the school counselor (or other staff member who assists students in course selection) shall jointly revise the individual graduation plan.

c. The student in the Louisiana Basic Core Curriculum may return to the Louisiana Core 4 Curriculum, in consultation with the student's parent, guardian, or custodian and the school counselor (or other staff member who assists students in course selection).

d. After a student who is 18 years of age or older has attended high school for two years, as determined by the school, the student may request to be exempt from completing the Louisiana Core 4 Curriculum by satisfying the conditions cited in LAC 28: CXV.2318.A.3.b with the exception of the requirement for the participation of the parent, guardian, or custodian, given that the parent/guardian has been notified.

B. Assessment Requirements

1. - 7.a. ...

C. Minimum Course Requirements

1. For incoming freshmen in 2008-2009 through 2013-2014 who are completing the Louisiana basic core curriculum, the minimum course requirements for graduation shall be the following.

NOTE: For courses indicated with \*, an Advanced Placement (AP) or International Baccalaureate (IB) course designated in §2325 may be substituted.

a. - h. ...

2. For incoming freshmen in 2008-2009 through 2013-2014 who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following.

NOTE: For courses indicated with \*, an Advanced Placement (AP) or International Baccalaureate (IB) course designated in §2325 may be substituted.

a. - k.iv. ...

3. For incoming freshmen in 2014-2015 and beyond who are completing the college diploma, the minimum course requirements shall be the following:

a. - j. ...

4. High School Area of Concentration

4.a. - 6.a.vi. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:183.2; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:

#### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions do not impact costs for state or local governmental units.

The proposed policy revisions align high school entrance requirements with the new Jump Start career education program and phase out the Basic Core graduation requirements.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no determinable effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1404#045

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

#### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of  
School Personnel—Standards for Secondary Career and  
Technical Trade and Industrial Education Personnel  
(LAC 28:CXXXI.Chapter 5)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for

advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*, §501.Introduction, §504.Career and Technical Certificate Types Issued between July 1, 2006 and September 1, 2014, §505.Career and Technical Certificate Types Issued after September 1, 2014, §506.CTTIE-1 and CTTIE-2 Certificates Eligibility Requirements, §507.CTTIE Areas of Specialization, §509.CTTIE-1 Certificates Renewal Guidelines for certificates initially issued prior to September 1, 2014, and §511.Process for Reinstating Lapsed CTTIE-2 Certificates. The proposed policy revisions amend the Career and Technical Education certification pathways to facilitate industry professionals' entry into teaching positions, give greater credit to workplace experience and expertise, and provide essential training on instructional strategies.

## **Title 28**

### **EDUCATION**

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

#### **Chapter 5. Standards for Secondary Career and Technical Trade and Industrial Education Personnel**

##### **§501. Introduction**

A. Career and Technical Trade and Industrial Education (CTTIE) certificates authorize full time or part time employment for instructors of CTTIE classes. The applicant being certified under requirements found in this bulletin may teach CTTIE courses as listed on the Teach Louisiana website (<http://www.teachlouisiana.net>).

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1812 (October 2006), amended LR 35:2752 (December 2009), LR 40:

##### **§504. Career and Technical Certificate Types Issued between July 1, 2006 and September 1, 2014**

A. CTTIE-1 Certificate—valid for one year; renewable for a maximum of five years while holder completes the requirements to transition to a CTTIE-2 certificate. Candidates must successfully meet the standards of effectiveness for the renewal of this certificate pursuant to Bulletin 130 and R.S.17:3902. The holder may meet the requirements in §506 or §509 to transition to a CTTIE-2.

B. CTTIE-2 Certificate—valid for five years initially and may be renewed thereafter for a period of five years at the request of the employing LEA. For renewal of the CTTIE-2 certificate, candidates must successfully meet the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902. To qualify for this certificate, an individual must meet requirements for a CTTIE-1 certificate and have earned the appropriate CTTIE coursework. All educators holding CTTIE-2 certificates shall meet the criteria in §506.C by September 1, 2019. To allow time to meet new eligibility requirements, CTTIE-2 certificates set to expire before September 1, 2019 may be renewed up to but not beyond September 1, 2019 if the candidate successfully meets the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2752 (December 2009), amended LR 38:3137 (December 2012), LR 40:

##### **§505. Career and Technical Certificate Types Issued after September 1, 2014**

A. CTTIE-1 Certificate—valid for one year; renewable for a maximum of five years while holder completes requirements for CTTIE-2 certificate in §506 and, when required, new instructor workshop. Candidates must successfully meet the standards of effectiveness for the renewal of this certificate pursuant to Bulletin 130 and R.S.17:3902.

B. CTTIE-2 Certificate—valid for five years initially and may be renewed thereafter for a period of five years at the request of the employing LEA. For renewal of the CTTIE-2 certificate, candidates must successfully meet the standards of effectiveness for at least three years during the five-year initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902. Applicants are not required to hold a CTTIE-1 certification prior to issuance of a CTTIE-2 certificate if they meet the requirements in §506.C.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2752 (December 2009), amended LR 38:3137 (December 2012), LR 40:

##### **§506. CTTIE-1 and CTTIE-2 Certificates-Eligibility Requirements**

A. CTTIE-1 and CTTIE-2 certificates are issued to instructors who teach CTTIE courses listed on the "Teach Louisiana" website.

##### **B. CTTIE-1 Eligibility Requirements**

1. Applicants shall hold a high school diploma, or have passed an equivalency test approved by the Department of Education.

2. Applicants shall have a minimum of four years of full time work experience or 7,680 hours of experience in the selected career and technical field:

a. at least one year of full time work experience or 1,920 hours of the required work experience must have been acquired within the five calendar years immediately prior to certification;

b. graduates of community and technical colleges will be given credit for two years or 3,840 hours of occupational experience if the training is in the field for which the applicant is applying; and

c. graduates with a bachelor's degree from a regionally accredited college or university will be given credit for two years or 3,840 hours of experience;

d. graduates with an advanced degree from a regionally accredited college or university will be given credit for three years or 5,760 hours of occupational experience;

e. graduates with a technical degree in the selected field and a bachelor's degree from a regionally accredited college or university will be given credit for three years or 5,760 hours of occupational experience;

f. graduates with a bachelor's degree from a regionally accredited college or university and an industry based certification (IBC) in the selected field, or who pass the appropriate national occupational competency testing institute (NOCTI) exam if industry-based certification is not available, will be given credit for three years or 5,760 hours of occupational experience;

g. applicants holding current approved industry-based certification, or who pass the approved NOCTI exam if industry-based certification is not available, will be given credit for two years or 3,840 hours of work experience. An industry-based certification may not be combined with educational attainment to qualify for a waiver from all required work experience.

3. Applicants with an earned baccalaureate degree and who hold an industry-based certification (IBC) in the selected instructional field may also apply years of teaching experience in that field toward the required work experience.

4. Applicants with prior teaching experience at a postsecondary institution in the selected instructional field may apply those years of teaching at a postsecondary institution toward the required work experience.

5. In addition to CTTIE certification, a current license must be held when a state or national license is required in the workplace. A state or national license will be recognized as an industry-based certification.

6. Applicants shall complete a new instructor workshop, if necessary. New instructor workshop must be completed prior to renewal. The department shall make available a list of new instructor course providers on the "Teach Louisiana" website. Applicants with at least three years of effective K-12 teaching experience as defined by Bulletin 130 or three years of post-secondary teaching experience are not subject to this requirement.

#### C. CTTIE-2 Eligibility Requirements

1. Applicants shall hold a current, appropriate and recognized industry instructor certificate aligned with the Louisiana Workforce Investment Council IBC list, if applicable as determined by the LDE, or a bachelor's degree from a regionally accredited college or university.

2. Applicant shall complete a new instructor workshop, if necessary. New instructor workshop must be completed prior to renewal. The department shall make available a list of new instructor course providers on the "Teach Louisiana" website. Applicants with at least three years of effective K-12 teaching experience as defined by Bulletin 130 or three years of post-secondary teaching experience are not subject to this requirement.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1813 (October 2006), amended LR 35:2752 (December 2009), LR 36:2843 (December 2010), LR 38:2366 (September 2012), LR 40:

#### §507. CTTIE Areas of Specialization

A. Certified Nursing Assistant (CNA) Eligibility Requirements

1. Applicant shall be a professional nursing program graduate with current Louisiana licensure as a registered nurse (RN) or licensed practical nurse (LPN).

2. All instructors shall have a CNA "train the trainer certificate" and meet certified nursing assistant regulations, as mandated by the Department of Health and Hospitals (DHH), Health Standards Section.

3. LPNs may serve as a certified nursing assistant instructor under the direct supervision of a RN. LPNs, under the general supervision of the primary instructor, may provide classroom and skills training instruction and supervision if they have two years of experience in caring for the elderly and/or chronically ill.

B. Certified Nursing Assistant, Program Coordinator—Eligibility Requirements. The program coordinator shall have the following experience and qualifications:

1. current Louisiana licensure as a registered nurse (RN);

2. a minimum of two years of nursing experience, of which at least one year must be in caring for the elderly or chronically ill, obtained through employment in any of the following:

- a. a nursing facility/unit;
- b. a geriatrics department;
- c. a chronic care hospital;
- d. other long-term care setting; or
- e. experience in varied responsibilities including,

but not limited to, direct resident care or supervision and staff education;

3. completion of VTIE, CTTIE, CNA "train-the-trainer" type program or a master's degree or higher;

4. all instructors must meet requirements mandated by the Louisiana Department of Health and Hospitals (DHH), Health Standards Section;

#### C. Emergency Medical Technician

1. An emergency medical technician (EMT) instructor must be approved by the Bureau of EMS.

#### D. Sports Medicine Eligibility Requirements

1. Sports medicine instructors shall have at least a Bachelor of Science degree and have received and maintained a current state and/or national certification as an athletic trainer and meet all CTTIE requirements.

2. Applicants pursuing a master's degree in athletic training that are working as an athletic trainer graduate assistant at a regionally accredited university may count these work experience hours toward meeting the required work hours for the CTTIE application. CTTIE application must include a letter from the director of athletics at the university with the actual number of hours worked as well as assigned duties.

E. Jobs for America's Graduates (JAG) Louisiana Job Specialist eligibility requirements (one of the following):

1. a bachelor's degree from a state-approved and regionally accredited college or university, plus two years of full-time work experience, or 3,840 hours of work experience within four years of date of application; or

2. a valid standard Louisiana teaching or school counselor certification.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:

**§509. CTTIE-1 Certificates Renewal Guidelines for certificates initially issued prior to September 1, 2014**

A. Holder must earn at least three semester hours or 45 contact hours in approved coursework each year until a minimum number of required semester hours or contact hours have been completed, as follows:

1. with no degree—15 semester hours or 225 contact hours;
2. with an associate degree—12 semester hours or 180 contact hours;
3. with a baccalaureate degree—9 semester hours or 135 contact hours;
4. with a graduate degree—6 semester hours or 90 contact hours;
5. with a valid Louisiana teaching certificate (Type A, B, C, Level 1, 2, 3 or OS)—3 semester hours or 45 contact hours (new instructor workshop is not required.);
6. with 3 years of post-secondary teaching experience—3 semester hours or 45 contact hours (must include the new instructor workshop);

a. renewal guidelines—valid for 5 years initially and may be renewed thereafter for a period of five years at the request of an LEA. For renewal of the CTTIE-2 certificate, candidates must successfully meet the standards of effectiveness for at least 3 years during the 5-year initial or renewal period pursuant to Bulletin 130 and R.S. 17:3902.

B. The coursework must be completed from the following approved list:

1. new instructor workshop (mandatory for all instructors who do not hold a valid Louisiana teaching certificate and do not have three years of successful teaching experience);
2. foundations of career and technical education;
3. preparation of career and technical education instructional materials;
4. management of the career and technical education classroom(s)/laboratory(ies);
5. occupational safety and health;
6. testing and evaluation in career and technical education;
7. teaching special needs students in career and technical education;
8. methods of teaching career and technical education;
9. occupational analysis and course development;
10. ethics and diversity in the workplace/classroom;
11. computer technology in the classroom;
12. curriculum planning;
13. career guidance;
14. management of change;
15. basic theory in career and technical education;
16. advanced theory in career and technical education;
17. development of career and technical teacher competency;
18. adolescent psychology;
19. other education pedagogy courses, including online courses, from regionally accredited institutions. Must have prior approval from the employing LEA.

C. If a state or national license is required in the workplace, a current license must be held. A state or national license will be recognized as an industry-based certification.

D. Upon successful completion of the required hours, and upon written request, a VTIE or a CTTIE temporary certificate was converted to a permanent CTTIE certificate until June 30, 2006. After June 30, 2006, certificates for all holders of VTIE, CTTIE, and CTTIE-1 certificates who are completing the required hours will be converted to five year CTTIE-2 certificates upon written request.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1814 (October 2006), amended LR 33:2356 (November 2007), LR 35:2753 (December 2009), LR 36:2000 (September 2010), LR 38:3137 (December 2012), LR 40:

**§511. Process for Reinstating Lapsed CTTIE-2 Certificates**

A. If holder allows a period of five consecutive calendar years to pass in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days, the certificate will lapse for disuse.

B. A CTTIE-2 certificate may be reinstated if, holder is able to present evidence that he/she meets the requirements for a CTTIE-2 license.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1814 (October 2006), amended LR 35:2754 (December 2009), LR 36:2001 (September 2010), LR 40:

**Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

**Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word “poverty” means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

#### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: **Bulletin 746—Louisiana Standards for State Certification of School Personnel—Standards for Secondary Career and Technical Trade and Industrial Education Personnel**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy may result in increased costs for local school districts for training of personnel if local districts choose or elect to offer such programs or courses. The Department of Education cannot project the extent of any increase school districts may incur. The costs can be paid with MFP funding for career and technical education, grants, Perkins funding and possible in-kind private sector funding.

The proposed policy revisions amend the Career and Technical Education certification pathways to facilitate industry professionals' entry into teaching positions, give greater credit to workplace experience and expertise, and provide essential training on instructional strategies.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no determinable effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1404#044

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

#### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression Policies and Procedures  
(LAC 28:XXXIX.503)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1566—Pupil Progression Policies and Procedures*, §503, Regular Placement. The proposed policy revisions clarify policies related to the decision to place students who fail to meet the promotional standard on the eighth grade LEAP test in the transitional ninth grade.

#### Title 28 EDUCATION

#### Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

#### Chapter 5. Placement Policies—General Requirements

#### §503. Regular Placement

A. - B.1.c. ...

d. At the conclusion of the 2013-2014 school year, any first-time eighth grade student who does not meet the passing standard set forth in §701.A of this bulletin and any student not eligible for any waiver pursuant to §707 of this bulletin, after taking the state assessments in spring and summer, may be placed on a high school campus in transitional ninth grade.

e. At the conclusion of the 2014-2015 school year, LEAs shall follow the guidelines set forth in §701.B to determine, based on evidence of student learning, whether eighth grade students may be promoted to the ninth grade or placed on a high school campus in transitional ninth grade.

f. At the conclusion of the 2015-2016 school year and beyond, any eighth grade student who does not meet the passing standard pursuant to §701.C of this bulletin and who is not eligible for a waiver pursuant to §707 of this bulletin, after taking the state assessments in spring and summer, may be placed on a high school campus in transitional ninth grade.

g. The decision to place a student in the transitional ninth grade or to retain a student in the eighth grade shall be made by the school in which the student is enrolled in the eighth grade, in consultation with the student's parents.

h. Each LEA shall admit transitional ninth grade students, subject to any admissions requirements approved by the school's governing authority or charter authorizer.

i. The following shall govern the transitional ninth grade.

i. Students placed in the transitional ninth grade shall participate in the summer remediation program offered by the LEA and the summer retest.



ii. After one full year of transitional ninth grade, students shall be included in the ninth grade graduation cohort for high school accountability.

iii. Students enrolled in transitional ninth grade shall receive remediation in any subjects in which they did not score at or above proficient, as determined by BESE. A plan outlining such remediation shall be included in the student's individual graduation plan.

iv. Students enrolled in transitional ninth grade shall have opportunities to take career and technical education courses and participate in any career training opportunities included in a high school career pathway developed by a consortium of LEAs, post-secondary colleges and universities, and local business and industry, and approved by the LDE.

v. Students enrolled in transitional ninth grade shall receive dropout prevention and mentoring services based on proven strategies to retain and graduate at-risk students. The LDE shall make available to LEAs a list of recommended strategies and technical assistance needed to offer students such services.

vi. Transitional ninth grades in charter schools authorized to serve students through eighth grade and those authorized to serve students in ninth grade and higher shall be governed by policy contained in *Bulletin 126—Charter Schools*.

C. - E.1.b. ...

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 25:2171 (November 2000), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:407 (March 2004), LR 31:1974 (August 2005), LR 31:3103 (December 2005), LR 33:2063 (October 2007), LR 34:2389 (November 2008), LR 36:2003 (September 2010), LR 40:

#### **Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

#### **Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for

adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

#### **Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: *Bulletin 1566—Pupil Progression Policies and Procedures***

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions do not impact costs for state or local governmental units.

The proposed policy revisions clarify policies related to the decision to place students who fail to meet the promotional standard on the eighth grade LEAP test in the transitional ninth grade.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)

This policy will have no determinable effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1404#019

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 1929—Louisiana Accounting and Uniform  
Governmental Handbook (LAC 28:XLI.1501)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*, §1501, Seventy Percent Expenditure Requirement. The proposed policy revision removes the policy language from the Minimum Foundation Program and places it in Bulletin 1929.

**Title 28  
EDUCATION**

**Part XLI. Bulletin 1929—Louisiana Accounting  
and Uniform Governmental Handbook**

**Chapter 15. Expenditure Requirements**

**§1501. Seventy Percent Expenditure Requirement**

A. To provide for appropriate accountability of state funds while providing local school system flexibility in determining specific expenditures, local education agencies shall ensure that 70 percent of the local education agency general fund expenditures are in the areas of instruction and school administration at the school building level as derived by the Department of Education.

B. The definition of instruction shall provide for:

1. the activities dealing directly with the interaction between teachers and students including, but not limited to, teacher and teacher aide salaries, employee benefits, purchased professional and technical services, textbooks and instructional materials and supplies, and instructional equipment;

2. student support activities designed to assess and improve the well-being of students and to supplement the teaching process, including attendance and social work, guidance, health and psychological activities; and

3. instructional support activities associated with assisting the instructional staff with the content and process of providing learning experiences for students including activities of improvement of instruction, instruction and curriculum development, instructional staff training, library/media, and instructional related technology.

C. School administration shall include the activities performed by the principal, assistant principals, and other assistants while they supervise all operations of the school, evaluate the staff members of the school, assign duties to staff members, supervise and maintain the records of the school, and coordinate school instructional activities with those of the school system. These activities may also include

the work of clerical staff in support of the teaching and administrative duties.

D. For local education agencies that fail this requirement, but perform at or above the state average in the district performance score (DPS), a waiver for this noncompliance should be provided.

E. For local education agencies that fail this requirement, and also perform below the state average in the district performance score (DPS), the following consequences shall apply.

1. Local education agencies shall assess expenditures in non-instructional areas including a self-assessment and/or hiring an independent firm to determine operational activities that could be streamlined through outsourcing, privatization, or consolidation and provide a report to BESE on the implementation plan to redirect any savings from these actions to instructional activities according to timelines set by the Department of Education.

2. Local education agencies shall examine the manner in which state and federal funds are utilized, make revisions to incorporate new spending patterns, and provide a report to BESE on the implementation of these actions according to timelines set by the Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:

**Family Impact Statement**

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

**Poverty Impact Statement**

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

**NOTICE OF INTENT**

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

2013 Annual Incorporation by Reference of  
Certain Federal Air Quality Regulations  
(LAC 33:III.506, 507, 2160 ,3003,  
5116, 5311 and 5901)(AQ343ft)

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

**Small Business Statement**

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

**Public Comments**

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., May 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 1929—Louisiana Accounting  
and Uniform Governmental Handbook**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO  
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed policy revisions do not impact costs for state or local governmental units. The policy was already required.

The proposed policy revision removes the policy language from the Minimum Foundation Program and places it in Bulletin 1929.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE  
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO  
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL  
GROUPS (Summary)**

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT  
(Summary)**

This policy will have no determinable effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1404#018

Evan Brasseur  
Staff Director  
Legislative Fiscal Office

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.506, 507, 2160 ,3003, 5116, 5311 and 5901 (Log #AQ343ft).

This Rule is identical to federal regulations found in 40 CFR Part 51, Appendix M; 40 CFR Part 60; 40 CFR Part 61; 40 CFR Part 63; 40 CFR Part 68; 40 CFR Part 70.6(a) and 40 CFR Part 96, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference (IBR) into the Louisiana Administrative Code (LAC), Title 33, Part III, Air Regulations the following federal regulations included in the July 1, 2013 edition of the Code of Federal Regulations (CFR): 40 CFR Parts 51, Appendix M, 60, 61, 63, 68, 70.6(a) and 96. Any exception to the IBR is explicitly listed in the Rule which updates the references to July 1, 2013, for Standard of Performance for New Stationary Sources, 40, CFR Part 60. This Rule also updates the references to July 1, 2013, for the National Emission Standards for Hazardous Air Pollutants (NESHAP) and for NESHAP for Source Categories, 40 CFR Parts 61 and 63. In order for Louisiana to maintain equivalency with federal regulations, certain regulations in the most current *Code of Federal Regulations*, July 1, 2013, must be adopted into the *Louisiana Administrative Code* (LAC). This rulemaking is also necessary to maintain delegation authority granted to Louisiana by the Environmental Protection Agency. The basis and rationale for this Rule is to mirror the federal regulations as they apply to Louisiana's affected sources. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33  
ENVIRONMENTAL QUALITY**

**Part III. Air**

**Chapter 5. Permit Procedures**

**§506. Clean Air Interstate Rule Requirements**

A. - B.4. ...

C. Annual Sulfur Dioxide. Except as specified in this Section, The federal SO<sub>2</sub> model Rule, published in the *Code*

of *Federal Regulation* at 40 CFR 96, July 1, 2013, is hereby incorporated by reference, except for Subpart III-CAIR SO<sub>2</sub> OPT-in Units and all references to opt-in units.

D. - E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:1622 (August 2007), LR 33:2083 (October 2007), LR 34:978 (June 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), repromulgated LR 36:2551 (November 2010), amended LR 37:2989 (October 2011), LR 38:1229 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1276 (May 2013), LR 40:

### **§507. Part 70 Operating Permits Program**

A. - B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2013. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1229 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1276 (May 2013), LR 40:

## **Chapter 21. Control of Emission of Organic Compounds**

### **Subchapter N. Method 43—Capture Efficiency Test Procedures**

[*Editor's Note:* This Subchapter was moved and renumbered from Chapter 61 (December 1996).]

#### **§2160. Procedures**

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR 51, Appendix M, July 1, 2013, are hereby incorporated by reference.

B. - C.2.b.iv. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:

### **Chapter 30. Standards of Performance for New Stationary Sources (NSPS)**

#### **Subchapter A. Incorporation by Reference**

##### **§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60**

A. Except for 40 CFR 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR 60, July 1, 2013, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are amendments to 40 CFR 60: Subpart CCCC and DDDD (78 FR 9111 - 9213, February 7, 2013). These amendments set forth the Environmental Protection Agency's (EPA) final decision on the issues for which it granted reconsideration in the March 21, 2011, final Rule (76 FR 15703 - 15790), along with other amendments that establishes effective dates for the standards and makes technical corrections; final Rule to 40 CFR 60 Subpart MMMM and LLLL promulgated on March 21, 2011, (76 FR 15372 - 15453); and 40 CFR 60 Subpart Ga as promulgated on August 14, 2012, (77 FR 48433 - 48448).

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR

30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2754 (November 2012), LR 39:1039 (April 2013), LR 39:1277 (May 2013), LR 40:

**Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program**

**Subchapter B. Incorporation by Reference of 40 CFR**

**Part 61 (National Emission Standards for Hazardous Air Pollutants)**

**§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants, published in the *Code of Federal Regulations* at 40 CFR 61, July 1, 2013, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR Part 61	Subpart/Appendix Heading
	* * *
[See Prior Text in Subpart A – Appendix C]	

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:

**Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources**

**§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2013, are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

B. - C.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2627 (December 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013), LR 40:

**Chapter 53. Area Sources of Toxic Air Pollutants**

**Subchapter B. Incorporation by Reference of 40 CFR**

**Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources**

**§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Area Sources**

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2013, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2756 (November 2012), LR 39:1278 (May 2013), LR 40:

**Chapter 59. Chemical Accident Prevention and Minimization of Consequences**

**Subchapter A. General Provisions**

**§5901. Incorporation by Reference of Federal Regulations**

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR 68, July 1, 2013.

B. - C.6. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008), LR 35:1109 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013), LR 40:

#### **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.

#### **Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ343ft. Such comments must be received no later than May 29, 2014, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to [deidra.johnson@la.gov](mailto:deidra.johnson@la.gov). The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ343ft. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

#### **Public Hearing**

A public hearing will be held on May 29, 2014, 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 and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Herman Robinson, CPM  
Executive Counsel

1404#038

## **NOTICE OF INTENT**

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

#### **Conditional Exclusions for Solvent Contaminated Wipes (LAC 33:V.105 and 109) (HW114ft)**

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 Hazardous Waste regulations, LAC 33:V.105.D and 109 (Log #HW114ft).

This Rule is identical to federal regulations found in 78 FR 147, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule adopts the revised federal exclusions for certain solvent contaminated wipes generated in Louisiana. Louisiana's hazardous waste program operates under a federal grant from the U.S. EPA. Part of the requirement for maintaining this grant is to maintain the Louisiana hazardous waste regulations so that they are equivalent to or more stringent than the corresponding federal regulations. The basis and rationale of this Rule is to mirror the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

#### **Title 33**

#### **ENVIRONMENTAL QUALITY**

#### **Part 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 TSD unit 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.1.v.iii. ...

iv. glass removed from CRTs, provided that it meets the requirements of LAC 33:V.4911;

w. solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that:

i. the solvent-contaminated wipes, when accumulated, stored, and transported, are contained in nonleaking, closed containers that are labeled “Excluded

Solvent-Contaminated Wipes.” The containers shall be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container shall be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

ii. the solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;

iii. at the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes shall contain *no free liquids* as defined in LAC 33:V.109;

iv. free liquids removed from the solvent-contaminated wipes or from the container holding the wipes shall be managed according to the applicable regulations found in LAC 33:V.Subpart 1;

v. generators shall maintain, at their sites, the following documentation:

(a) the name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;

(b) documentation that the 180-day accumulation time limit in LAC 33:V.105.D.1.w.ii is being met; and

(c) the description of the process the generator is using to ensure the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning; and

vi. the solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402, or section 307 of the Clean Water Act.

2. – 2.p.v. ...

q. solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided that:

i. the solvent-contaminated wipes, when accumulated, stored, and transported, are contained in nonleaking, closed containers that are labeled “Excluded Solvent-Contaminated Wipes.” The containers shall be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container shall be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

ii. the solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;

iii. at the point of being transported for disposal, the solvent-contaminated wipes shall contain *no free liquids* as defined in LAC 33:V.109;

iv. free liquids removed from the solvent-contaminated wipes or from the container holding the wipes shall be managed according to the applicable regulations found in LAC 33:V.Subpart 1;

v. generators shall maintain at their sites the following documentation:

(a) the name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;

(b) documentation that the 180 day accumulation time limit in LAC 33:V.105.D.2.q.ii is being met; and

(c) a description of the process the generator is using to ensure solvent-contaminated wipes contain no free liquids at the point of being transported for disposal;

vi. the solvent-contaminated wipes are sent for disposal:

(a) to a municipal solid waste landfill regulated under LAC 33:VII.711, or to a hazardous waste landfill regulated under LAC 33:V.Chapter 25 or LAC 33:V.Chapter 43.Subchapter M; or

(b) to a municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act or to a hazardous waste combustor, boiler, or industrial furnace regulated under LAC 33:V.Chapter 30.

D.3. – P.2. ...

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:

## §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.

\* \* \*

*No Free Liquids*—as used in LAC 33:V.105.D.1.w and LAC 33:V.105.D.2.q, means that solvent-contaminated wipes may not contain free liquids as determined by Method 9095B (Paint Filter Liquids Test), included in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods” (EPA Publication SW-846), which is incorporated by reference at LAC 33:V.110, and that there is no free liquid in the container holding the wipes. No free liquids may also be determined using another standard or test method as defined by the administrative authority.

\* \* \*

*Solvent-Contaminated Wipe*—

1. a wipe that, after use or after cleaning up a spill:
  - a. contains one or more of the F001 through F005 solvents listed in LAC 33:V.4901.C, or the corresponding P- or U-listed solvents listed in LAC 33:V.4901.E or F;
  - b. exhibits a hazardous characteristic found in LAC 33:V.4903, when that characteristic results from a solvent listed in LAC 33:V.4901; and/or
  - c. exhibits only the hazardous waste characteristic of ignitability found in LAC 33:V.4903.B;
2. solvent-contaminated wipes that contain listed hazardous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions at LAC 33:V.105.D.1.w and LAC 33:V.105.D.2.q.

\* \* \*

*Wipe*—a woven or nonwoven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

\* \* \*

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:

### 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.

### Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW114ft. Such comments must be received no later than May 29, 2014, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to [deidra.johnson@la.gov](mailto:deidra.johnson@la.gov). The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW114ft. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

### Public Hearing

A public hearing will be held on May 29, 2014, 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 and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Herman Robinson, CPM  
Executive Counsel

1404#039



**NOTICE OF INTENT**

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

Maintaining Equivalency with Federal Regulations  
(LAC 33:XV.102, Chapter 3,  
Chapter 4, 573 and 763)(RP056ft)

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 Radiation Protection regulations, LAC 33:XV.102, 304, 322, 328, 410, 417, 431, 499, 573 and 763 (Log #RP056ft).

This Rule is identical to federal regulations found in 10 CFR 20, 30, 32 and 35, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule will update the state regulations to be compatible with changes in the federal regulations. This Rule addressess 23 comments from the NRC on eight different amendments to the state regulations. The changes in the state regulations are category A, B, C and NRC requirements for the state of Louisiana to remain an NRC agreement state. The basis and rationale for this Rule is to mirror federal regulations and maintain the Agreement State Program. This rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33  
ENVIRONMENTAL QUALITY  
Part XV. Radiation Protection**

**Chapter 1. General Provisions**

**§102. Definitions and Abbreviations**

As used in these regulations, these terms have the definitions set forth below. Additional definitions used only in a certain Chapter may be found in that Chapter.

\* \* \*

*Radiation Area*—an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of five millirems (0.05 millisievert) in one hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 19:1421 (November 1993), LR 20:650 (June 1994), LR 22:967 (October 1996), LR 24:2089 (November 1998), repromulgated LR 24:2242 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2563 (November 2000), LR 26:2767 (December

2000), LR 30:1171, 1188 (June 2004), amended by the Office of Environmental Assessment, LR 31:44 (January 2005), LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:811 (May 2006), LR 32:1853 (October 2006), LR 33:1016 (June 2007), LR 33:2175 (October 2007), LR 34:982 (June 2008), LR 36:1771 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2748 (November 2012), LR 40:

**Chapter 3. Licensing of Radioactive Material  
Subchapter A. Exemptions**

**§304. Radioactive Material Other Than Source Material**

**A. Exempt Concentrations**

1. Except as provided in Paragraphs A.3 and 4 of this Section, any person is exempt from this Chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires products or materials containing radioactive material in concentrations not in excess of those listed in schedule A of this Chapter.

2. This Section shall not be deemed to authorize the import of byproduct material or products containing byproduct material.

3. A manufacturer, processor, or producer of a product or material is exempt from the requirements for a license set forth in these regulations to the extent that this person transfers byproduct material contained in a product or material in concentrations not in excess of those specified in schedule A of this Chapter and introduced into the product or material by a licensee holding a specific license issued pursuant to 10 CFR 32.11 expressly authorizing such introduction. This exemption does not apply to the transfer of byproduct material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.

4. No person may introduce byproduct material into a product or material, knowing or having reason to believe that it will be transferred to persons exempt under LAC 33:XV.304.A.1 or equivalent regulations of any agreement state, except in accordance with a specific license issued pursuant to 10 CFR 32.11.

**B. Exempt Quantities**

1. Except as provided in Paragraphs B.3 - 5 of this Section, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material in individual quantities, none of which exceeds the applicable quantity set forth in Schedule B of this Chapter.

2. ...

3. LAC 33:XV.304.B does not authorize the production, packaging, repackaging, or transfer of byproduct material for purposes of commercial distribution or the incorporation of byproduct material into products intended for commercial distribution.

4. No person may, for purposes of commercial distribution, transfer byproduct material in the individual quantities set forth in Schedule B of this Chapter knowing, or having reason to believe, that such quantities of byproduct material will be transferred to persons exempt under Subsection B of this Section or equivalent regulations of the U.S. Nuclear Regulatory Commission or any other agreement state, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission in accordance with 10 CFR 32.18 or by the administrative authority in accordance with LAC 33:XV.328.B, which

license states that the byproduct material may be transferred by the licensee to persons exempt under Subsection B of this Section or the equivalent regulations of the U.S. Nuclear Regulatory Commission, or any other agreement state or licensing state. Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

5. No person may, for purposes of producing an increased radiation level, combine quantities of byproduct material covered by this exemption so that the aggregate quantity exceeds the limits set forth in 10 CFR 30.71 Schedule B, except for byproduct material combined within a device placed in use before May 3, 1999, or as otherwise permitted by the regulations in this Chapter.

#### C. Exempt Items

1. Certain Items Containing Byproduct Material. Authority to transfer possession or control by the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from regulatory requirements may be obtained only from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Except for persons who apply byproduct material to, or persons who incorporate byproduct material into, the following products, or persons who initially transfer for sale or distribution the following products containing byproduct material, any person is exempt from these regulations to the extent that he or she receives, possesses, uses, transfers, owns, or acquires the following products:

a. Timepieces or hands or dials containing not more than the following specified quantities of byproduct material and not exceeding the following specified levels of radiation:

i. – vi. ...

vii. the levels of radiation from hands and dials containing promethium-147 will not exceed, when measured through 50 milligrams per square centimeter of absorber:

vii.(a). – viii. ...

b. Devices such as:

i. static elimination devices which contain, as a sealed source or sources, byproduct material consisting of a total of not more than 500 microcurie (18.5 MBq) of polonium-210 per device;

ii. ion generating tubes designed for ionization of air that contain, as a sealed source or sources, byproduct material consisting of a total of not more than 18.5 MBq (500 Ci) of polonium-210 per device or of a total of not more than 1.85 GBq (50 mCi) of hydrogen-3 (tritium) per device;

iii. such devices authorized before October 23, 2012, for use under the general license then provided in 10 CFR 31.3 and equivalent regulations of agreement states and manufactured, tested, and labeled by the manufacturer in accordance with the specifications contained in a specific license issued by the Nuclear Regulatory Commission.

c. ...

d. Marine compasses containing not more than 750 millicuries of tritium gas and other marine navigational instruments containing not more than 250 millicuries of tritium gas manufactured before December 17, 2007.

e. Ionization chamber smoke detectors containing not more than 1 microcurie ( Ci) of americium-241 per detector in the form of a foil and designed to protect life and property from fires.

f. Electron tubes, provided that no tube contains more than one of the following specified quantities of byproduct material:

i. 150 millicuries of tritium per microwave receiver protector tube or 10 millicuries of tritium per any other electron tube;

ii. 1 microcurie of cobalt-60;

iii. 5 microcuries of nickel-63;

iv. 30 microcuries of krypton-85;

v. 5 microcuries of cesium-137;

vi. 30 microcuries of promethium-147; andvii.

provided further, that the levels of radiation from each electron tube containing byproduct material do not exceed 1 millirad per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber; and

viii. for purposes of this Subsection, *electron tubes* include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical currents.

g. Ionizing radiation measuring instruments containing, for the purposes of internal calibration or standardization, one or more sources of byproduct material, provided that:

i. each source contains no more than one exempt quantity set forth in Schedule B of this Chapter;

ii. each instrument contains no more than 10 exempt quantities. For purposes of this requirement, an instrument's source(s) may contain either one or different types of radionuclides, and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in Schedule B of this Chapter, provided that the sum of such fractions shall not exceed unity; and

iii. for purposes of this Section, 0.05 microcurie of americium-241 is considered an exempt quantity under Schedule B of this Chapter.

#### 2. Self-Luminous Products Containing Byproduct Material

a. Tritium, Krypton-85, or Promethium-147. Except for persons who manufacture, process, produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147, any person is exempt from the requirements for a license set forth in these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires tritium, krypton-85, or promethium-147 in self-luminous products manufactured, processed, produced, or initially transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to 10 CFR 32.22, which license authorizes the initial transfer of the product for use under this Subparagraph. Any person who desires to manufacture, process, or produce, or initially

transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147 for use under this Subparagraph, shall apply for a license under 10 CFR 32.22 and for a certificate of registration in accordance with 10 CFR 32.210. The exemption in this Subparagraph does not apply to tritium, krypton-85, or promethium-147 used in products primarily for frivolous purposes or in toys or adornments.

2.b. – 4.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2091 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1226 (August 2001), amended by the Office of the Secretary, Legal Division, LR 38:2746 (November 2012), LR 40:

#### **Subchapter C. General Licenses**

#### **§322. General Licenses: Radioactive Material Other Than Source Material**

A. Certain Devices and Equipment. A general license is hereby issued to transfer, receive, acquire, own, possess, and use radioactive material incorporated in the following devices or equipment that have been manufactured, tested, and labeled by the manufacturer in accordance with a specific license issued to the manufacturer by the U.S. Nuclear Regulatory Commission for use pursuant to 10 CFR 31.3. Attention is directed particularly to the provisions of 10 CFR 20 concerning labeling of containers. This general license is subject to the provisions of LAC 33:XV.104-109, 304.A. 3 and 4, 331, 340, 350, and Chapters 4, 10, and 15 of these regulations.

A.1. – J.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2567 (November 2000), LR 27:1226 (August 2001), LR 30:1663 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2524 (October 2005), LR 32:811 (May 2006), LR 33:448 (March 2007), LR 33:2177 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:

#### **Subchapter D. Specific Licenses**

#### **§328. Special Requirements for Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Byproduct Material**

A. Licensing the Introduction of Byproduct Material into Products in Exempt Concentrations. No person may introduce byproduct material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under LAC 33:XV.304.A.1 or equivalent regulations of an agreement state, except in accordance with a license issued pursuant to 10 CFR 32.11.

B. – M.4.g. ...

\* \* \*

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), LR 24:2092 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2569 (November 2000), LR 26:2768 (December 2000), LR 27:1228 (August 2001), LR 30:1664 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2526 (October 2005), LR 33:2179 (October 2007), LR 36:1771 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2746 (November 2012), LR 40:

#### **Chapter 4. Standards for Protection against Radiation**

#### **Subchapter B. Radiation Protection Programs**

#### **§410. Occupational Dose Limits for Adults**

A. – B. ...

C. When the external exposure is determined by measurement with an external personal monitoring device, the deep-dose equivalent shall be used in place of the effective dose equivalent, unless the effective dose equivalent is determined by a dosimetry method approved by the department. The assigned deep dose equivalent shall be for the part of the body receiving the highest exposure. The assigned shallow dose equivalent shall be the dose averaged over the contiguous 10 square centimeters of skin receiving the highest exposure. The deep dose equivalent, lens dose equivalent, and shallow dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure or the results of individual monitoring are unavailable.

D. – G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:969 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2769 (December 2000), LR 30:1188 (June 2004), amended by the Office of the Secretary, Legal Division, LR 40:

#### **§417. Dose to an Embryo/Fetus**

A. – B. ...

C. The dose equivalent to the embryo/fetus is the sum of:

1. the deep-dose equivalent to the declared pregnant woman; and

2. the dose equivalent to the embryo/fetus resulting from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman.

D. If by the time the woman declares pregnancy to the licensee or registrant, the dose equivalent to the embryo/fetus has exceeded 5 mSv (0.5 rem), the licensee or registrant shall be deemed to be in compliance with Subsection A of this Section if the additional dose equivalent to the embryo/fetus does not exceed 0.5 mSv (0.05 rem) during the remainder of the pregnancy.<sup>2</sup>

<sup>2</sup>The National Council on Radiation Protection and Measurements recommended in NCRP Report No. 91, "Recommendations on Limits for Exposure to Ionizing Radiation" (June 1, 1987), that no more than 0.5 mSv (0.05 rem) to the embryo/fetus be received in any one month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:970 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2769 (December 2000), amended by the Office of the Secretary, Legal Division, LR 40:

**§431. Conditions Requiring Individual Monitoring of External and Internal Occupational Dose**

A. Each licensee or registrant shall monitor exposures from sources of radiation at levels sufficient to demonstrate compliance with the occupational dose limits of this Chapter. Each licensee or registrant shall monitor occupational exposure to radiation and shall supply and require the use of individual monitoring devices by:

A.1. – A.4.b. ...

c. when only one individual monitoring device is issued to determine the effective dose equivalent for external radiation in accordance with LAC 33:XV.410.D, it shall be located at the neck outside the protective apron. When a second individual monitoring device is used for the same purpose, it shall be located under the protective apron at the waist. The second individual monitoring device is required for a declared pregnant woman.

B. – B.2....

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 22:971 (October 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2770 (December 2000), amended by the Office of the Secretary, Legal Division, LR 40:

**Subchapter Z. Appendices**

**§499. Appendices A, B, C, D, E**

A. Appendix A.

Appendix A Assigned Protection Factors for Respirators <sup>a</sup>		
Type of Respirator	Operating Mode	Assigned Protection Factors (APF)
I. Air-Purifying Respirators [Particulate <sup>b</sup> Only] <sup>c</sup>		
***		

\*\*\*

B. Appendix B.

**Appendix B  
Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage**

\*\*\*

The derived air concentration (DAC) values are derived limits intended to control chronic occupational exposures. The relationship between the DAC and the ALI is given by:

$$DAC = \frac{ALI \text{ (mCi)}}{(2000 \text{ hrs/working yr} \times 60 \text{ min/hr} \times 2 \times 10^4 \text{ ml})} \mu\text{Ci/ml}$$

$$= \frac{ALI}{2.4 \times 10^8} \mu\text{Ci}$$

where:

2 x 10<sup>4</sup> ml is the volume of air breathed per minute at work by the reference man under working conditions of light work.

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Appendix C – Appendix E. ...

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 19:1421 (November 1993), LR 20:653 (June 1994), LR 22:973 (October 1996), LR 24:2096 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2580 (November 2000), LR 28:1012 (May 2002), amended by the Office of Environmental Assessment, LR 31:48 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2530 (October 2005), LR 33:2183 (October 2007), amended by the Office of the Secretary, Legal Division, LR 40:

**Chapter 5. Radiation Safety Requirements for Industrial Radiographic Operations  
Subchapter B. Personal Radiation Safety Requirements for Radiographers**

**§573. Conducting Industrial Radiographic Operations**

A. – E.2....

3. two years of documented radiation protection experience, including knowledge of industrial radiographic operations, with at least 2000 hours of hands-on experience as a qualified radiographer in industrial radiographic operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 27:1234 (August 2001), amended LR 28:1951 (September 2002), LR 29:34 (January 2003), amended by the Office of the Secretary, Legal Division, LR 40:

**Chapter 7. Use of Radionuclides in the Healing Arts  
§713. Suppliers**

A. For medical use, a licensee may only use:

1. sealed sources or devices, manufactured, labeled, packaged, and distributed in accordance with a license issued in accordance with these regulations or the equivalent regulations of another agreement state, a licensing state, or the Nuclear Regulatory Commission;

2. sealed sources or devices non-commercially transferred from a Nuclear Regulatory Commission Medical Licensee, a licensing state medical use licensee, or an agreement state medical use licensee; and

3. teletherapy sources manufactured and distributed in accordance with a license issued pursuant to these regulations or the equivalent regulations of another agreement state, a licensing state, or the U.S. Nuclear Regulatory Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2103 (November 1998), amended by the Office of the Secretary, Legal Affairs Division, LR 36:1772

(August 2010), amended by the Office of the Secretary, Legal Division, LR 40:

**§763. Training**

A. Training for a Radiation Safety Officer. Except as provided in Subsection B of this Section, the licensee shall require an individual fulfilling the responsibilities of the radiation safety officer as provided in LAC 33:XV.706 to be an individual:

1. who is certified by a specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Paragraphs A.4 and 5 of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. – b.ii. ...

(a). under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the Nuclear Regulatory Commission or an agreement state; or

(b). in a clinical nuclear medicine facility providing diagnostic and/or therapeutic services under the direction of a physician who meets the requirements for an authorized user in Subsection B, or D or Paragraph E.1 of this Section; and

1.b.iii. – 3. ...

a. is a medical physicist who has been certified by a specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state in accordance with Subsection J of this Section, and who has experience in radiation safety for similar types of use of byproduct material for which the licensee is seeking the approval of the individual as radiation safety officer, and who meets the requirements in Paragraphs A.4 and 5 of this Section; or

A.3.b. – B.3. ...

4. A physician, dentist, or podiatrist identified as an authorized user for the medical use of byproduct material on a license issued by the Nuclear Regulatory Commission or agreement state, a permit issued by a commission master material licensee, a permit issued by a commission or an agreement state broad scope licensee, or a permit issued by a commission master material license broad scope permittee before October 24, 2002, who performs only those medical uses for which he or she was authorized on that date need not comply with the training requirements of this Section.

5. A physician, dentist, or podiatrist identified as an authorized user for the medical use of byproduct material on a license issued by the Nuclear Regulatory Commission or agreement state, a permit issued by a commission master material licensee, a permit issued by a commission or an agreement state broad scope licensee, or a permit issued by a commission master material license broad scope permittee who performs only those medical uses for which he or she was authorized between October 24, 2002 and April 29, 2005, need not comply with the training requirements of this Section.

6. – 7. ...

C. Training for Uptake, Dilution, and Excretion Studies. Except as provided in Subsection B of this Section, the

licensee shall require the authorized user of unsealed byproduct material for the uses authorized in LAC 33:XV.729 to be a physician:

1. who is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Subparagraph C.3.b of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. – b. ...

2. who is an authorized user under Subsection D or Paragraph E.1 of this Section, or equivalent agreement state requirements, or Nuclear Regulatory Commission requirements or Subparagraph C.3.a of this Section;

3. – 3.a.i.(e). ...

ii. work experience, under the supervision of an authorized user who meets the requirements in Subsection B or C or D or Paragraph E.1 of this Section, or equivalent agreement state requirements, or Nuclear Regulatory Commission requirements involving:

(a). – (f). ...

b. has obtained written attestation, signed by a preceptor authorized user who meets the requirements in Subsection B or C or D or Paragraph E.1 of this Section, or equivalent agreement state requirements or Nuclear Regulatory Commission requirements, that the individual has satisfactorily completed the requirements in Subparagraph C.1.a or C.3.a of this Section and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized in LAC 33:XV.729.

D. Training for Imaging and Localization Studies. Except as provided in Subsection B of this Section, the licensee shall require the authorized user of unsealed byproduct material for the uses authorized in LAC 33:XV.731.H to be a physician:

1. who is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Subparagraph D.3.b of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

1.a. – 3.a.i.(e). ...

ii. work experience, under the supervision of an authorized user, who meets the requirements in this Subsection, Subsection B or Subclause D.3.a.ii.(f) and Paragraph E.1 of this Section, or equivalent agreement state requirements, or Nuclear Regulatory Commission requirements involving:

(a). – (g). ...

b. has obtained written attestation, signed by a preceptor authorized user who meets the requirements in this Subsection, Subsection B or Subclause D.3.a.ii.(f) and Paragraph E.1 of this Section, or equivalent agreement state requirements, or Nuclear Regulatory Commission requirements that the individual has satisfactorily completed

the requirements in Subparagraph D.1.a or D.3.a of this Section and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized in LAC 33:XV.729 and LAC 33:XV.731.H.

E. – E.1. ...

a. who is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Division E.1.b.i.(b).(vii) and Clause E.1.b.ii of this Section. (Specialty boards whose certification processes have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.) To be recognized, a specialty board shall require all candidates for certification to:

a.i. – b.i.(a).(v). ...

(b). work experience, under the supervision of an authorized user who meets the requirements in this Paragraph, Subsection B of this Section or equivalent agreement state requirements or Nuclear Regulatory Commission requirements. A supervising authorized user, who meets the requirements in Subparagraph E.1.b of this Section, shall also have experience in administering dosages in the same dosage category or categories (i.e., Division E.1.b.i.(b).(vii) of this Section) as the individual requesting authorized user status. The work experience shall involve:

(i). – (vii).[d]. ...

ii. has obtained written attestation that the individual has satisfactorily completed the requirements in Clause E.1.a.i and Division E.1.b.i.(b).(vii) or Clause E.1.b.i of this Section, and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized in LAC 33:XV.735.C. The written attestation shall be signed by a preceptor authorized user who meets the requirements in this Paragraph, Subsection B of this Section or equivalent agreement state requirements or Nuclear Regulatory Commission requirements. The preceptor authorized user who meets the requirements in Subparagraph E.1.b of this Section shall have experience in administering dosages in the same dosage category or categories (i.e., Division E.1.b.i.(b).(vii) of this Section) as the individual requesting authorized user status.

2. Training for the Oral Administration of Sodium Iodide I-131 Requiring a Written Directive in Quantities Less Than or Equal To 1.22 Gigabecquerels (33 millicuries). Except as provided in Subsection B of this Section, the licensee shall require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive in quantities less than or equal to 1.22 Gigabecquerels (33 millicuries) to be a physician:

a. who is certified by a medical specialty board whose certification process includes all of the requirements in Clauses E.2.c.i and ii of this Section and whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Clause E.2.c.iii of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.); or

b. who is an authorized user in accordance with Paragraph E.1 of this Section for uses listed in Subdivision E.1.b.i.(b).(vii).[a] or [b] of this Section, Paragraph E.3 of

this Section, or equivalent agreement state requirements or Nuclear Regulatory Commission requirements; or

c. – c.i.(e). ...

ii. has work experience, under the supervision of an authorized user who meets the requirements in Subsection B or Paragraph E.1, 2, or 3 of this Section, or equivalent agreement state requirements or Nuclear Regulatory Commission requirements. A supervising authorized user who meets the requirements in Subparagraph E.1.b of this Section shall also have experience in administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[a] or [b] of this Section. The work experience shall involve:

(a). – (e). ...

(f). administering dosages to patients or human research subjects that includes at least three cases involving the oral administration of less than or equal to 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131; and

iii. has obtained written attestation that the individual has satisfactorily completed the requirements in Clauses E.2.c.i and ii of this Section, and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized in LAC 33:XV.735.C. The written attestation shall be signed by a preceptor authorized user who meets the requirements in Subsection B or Paragraph E.1, 2, or 3 of this Section, or equivalent agreement state requirements or Nuclear Regulatory Commission requirements. A preceptor authorized user who meets the requirement in Subparagraph E.1.b of this Section shall also have experience in administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[a] or [b] of this Section.

3. Training for the Oral Administration of Sodium Iodide I-131 Requiring a Written Directive in Quantities Greater Than 1.22 Gigabecquerels (33 millicuries). Except as provided in Subsection B of this Section, the licensee shall require an authorized user for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 Gigabecquerels (33 millicuries) to be a physician:

a. who is certified by a medical specialty board whose certification process includes all of the requirements in Clauses E.3.c.i and ii of this Section and whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Clause E.3.c.iii of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.); or

b. who is an authorized user in accordance with Paragraph E.1 of this Section for uses listed in Subdivision E.1.b.i.(b).(vii).[b] of this Section, or equivalent agreement state requirements or Nuclear Regulatory Commission requirements; or

c. – c.i.(e). ...

ii. has work experience, under the supervision of an authorized user who meets the requirements in Subsection B or Paragraph E.1 or 3 of this Section, or equivalent agreement state requirements or Nuclear Regulatory Commission requirements. A supervising authorized user who meets the requirements in Subparagraph E.1.b of this Section shall also have experience in

administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[b] of this Section. The work experience shall involve:

(a). – (e). ...

(f). administering dosages to patients or human research subjects that includes at least three cases involving the oral administration of greater than 1.22 Gigabecquerels (33 millicuries) of sodium iodide I-131; and

iii. has obtained written attestation that the individual has satisfactorily completed the requirements in Clauses E.3.c.i and ii of this Section, and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized in LAC 33:XV.735.C. The written attestation shall be signed by a preceptor authorized user who meets the requirements in Subsection B or Paragraph E.1 or 3 of this Section, or equivalent agreement state requirements or Nuclear Regulatory Commission requirements. A preceptor authorized user who meets the requirements in Subparagraph E.1.b of this Section shall also have experience in administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[b] of this Section.

4. Training for the Parenteral Administration of Unsealed Byproduct Material Requiring a Written Directive. Except as provided in Subsection B of this Section, the licensee shall require an authorized user for the parenteral administration requiring a written directive to be a physician:

a. who is an authorized user in accordance with Paragraph E.1 of this Section for uses listed in Subdivision E.1.b.i.(b).(vii).[c] or [d] of this Section, or equivalent agreement state requirements or Nuclear Regulatory Commission requirements; or

b. who is an authorized user in accordance with Subsection F or I of this Section, or equivalent agreement state requirements, Nuclear Regulatory Commission requirements, and who meets the requirements in Subparagraph E.4.d of this Section; or

c. who is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state in accordance with Subsection F or I of this Section, and who meets the requirements in Subparagraph E.4.d of this Section; or

d. – d.i.(e). ...

ii. has work experience, under the supervision of an authorized user who meets the requirements in Subsection B or Paragraph E.1 or 4 of this Section, or equivalent agreement state requirements, or Nuclear Regulatory Commission requirements in the parenteral administration, for which a written directive is required, of any beta emitter, or any photon-emitting radionuclide with a photon energy less than 150 keV, and/or parenteral administration of any other radionuclide for which a written directive is required. A supervising authorized user who meets the requirements in Paragraph E.1 of this Section shall have experience in administering dosages as specified in Subdivisions E.1.b.i.(b).(vii).[c] and/or [d] of this Section. The work experience shall involve:

(a). – (f). ...

iii. has obtained written attestation that the individual has satisfactorily completed the requirements in

Subparagraph E.4.b or c of this Section, and has achieved a level of competency sufficient to function independently as an authorized user for the parenteral administration of unsealed byproduct material requiring a written directive. The written attestation shall be signed by a preceptor authorized user who meets the requirements in Subsection B or Paragraph E.1 or 4 of this Section, or equivalent agreement state requirements or Nuclear Regulatory Commission requirements. A preceptor authorized user who meets the requirements in Paragraph E.1 of this Section shall have experience in administering dosages as specified in Subdivisions E.1.b.i.(b).(vii).[c] and/or [d] of this Section.

F. ...

1. who is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Subparagraph F.2.c of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

1.a. – 2.a.i.(d). ...

ii. 500 hours of work experience under the supervision of an authorized user who meets the requirements in this Subsection, Subsection B of this Section or equivalent agreement state requirements or Nuclear Regulatory Commission requirements at a medical institution, involving:

(a). – (f). ...

b. has completed three years of supervised clinical experience in radiation oncology under the supervision of an authorized user who meets the requirements in this Subsection, Subsection B of this Section or equivalent agreement state requirements, or Nuclear Regulatory Commission requirements as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required in Subparagraph F.2.a.ii of this Section; and

c. has obtained written attestation, signed by a preceptor authorized user who meets the requirements in this Subsection, Subsection B of this Section or equivalent agreement state requirements, or Nuclear Regulatory Commission requirements that the individual has satisfactorily completed the requirements in Subparagraph F.1.a, or Paragraph F.2.a and b of this Section, and has achieved a level of competency sufficient to function independently as an authorized user of manual brachytherapy sources for the medical uses authorized in LAC 33:XV.741.

G. ...

1. who is an authorized user in accordance with Subsection F of this Section, or equivalent agreement state requirements or Nuclear Regulatory Commission requirements; or

2. – 2.b.iv. ...



c. has obtained written attestation, signed by a preceptor authorized user who meets the requirements in Subsections B or F and G of this Section, or equivalent agreement state requirements, or Nuclear Regulatory Commission requirements that the individual has satisfactorily completed the requirements in Paragraphs G.1 and 2 of this Section and has achieved a level of competency sufficient to function independently as an authorized user of strontium-90 for ophthalmic use.

H. ...

1. who is certified by a specialty board whose certification process includes all of the requirements in Paragraphs H.2 and 3 of this Section and whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.); or

H.2. – I. ...

1. who is certified by a medical specialty board whose certification process has been recognized by the commission or an agreement state, and who meets the requirements in Subparagraph I.2.c and Paragraph I.3 of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

1.a. – 2.a.i.(d). ...

ii. 500 hours of work experience under the supervision of an authorized user who meets the requirements in this Subsection, or Subsection B of this Section or equivalent agreement state requirements or Nuclear Regulatory Commission requirements at a medical institution, involving:

(a). – (f). ...

b. has completed three years of supervised clinical experience in radiation therapy under the supervision of an authorized user who meets the requirements in this Subsection, or Subsection B of this Section or equivalent agreement state requirements, or Nuclear Regulatory Commission requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required in Clause I.2.a.ii of this Section; and

c. has obtained written attestation that the individual has satisfactorily completed the requirements in Subparagraph I.1.a or Subparagraphs I.2.a and b and Paragraph I.3 of this Section, and has achieved a level of competency sufficient to function independently as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be signed by a preceptor authorized user who meets the requirements in this Subsection or Subsection B of this Section or equivalent agreement state requirements or Nuclear Regulatory Commission requirements for an authorized user for each

type of therapeutic medical unit for which the individual is requesting authorized user status; and

I.3. – J. ...

1. who is certified by a specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Subparagraph J.2.b and Paragraph J.3 of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

a. – b.i. ...

ii. in a clinical radiation facility providing high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services under the direction of a physician who meets the requirements for an authorized user in Subsection B, F or I of this Section; and

1.c. – 2.a.iv. ...

b. has obtained written attestation that the individual has satisfactorily completed the requirements in Subparagraphs J.1.a and b and Paragraph J.3, or Subparagraph J.2.a and Paragraph J.3, of this Section, and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation must be signed by a preceptor authorized medical physicist who meets the requirements in this Subsection, Subsection B of this Section or equivalent agreement state requirements or Nuclear Regulatory Commission requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status; and

J.3. – K. ...

1. who is certified by a specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Subparagraph K.2.b of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

1.a. – 2.b....

L. Reserved.

M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq and 2104.B.1.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1186 (June 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:814 (May 2006), LR 34:983 (June 2008), LR 34:2121 (October 2008), LR 36:1772 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2748 (November 2012), LR 40:



### 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.

### Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP056ft. Such comments must be received no later than May 29, 2014, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP056ft. This regulation is available on the Internet at [www.deq.louisiana.gov/portal/tabid/1669/default.aspx](http://www.deq.louisiana.gov/portal/tabid/1669/default.aspx).

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

### Public Hearing

A public hearing will be held on May 29, 2014, 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 and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Herman Robinson, CPM  
Executive Counsel

1404#040

## NOTICE OF INTENT

### Department of Health and Hospitals Behavior Analyst Board

#### Application Procedures and Board Fees (LAC 46:VIII.Chapter 3)

Act 351 of the 2013 Legislative Session created the Louisiana Behavior Analyst Board. Act 351 mandates licensure of behavior analysts, state certification of assistant behavior analysts and registration of line technicians performing applied behavior analysis services in Louisiana. In accordance with R.S. 49:95 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Behavior Analyst Board is creating a

new Rule, LAC 46:VIII.Chapter 3, Application Procedures and Board Fees. This proposed Rule provides a procedure to collect applications for the licensure of behavior analysts, certification of assistant behavior analysts and registration of line technicians. This Rule also requires licensing and administrative fees for regulation under the Behavior Analyst Board.

### Title 46

## PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part VIII. Behavior Analysts

#### Chapter 3. Application Procedures and Board Fees

##### §301. Application Procedures for Licensure/State Certification/Registration

###### A. Application and/or Registration

1. An application for a license as a behavior analyst, state certified assistant behavior analyst or registration as a line technician may be submitted after the requirements in R.S. 37:3706-37:3708 are met.

2. Upon submission of application or registration on the forms provided by the board, accompanied by such fee determined by the board, the applicant must attest and acknowledge that the:

- a. information provided to the board is true, correct and complete to the best of his knowledge and belief; and
- b. the board reserves the right to deny an application in accordance with R.S. 37:3706-R.S. 37:3708, if the application or any application materials submitted for consideration contain misrepresentations or falsifications.

3. An applicant, who is denied licensure based on the information submitted to the board, may reapply to the board after one year, and having completed additional training, if necessary and having met the requirements of law as defined in the rules and regulations adopted by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:

##### §302. Licensure of Behavior Analysts

###### A. The applicant for licensure as a behavior analyst shall:

1. submit notarized application along with appropriate fee pursuant to Section 305;
2. provide proof of a masters degree by requesting official transcripts from accredited university;
3. submit verification of successful passage of a national exam administered by a nonprofit organization accredited by the National Commission for Certifying Agencies and the American National Standards Institute to credential professional practitioners of behavior analysis related to the principles and practice of the profession of behavior analysis that is approved by the board.
4. take and successfully pass the Louisiana jurisprudence exam issued by the board;
5. complete a criminal background check as approved by the board; and
6. provide proof of good moral character as approved by the board

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:

**§303. Certification of State Certified Assistant Behavior Analysts.**

A. The applicant for certification as a state certified assistant behavior analyst should:

1. submit notarized application along with appropriate fee pursuant to Section 305;
2. provide proof of a bachelors degree by requesting official transcripts from accredited university;
3. submit verification of successful passage of a national exam administered by a nonprofit organization accredited by the National Commission for Certifying Agencies and the American National Standards Institute to credential professional practitioners of behavior analysis related to the principles and practice of the profession of behavior analysis that is approved by the board;
4. take and successfully pass the Louisiana jurisprudence exam issued by the board;
5. complete a criminal background check approved by the board;
6. provide proof of good moral character as approved by the board; and
7. provide proof of supervision by a Louisiana licensed behavior analyst on the form required by the board. If there is more than one supervisor, a form must be submitted for each supervisor.

B. If the supervision relationship between a Louisiana licensed behavior analyst and state certified assistant behavior analyst ends, both parties are responsible for notifying the board in writing, within 10 calendar days of the termination of the arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3707.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:

**§304. Registration of Line Technicians**

A. A Louisiana licensed behavior analyst must register with the board all line technicians functioning under their authority and direction. It is the responsibility of both the licensed behavior analyst and line technician to submit registration paperwork for each supervisory relationship. The registration must be completed on the form provided by the board along with payment of the appropriate fee pursuant to Section 305.

B. A line technician must complete a criminal background check approved by the board.

C. If the supervision relationship between a Louisiana licensed behavior analyst and line technician ends, both parties are responsible for notifying the board in writing, within 10 calendar days of the termination of the arrangement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:

**§305. Licensing and Administrative Fees**

A. Licensing Fees

Licensing and Administrative Fees	
Application for Licensed Behavior Analyst	\$400
Application for State Certified Assistant Behavior Analyst	\$250
Registration for Line Technicians	\$ 50
Temporary Licensure	\$125
Annual Renewal – Behavior Analyst	\$400
Annual Renewal - Assistant Behavior Analyst	\$250

Licensing and Administrative Fees	
Annual Renewal - Line Technicians	\$ 50
Jurisprudence Examination	\$ 75
Criminal Background Check	\$ 50

B. Administrative Fees

Administrative Fees	
Late fees	\$50
Duplicate copy of license	\$15
Official Name Change on License	\$25
License Verification	\$15
Insufficient Check Fee	\$15
Copies of documents	\$2/page

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3714.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:

**Family Impact Statement**

The Behavior Analyst Board hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule and adoption of the Rule related to application procedures and fees is being implemented to guarantee the licensing authority can safeguard the public welfare of this state and will have no known foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personality responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

The proposed Rule creates a new Rule, LAC 46:VIII.Chapter 3. The 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.

**Public Comments**

Interested persons may submit written comments to Kelly Parker, Executive Director, 8706 Jefferson Highway, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 12 noon on May 12, 2014.

Kelly Parker  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Application Procedures and Board Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule codifies and establishes requirements enacted by Act 351 of the 2013 Legislative Session, effective

August 1, 2013. Act 351 created the Louisiana Behavior Analyst Board and allowed for the establishment of licensure, certification, registration, continuing education and practice requirements of behavior analysts, certified assistant behavior analysts and line technicians. The estimated implementation cost for this rule totals approximately \$275 in FY 14. Those costs are related to publishing the proposed and final rule in the *Louisiana Register*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule creates application procedures of licensed behavior analysts and codifies fees for licensed behavior analysts, state certified assistant behavior analysts and registration of line technicians as established in Act 351. The fee schedule for licensure, renewal, examination, and administrative fees is projected to generate revenues of approximately \$25,125 SGR annually based on the current practicing population of 40 licensed behavior analysts, 5 assistant behavior analysts and 100 line technicians.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This new rule will provide procedures for qualified individuals to become licensed, certified or registered. It also requires qualified candidates to be subject to the appropriate fees found in Section 305 of the new rule. Individuals practicing in the behavioral analysis field will realize additional costs associated with licensure, certification or registration, continuing education, criminal background checks and various administrative fees. Licensure and certification may provide economic benefits to individuals practicing in the field of behavioral analysis to the degree that such licensure bolsters public confidence in the area of practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Individuals and businesses performing behavioral analysis services will require licensure, certification or registration pursuant to Act 351 of the 2013 Legislative Session. Individuals failing to acquire proper licensure may be unable to work in the field of behavioral analysis. The impact on competition and employment statewide is unknown.

Kelly Parker  
Executive Director  
1404#015

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Behavior Analyst Board**

**Disciplinary Action (LAC 46:VIII.Chapter 6)**

In accordance with R.S. 49:95 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Health and Hospitals, Behavior Analyst Board is creating a new Rule, LAC 46:VIII.Chapter 6, Rules for Disciplinary Action. This proposed Rule provides a procedure to collect complaints, conduct investigations and disciplinary hearings for those licensed, certified and registered with the Behavior Analyst Board.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part VIII. Behavior Analysts**

**Chapter 6. Rules for Disciplinary Action**

**§601. Applicability; Confidentiality**

A. These rules shall be applicable to any action of the Louisiana Behavior Analyst Board to withhold, deny, revoke or suspend any behavior analysts license on any of the grounds set forth in R.S. 37:3704 or under any other applicable law, regulation or rule, when such action arises from a complaint as defined in this Section.

B. Unless otherwise provided by law, the board may delegate its authority and responsibility under these rules to a committee of one or more board members, to a hearing officer, or to other persons.

C. A complaint remains confidential and may only be released to the public if the licensee is found guilty of a violation of a provision of the agreement or subsequent violation of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3704.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:

**§602. Complaints**

A. A complaint is defined as the receipt of any information by the board indicating that there may be grounds for disciplinary action against a behavior analyst, or any other individual working under a behavior analyst's legal functioning authority, under the provisions of 37:3712, or other applicable law, regulation or rule.

B. Upon receipt of a complaint, the board may initiate and take such action, as it deems appropriate.

C. Complaints may be initiated by any person or by the board on its own initiative.

D. Upon receipt of complaints from other persons, the board will make available the required investigation form(s) to said person(s). Ordinarily, the board will not take additional action until the form is satisfactorily completed.

1. Except under unusual circumstances, the board will take no action on anonymous complaints.

2. If the information furnished in the request for investigation form is not sufficient, the board may request additional information before further considering the complaint.

E. The investigation form(s) shall be addressed confidential to the complaints committee of the board and sent to the board office.

F. All complaints received shall be assigned a sequentially ordered complaint number, which shall be utilized in all official references.

G. The board's complaints coordinator shall determine whether the complaint warrants further investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3704 and R.S. 37:3712.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:

**§603. Investigation**

A. If the complaint’s coordinator determines that a complaint warrants further investigation, the board’s complaint’s coordinator shall notify the licensee or applicant against whom the complaint has been made (hereinafter referred to as “respondent”) by certified mail. The notice to the respondent shall include the following:

1. notice that a complaint has been filed;
2. a statement of the nature of the complaint;
3. a reference to the particular sections of the statutes, rules or ethical standards that may be involved;
4. copies of the applicable laws, rules and regulations of the board; and
5. a request for cooperation in obtaining a full understanding of the circumstances.

B. The respondent shall provide the board, within 30 days, a written statement giving the respondent’s view of the circumstances, which are the subject of the complaint. If the respondent refuses to reply to the board’s inquiry or cooperate with the board, the board shall continue its investigation.

C. The board may conduct such other investigation, as it deems appropriate.

D. During the investigation phase, the board may communicate with the complainant and with the respondent in an effort to seek a resolution of the complaint satisfactory to the board without the necessity of a formal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3704 and R.S. 37:3712.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:

**§604. Formal Hearing**

A. The purpose of a formal hearing is to determine contested issues of law and fact; whether the person did certain acts or omissions and, if he/she did, whether those acts or omissions violated the Louisiana Behavior Analyst Licensing Act, the rules and regulations of the board, the code of ethics of the behavior analysts, or prior final decisions and/or consent orders involving the licensed behavior analyst or applicant for licensure and to determine the appropriate disciplinary action.

B. If, after completion of its investigation, the board determines that the circumstances may warrant the withholding, denial, revocation or suspension of a behavior analyst’s license or assistant’s certificate, the board shall initiate a formal hearing.

C. The formal hearing shall be conducted in accordance with the adjudication procedures set forth in the Louisiana Administrative Procedure Act.

D. Upon completion of the adjudication hearing procedures set forth in the Louisiana Administrative Procedure Act, the board shall take such action, as it deems appropriate on the record of the proceeding. Disciplinary action under R.S. 37:3712 requires the affirmative vote of at least four of the members of the board.

E. The form of the decision and order, application for rehearing and judicial review shall be governed by the provisions of the Louisiana Administrative Procedure Act.

F. The board shall have the authority at anytime to determine that a formal hearing should be initiated immediately on any complaint. The complaint and investigation procedures set forth above shall not create any

due process rights for a respondent who shall be entitled only to the due process provided under the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3704 and R.S.37:3712.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:

**§605. Withdrawal of a Complaint**

A. If the complainant wishes to withdraw the complaint, the inquiry is terminated, except in cases where the board’s complaints coordinator judges the issues to be of such importance as to warrant completing the investigation in its own right and in the interest of public safety and welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3704 and R.S. 37:3712.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analyst Board, LR 40:

**Family Impact Statement**

The Behavior Analyst Board hereby issues this Family Impact Statement as set forth in R.S. 49:972. The proposed Rule and adoption of the Rule related to disciplinary actions is being implemented to guarantee the licensing authority can safeguard the public welfare of this state and will have no known foreseeable impact on the stability of the family; authority and rights of parents regarding the education and supervision of their children; functioning of the family; family earnings and family budget; behavior and personality responsibility of children; or the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

The proposed Rule creates a new Rule, LAC 46:VIII. Chapter 6. The 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.

**Public Comments**

Interested persons may submit written comments to Kelly Parker, Executive Director, 8706 Jefferson Highway, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 12 noon on May 12, 2014.

Kelly Parker  
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Disciplinary Action**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule codifies and establishes disciplinary rules enacted under the authority of Act 351 of the 2013 Legislative Session. Act 351 created the Louisiana Behavior

Analyst Board and granted authority to accept complaints, conduct investigations and hold disciplinary hearings of all persons licensed or certified under the Act.

The Board will contract with a state licensed investigator to conduct the investigations. The Board will also contract with a presiding officer and prosecuting attorney for all disciplinary matters. These positions will incur indeterminable costs driven by the level of disciplinary actions that may be required by the Board. The Board will realize a one-time cost of approximately \$500 for publishing the proposed and final rule in the *Louisiana Register*. There are no estimated costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This new rule will provide guidelines for accepting complaints and conducting investigations and disciplinary hearings in the best interest of public protection and welfare. To the degree that investigations and disciplinary hearings promote competent service delivery by the applied behavior analysis industry, both practitioners and the public may realize indeterminable economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not estimated to have an effect on competition and employment.

Kelly Parker  
Executive Director  
1404#016

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

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

Medical Transportation Program  
Emergency Ambulance Services  
Reimbursement Rate Reduction  
(LAC 50:XXVII.325 and 353)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XXVII.325 and §353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Due to a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 38, Number 7). The provisions of the July 1, 2012 Emergency Rule were finalized in May 2013 (*Louisiana Register*, Volume 39, Number 5). In anticipation of a budgetary shortfall in state fiscal year 2013 as a result of the reduction in the state's disaster recovery federal medical assistance percentage (FMAP) rate, the department promulgated a subsequent Emergency Rule which amended the provisions governing emergency medical transportation services to further reduce the reimbursement rates (*Louisiana Register*,

Volume 38, Number 8). This proposed Rule is being promulgated to continue the provisions of the August 1, 2012 Emergency Rule.

## Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part XXVII. Medical Transportation Program

#### Chapter 3. Emergency Medical Transportation

#### Subchapter B. Ground Transportation

#### §325. Reimbursement

A. - I. ...

J. Effective for dates of service on or after August 1, 2012, the reimbursement rates for emergency ambulance transportation services shall be reduced by five percent of the rates on file as of July 31, 2012.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:878 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1248 (June 2010), LR 36:2564 (November 2010), LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:

#### Subchapter C. Aircraft Transportation

#### §353. Reimbursement

A. - G. ...

H. Effective for dates of service on or after August 1, 2012, the reimbursement rates for fixed winged and rotor winged emergency air ambulance services shall be reduced by five percent of the rates on file as of July 31, 2012.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2594 (November 2010), LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:

#### Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule may have an adverse impact on family functioning, stability and autonomy as described in R.S. 49:972 in the event that provider participation in the Medicaid Program is diminished as a result of reduced reimbursement rates.

#### Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have an adverse impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 in the event that health care assistance is reduced as a result of diminished provider participation.

#### Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

## Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, May 28, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Medical Transportation Program Emergency Ambulance Services Reimbursement Rate Reduction

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will result in estimated state general fund savings of approximately \$399,243 for FY 13-14, \$421,385 for FY 14-15 and \$434,141 for FY 15-16. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 13-14 for the state's administrative expense for promulgation of this proposed Rule and the Final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will reduce federal revenue collections by approximately \$678,741 for FY 13-14, \$689,277 for FY 14-15 and \$709,841 for FY 15-16. It is anticipated that \$164 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed Rule and the Final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15. The enhanced rate of 62.11 percent for the last nine months of FY 14 is the federal rate for disaster-recovery FMAP adjustment states.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the August 1, 2012 Emergency Rule which amended the provisions governing emergency medical transportation services to reduce the reimbursement rates. It is anticipated that implementation of this proposed Rule will reduce Medicaid Program expenditures by approximately \$1,078,312 for FY 13-14, \$1,110,662 for FY 14-15 and \$1,143,982 for FY 15-16.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed Rule will not have an effect on competition. However, we anticipate that the implementation may have a negative effect on employment as it will reduce the reimbursement rates paid for emergency medical transportation services. The reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

J. Ruth Kennedy  
Medicaid Director  
1404#075

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

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

Nursing Facilities  
Specialized Care Reimbursement  
Sub-Acute Care  
(LAC 50:II.20027)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:II.20027 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.

In compliance with Acts 848 and 824, the department amended the provisions governing the reimbursement methodology for nursing facilities to allow for a quarterly adjustment of individual nursing facility rates based on overall case mix and to allow for the offset of installation costs for automatic fire sprinkler systems and two-hour rated walls in Medicaid-certified nursing facilities (*Louisiana Register*; Volume 32, Number 12).

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities in order to redefine and clarify the provisions governing cost reports and to adopt provisions governing specialized care reimbursements (*Louisiana Register*; Volume 40, Number 3).

The department now proposes to amend the provisions governing specialized care reimbursements to nursing facilities in order to establish reimbursement for sub-acute care provided to Medicaid recipients who are still in need of specialized care after being discharged from an acute care hospital or a long-term acute care facility.

#### Title 50

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part II. Nursing Facilities

#### Subpart 5. Reimbursement

### Chapter 200. Reimbursement Methodology §20027. Specialized Care Reimbursement

A. - B.3. ...

4. For dates of service on or after August 1, 2014, sub-acute care costs will be included in the calculation of the case-mix nursing facility reimbursement rates and the direct care and care-related floor calculation, as described under §20005 of this Chapter, for Medicaid recipients discharged from an acute care hospital or long-term acute care facility who are in need of specialized care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:541 (March 2014), amended LR 40:

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

**Family Impact Statement**

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

**Poverty Impact Statement**

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

**Public Comments**

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

**Public Hearing**

A public hearing on this proposed Rule is scheduled for Wednesday, May 28, 2014 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert  
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

**RULE TITLE: Nursing Facilities**

**Specialized Care Reimbursement—Sub-Acute Care**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 13-14, but will result in estimated state general fund programmatic savings of \$300,000 for FY 14-15 and \$337,180 for FY 15-16. It is anticipated that \$246 (\$123 SGF and \$123 FED) will be expended in FY 13-14 for the state’s administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15.

**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 other than the federal share of the promulgation costs for FY 13-14, but will reduce federal revenue collections by approximately \$490,722 for FY 13-14 and \$551,304 for FY 15-16. It is anticipated that \$123 will be expended in FY 13-14 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 61.48 percent in FY 14-15.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

This proposed Rule amends the provisions governing specialized care reimbursements to nursing facilities in order to establish reimbursement for sub-acute care provided to Medicaid recipients who are still in need of specialized care after being discharged from an acute care hospital or a long-term acute care facility. It is anticipated that implementation of this proposed rule will reduce Medicaid program expenditures by approximately \$790,722 for FY 14-15 and \$888,484 for FY 15-16.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy  
Medicaid Director  
1404#076

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

**Application and Reporting Forms (LAC 42:III.120)**

The Louisiana Gaming Control Board hereby gives notice that, pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:III.120.

**Title 42**

**LOUISIANA GAMING**

**Part III. GAMING CONTROL BOARD**

**Chapter 1. General Provisions**

**§120. Application and Reporting Forms**

A. - A.3.u. ...

v. Video Draw Poker Associated Business Entity Form, DPSSP 6504;

**LOUISIANA GAMING CONTROL BOARD  
DEPARTMENT OF PUBLIC SAFETY AND  
CORRECTIONS  
OFFICE OF STATE POLICE  
GAMING ENFORCEMENT DIVISION  
(BOX A-28)  
7919 INDEPENDENCE BOULEVARD  
BATON ROUGE, LA 70806**



**VIDEO DRAW POKER ASSOCIATED BUSINESS ENTITY FORM**

(MUST BE TYPED)

This form must be completed for each business entity associated with a Licensee or an Applicant for a Video Draw Poker Gaming License. This form should not be completed by a Licensee, Applicant for a Video Draw Poker Gaming License or a business operated as a sole proprietorship.

Legal Name of Business Entity		
d/b/a (if applicable)		
Federal Tax ID No.	State Tax ID No.	Business Telephone No. ( ) -
Physical Address (Street or Hwy.) _____ _____ City State Zip		Official Mailing Address for Receiving Official Correspondence <u>All Information Must be Kept Current</u> (Street or P.O. Box) _____ _____ City State Zip

Contact Person for Business Entity & Title/Position Held	Contact's Email Address	Contact's Telephone No. ( ) -
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1. Business structure of the entity (i.e., Corporation, Partnership, Limited Liability Company, Joint Venture, Trust, etc.). If Corporation, indicate type (i.e. Publicly Held, Sub-Chapter S, etc.). **Attach** articles of incorporation, articles of organization, partnership agreement, joint venture agreement or trust agreement, as well as any bylaws or operating agreement and the most recent annual report.

2. Attach a list of all owners of the entity with ownership percentages totaling 100%.

3. Attach a list of all management personnel of the entity with his/her title/position.

**4. STATE AND FEDERAL TAX FILING AND PAYMENT CERTIFICATION**

1. By initialing I am hereby certifying that the entity is current in the filing and payment of all Louisiana taxes and returns owed to the Louisiana Department of Revenue (LDR) and complies with the tax requirements found in LAC 42:XI 2405 (B)(1)(a) and (b).	Initials
2. By initialing I am hereby certifying that the entity is current in the filing and payment of all Federal taxes and returns owed to the Internal Revenue Service (IRS) and complies with the requirements found in LAC 42:XI 2405 (B)(1)(a) and (b).	Initials

DPSSP 6504 (R 01/2014) 1 Entity Certification of Review \_\_\_\_\_  
Initials Date

**SIGNATURE OF INDIVIDUAL FURNISHING DISCLOSURE INFORMATION**

I, \_\_\_\_\_, being duly sworn, depose and say that I am duly authorized to act on behalf of and bind the entity and, that on behalf of the entity, I have read the foregoing form, and hereby represent and warrant that the statements and responses provided herein are true and correct to the best of my knowledge, information, and belief, and represent a complete and accurate account of the requested information. In addition, I have read, understand and agree, on behalf of the entity to comply with the statutes which govern video draw poker gaming that are contained within La. R.S. 27:1 et seq., as well as the corresponding regulations contained within L.A.C. 42:III.101 et seq., and L.A.C. 42 XI.2401 et seq. Furthermore, I have executed this statement voluntarily with the knowledge that any failure to provide the correct information is cause for the denial of any original or renewal application or the revocation of any license, permit or other certification or approval issued or granted by the State of Louisiana, and that the making of any false statement is a violation of La. R.S. 27:440(A) and is punishable by up to ten (10) years in prison or a fine of up to ten thousand dollars (\$10,000.00) or both.

Name of Business Entity (Print or Type) \_\_\_\_\_  
Name of Authorized Individual (Print or Type) Position \_\_\_\_\_

Signature of Authorized Individual \_\_\_\_\_

**SIGNATURE OF PREPARER:**

I, \_\_\_\_\_, being duly sworn, depose and say that I am the person who prepared the form on behalf of the entity, that the statements and responses provided herein of which I have knowledge are true and correct to the best of my knowledge, information, and belief, and represent a complete and accurate account of the requested information, and that any statements or responses of which I do not have knowledge represent a complete and accurate account of the information provided by the entity. In addition, I have read and understand the statutes which govern video draw poker gaming that are contained within La. R.S. 27:1 et seq., as well as the corresponding regulations contained within L.A.C. 42:III.101 et seq., and L.A.C. 42: XI.2401 et seq. Furthermore, I have executed this statement voluntarily with the knowledge that any failure to provide the correct information is cause for the denial of any original or renewal application or the revocation of any license, permit or other certification or approval issued or granted by the state of Louisiana, and that the making of any false statement is a violation of La. R.S. 27:440(A) and is punishable by up to ten (10) years in prison or a fine of up to ten thousand dollars (\$10,000.00) or both.

\_\_\_\_\_  
Name of Preparer (Print or Type) Signature of Preparer

**NOTARY PUBLIC: Sworn to and subscribed before me, the undersigned Notary Public, in**

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
(City) (County/Parish) (State)

on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Name of Notary Public and Notary or Bar Roll Number (Print/Type) Signature of Notary Public

My Commission Expires: \_\_\_\_\_

DPSSP 6504 (R 01/2014) 2 Entity Certification of Review \_\_\_\_\_  
Initials Date

A.4. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR. 26:340 (February 2000), amended LR 40:

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.120.A.3.

It is accordingly concluded that amending LAC 42:III.120.A.3 would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.120.A.3.

It is accordingly concluded that amending LAC 42:III.120.A.3 would appear to have no impact on the following:

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 Statement**

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if



LAC 42:III.120.A.3 is amended as the change will not apply to small businesses.

**Public Comments**

All interested persons may submit comments relative to this proposed Rule, through May 10, 2014, to Earl Pitre, Jr., Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Application and Reporting Forms**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. The proposed rule change will require State Police assigned to the Gaming Enforcement Division to be aware of changes as a result of a licensee or applicant completing the Video Draw Poker Associated Business Entity Form. The new form is for business entities to submit with their business documents rather than the video gaming application that contains the personal information of owners, members, officers, directors, and managers even though these persons are not applying for a license.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will not impact revenue collections of state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will have no effect on costs or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition or employment.

Ronnie Jones  
Chairman  
1404#059

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

Certification (LAC 42:III.2117 and 2325)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24 it intends to amend LAC 42:III.2117 and LAC 42:III.2325.H.

**Title 42**

**LOUISIANA GAMING**

**Part III. Gaming Control Board**

**Chapter 21. Licenses and Permits**

**§2117. Certification Required, Riverboat Only**

A. Before any riverboat may be operated or may continue to operate under the authority of the Act, the applicant or, if the application has been approved, the

licensee, shall provide to the division evidence that the riverboat has a valid certificate of inspection from the United States Coast Guard for carriage of passengers on navigable rivers, lakes, and bayous as provided by the Act and for the carriage of a minimum total of 600 passengers and crew or, if the riverboat is a non-certificated vessel as defined in R.S. 27:44, evidence that the riverboat has a valid certificate of compliance issued by the board based on the recommendation of an approved third-party inspector.

B. The sole inspection standard for non-certificated vessels is the guide for alternative inspection of riverboat gaming vessels as adopted and amended by the board.

C. A non-certificated vessel shall be inspected by the third-party inspector annually in accordance with R.S. 27:44.1. Non-compliant items identified by the third-party inspector will be remedied within the time period given. Failure to remedy any discrepancy timely shall be reported to the division by the third-party inspector and may result in sanctions including a civil penalty.

D. A non-certificated vessel shall be inspected quarterly by the licensee. The results of the inspection will be documented and made available to the division.

E. The licensee shall submit a copy of all required certificates of compliance to the Senate Committee on Judiciary Section "B" and the House Committee on the Administration of Criminal Justice of the Louisiana Legislature within 25 days of receiving the certificate from the board. The licensee shall provide proof to the board of compliance with this Subsection. Failure to timely submit a certificate of compliance shall result in a civil penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1612 (July 2012), amended LR 40:

**Chapter 23. Compliance, Inspections and Investigations**

Editor's Note: The information for this Chapter was consolidated from corresponding Chapters in Parts VII, IX, and XIII prior to their being repealed.

**§2325. Administrative Actions and Penalty Schedule**

- A. - G. ...
- H. Penalty Schedule

Section Reference	Description	Base Penalty	Proscriptive Period (Months)
<b>Louisiana Administrative Code, Title 42, Part III</b>			
<b>Chapter 21. Licenses and Permits</b>			
* * *			
2117. E	Certification Required, Riverboat Only	\$2,500	24
* * *			

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:1620 (July 2012), amended LR 40:

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.2117 and LAC 42:III.2325.H.

It is accordingly concluded that amending LAC 42:III.2117 and LAC 42:III.2325.H would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.2117 and LAC 42:III.2325.H.

It is accordingly concluded that amending LAC 42:III.2117 and LAC 42:III.2325.H would appear to have no impact on the following:

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.

#### **Public Comments**

All interested persons may submit comments relative to this proposed Rule, through May 10, 2014, to Earl Pitre, Jr., Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Certification**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. The proposed rule change mandates that riverboat gaming vessels submit all required certificates of compliance to Senate Judiciary B Committee and House Committee on the Administration of Criminal Justice and adds a penalty for failure to submit certificates timely.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)  
The proposed rule change may result in an increase of state revenue collections if riverboat gaming vessels fail to submit certificates of compliance on time. The penalty for failure to submit certificates of compliance timely is \$2,500.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)  
The proposed rule change will only affect those riverboat licensees who are found to be in violation of the proposed rule

and against whom the penalty is imposed. The rule change proposes a penalty on riverboat licensees for failing to timely submit the certificates of compliance in the amount of \$2,500 and a proscriptive period of 24 months.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1404#054

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of Public Safety and Corrections Gaming Control Board**

Electronic Submission of Documents (LAC 42:III.401)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24 it intends to amend LAC 42:III.401.C.

#### **Title 42**

#### **LOUISIANA GAMING**

#### **Part III. Gaming Control Board**

#### **Chapter 4. Electronic Submission of Documents**

#### **§401. General**

A. - B. ...

C. When submitted electronically, any document otherwise required to be subscribed or acknowledged before a notary public shall include an online certification in accordance with R.S. 9:2621 in lieu of the notarized sworn subscription or acknowledgement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 38:2934 (November 2012), amended LR 40:

#### **Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:III.401.C.

It is accordingly concluded that amending LAC 42:III.401.C would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed rule.

#### **Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:III.401.C.

It is accordingly concluded that amending LAC 42:III.401.C would appear to have no impact on the following:

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

Video Draw Poker—Application and Licensure  
(LAC 42:XI.2405)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24 it intends to amend LAC 42:XI.2405.B.1.b.

**Title 42**

**LOUISIANA GAMING**

**Part XI. Video Poker**

**Chapter 24. Video Draw Poker**

**§2405. Application and License**

A.1. - B.1.a ...

b. All applicants for a license and licensees shall be current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to all appropriate local taxing authorities; and the state of Louisiana, excluding contested amounts pursuant to applicable statutes, and excluding items for which the Department of Revenue and Taxation or the appropriate local taxing authority has accepted a payment schedule of back taxes.

B.2. - D.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 29:362 (March 2003), LR 30:267 (February 2004), repromulgated LR 30:439 (March 2004), amended LR 34:1037 (June 2008), LR 35:82 (January 2009), repromulgated LR 35:490 (March 2009), amended LR 36:2045 (September 2010), LR 38:2935 (November 2012), LR 40:

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:XI.2405.B.1.b.

It is accordingly concluded that amending LAC 42:XI.2405.B.1.b would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:XI.2405.B.1.b.

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 Statement**

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small businesses if LAC 42:III.401.C is amended as the change will not apply to small businesses.

**Public Comments**

All interested persons may submit comments relative to this proposed Rule, through May 10, 2014, to Earl Pitre, Jr., Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third Street, 5th Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Electronic Submission of Documents**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. The proposed rule change reflects current law as a result of Act 176 of the 2013 Regular Legislative Session. Act 176 states that when a governmental agency offers online applications through an internet interface for any license or permit and the particular law for such license or permit requires a sworn application for such license or permit, the governmental agency may accept an online certification for the applicant in lieu of the sworn application. While the Gaming Control Board does not accept online applications with an electronic signature in lieu of notarization, the rule regarding online applications matches current law.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will not impact revenue collections for state or local governmental units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will have the potential of reducing the costs associated with applying for and renewing a video draw poker gaming license or permit by submitting an online certification in lieu of mailing the notarized documents.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1404#056

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

Video Draw Poker—Maintenance and Penalty Schedule  
(LAC 42:XI.2413 and 2424)

The Louisiana Gaming Control Board hereby gives notice that pursuant to R.S. 27:15 and R.S. 27:24 it intends to amend LAC 42:XI.2413.E and LAC 42:XI.2424.B.

**Title 42**

**LOUISIANA GAMING**

**Part XI. Video Poker**

**Chapter 24. Video Draw Poker**

**§2413. Devices**

A. - D.3. ...

E. Maintenance

1. Only certified technicians may access the interior of an enrolled and enabled video gaming device. Access includes routine maintenance, repairs or replacement of parts, paper, etc.

2. A certified technician level 1 and certified technician level 2 shall only be employed by an entity that is licensed by the division.

3. A certified technician level 2 must be certified by the manufacturer for the specific devices he works on.

4. Access of video draw poker devices by certified technicians, levels 1 and 2, must be authorized in writing by the device owner prior to accessing any device.

5. A device owner who authorizes a certified technician to access the device owner's video draw poker gaming device(s) is responsible for any actions by the certified technician that would constitute a violation of these regulations or the Act.

6. Access to any video draw poker gaming device by an unauthorized certified technician or by an individual who does not possess a current and valid certified technician permit, whether or not access by the uncertified individual was authorized by the device owner, is a violation of these regulations and the Act. The device owner shall be responsible for such violation. In addition, the device owner shall be responsible for any actions by an unauthorized certified technician or an uncertified individual who accesses the video draw poker gaming device(s) that would constitute a violation of these regulations or the Act.

7. All device owners shall maintain a current, written maintenance log for each video draw poker gaming device operating within a licensed establishment, on a form approved by the division, for the purpose of keeping records of routine maintenance and repairs. All log entries shall contain the following information:

a. time and date of access of the video draw poker gaming device;

b. reason for access of the video draw poker gaming device;

c. mechanical (hard) and electronic (soft) meter readings of the video draw poker gaming device;

d. the signed and printed name and state issued permit number of the certified individual accessing the video draw poker gaming device;

It is accordingly concluded that amending LAC 42:XI.2405.B.1.b would appear to have no impact on the following:

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 Statement**

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small businesses if LAC 42:XI.2405.B.1.b is amended as the change will not apply to small businesses.

**Public Comments**

All interested persons may submit comments relative to this proposed Rule, through May 10, 2014, to Earl Pitre, Jr., Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Video Draw Poker**

**Application and Licensure**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. The rule change has the potential to accelerate the investigative processing of applications, reducing workload, and reducing paperwork of State Troopers assigned to the Gaming Enforcement Division by not having to investigate whether an applicant or licensee is current in the filing and payment of taxes with the Internal Revenue Service.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will have minimal impact on revenue collections for state governmental units. Under current rule, only 4 of the 177 applicants in the current year were penalized for IRS filings not being current which resulted in penalties of \$1,000.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will only affect those applicants who are found to not be current in IRS filings.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule changes will have no effect on competition or employment.

Ronnie Jones  
Chairman  
1404#085

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

e. area of the video draw poker gaming device accessed; and

f. time and date the video draw poker gaming device was secured.

8. A division-approved RAM clear chip and procedure shall be used when a video draw poker gaming device's memory is to be cleared.

9. Whenever a video draw poker gaming device's software program is to be changed or upgraded, prior approval shall be obtained from the division, and the video draw poker gaming device's memory shall be cleared using a division-approved RAM clear chip.

10. Only licensed manufacturers, licensed distributors, and division personnel are allowed to possess RAM clear chips for video draw poker gaming devices.

11. Use of any other method to clear a video draw poker gaming device memory is prohibited unless specifically authorized by the division.

12. The division shall be notified before a video draw poker gaming device is disconnected from the division's central computer.

13. A video draw poker gaming device may not be substituted or replaced until the replacement video draw poker gaming device has been approved by the division and the proper validation decal has been affixed.

F. - L.1.c.ii. ....

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq., and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:197 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), amended LR 25:85 (January 1999), LR 30:269 (February 2004), repromulgated LR 30:446 (March 2004), amended LR 32:109 (January 2006), LR 32:1613 (September 2006), LR 40:

**§2424. Enforcement Actions of the Board**

- A. ...
- B. Penalty Schedule

Regulation Number	Violation Description	1st	2nd	3rd
***				
<b>Devices</b>				
***				
2413 E 1	Only Certified Technicians May Access The Interior Of An Enrolled And Enabled Device	1000	2000	Admin Action
2413 E 7	All Device Owners Shall Maintain A Current, Written Maintenance Log For Each Device Operating Within A Licensed Establishment On A Division Approved Form	100	200	300
2413 E 8	A Division Approved Ram Clear Chip And Procedure Shall Be Used When A Device's Memory Is To Be Cleared	500	1000	Admin Action
2413 E 9	Prior Approval Must Be Obtained Before A Software Program Is Changed In Any Device	500	1000	Admin Action

Regulation Number	Violation Description	1st	2nd	3rd
2413 E 12	The Division Shall Be Notified Before A Device Is Disconnected From Central Computer	500	1000	Admin Action
***				

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 36:2874 (December 2010), amended LR 38:2936 (November 2012), LR 40:

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:XII.2413.E and LAC 42:XI.2424.B.

It is accordingly concluded that amending LAC 42:XII.2413.E and LAC 42:XI.2424.B would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:XII.2413.E and LAC 42:XI.2424.B.

It is accordingly concluded that amending LAC 42:XII.2413.E and LAC 42:XI.2424.B would appear to have no impact on the following:

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 Statement**

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small businesses if LAC 42:XII.2413.E and LAC 42:XI.2424.B are amended as the changes will not apply to small businesses.

**Public Comments**

All interested persons may submit comments relative to this proposed Rule, through May 10, 2014, to Earl Pitre, Jr., Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES  
RULE TITLE: Video Draw Poker  
Maintenance and Penalty Schedule**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. The rule change authorizes specific technicians to work on video draw poker devices and clarifies that device owners are liable for access to devices by unauthorized technicians. The rule change also increases the violation amount for unauthorized technicians accessing machines.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change may result in an increase in state revenue collections as a result of increased penalty amount for unauthorized technicians accessing video draw poker devices. The rule change increases the penalty as follows: 1st offense from \$250 to \$1,000; 2nd offense from \$500 to \$2,000; and 3rd offense from \$1,000 to administrative action.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will only affect those device owners who are found to be in violation of the proposed rule and against whom the penalty is imposed.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition or employment.

Ronnie Jones  
Chairman  
1404#055

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

Video Draw Poker—Penalty Schedule (LAC 42:XI.2424)

The Louisiana Gaming Control Board hereby gives notice that, pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:XI.2424.B.

**Title 42  
LOUISIANA GAMING  
Part XI. Video Poker**

**Chapter 24. Video Draw Poker  
§2424. Enforcement Actions of the Board**

- A. ...
- B. Penalty Schedule

Regulation Number	Violation Description	1st	2nd	3rd
<b>Application and License</b>				
***				
<b>Video Gaming Devices</b>				
***				
<b>Revenues</b>				
***				
<b>Regulatory, Communication, and Reporting Responsibilities</b>				
***				

Regulation Number	Violation Description	1st	2nd	3rd
<b>Devices</b>				
***				
<b>Gaming Establishments</b>				
***				
<b>Code of Conduct of Licensee</b>				
***				
2417 B 4	Failure to disclose within 10 calendar days, the following:			
	Misdemeanor Arrest	250	250	500
	Felony Arrest	500	1000	Admin Action 500
	Marriage/Divorce/Property Settlement	250	250	
	Entity Name Change or Conversion	500	Admin Action	Admin Action
	Management Change (appointment or resignation)	500	Admin Action	Admin Action
***				
<b>Investigations</b>				
***				
<b>Miscellaneous</b>				
***				

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board. LR 36:2874 (December 2010), amended LR 38:2936 (November 2012), LR 40:

**Family Impact Statement**

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:XI.2424.B.

It is accordingly concluded that amending LAC 42:XI.2424.B would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:XI.2424.B.

It is accordingly concluded that amending LAC 42:XI.2424.B would appear to have no impact on the following:

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 Statement**

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small business if LAC 42:XI.2424.B is amended as the change will not apply to small businesses.

**Public Comments**

All interested persons may submit comments relative to this proposed Rule, through May 10, 2014, to Earl Pitre, Jr., Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Video Draw Poker—Penalty Schedule**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. The proposed rule change amends violation penalties and amounts for misdemeanor arrests, felony arrests, marriage/divorce/property settlements, entity name changes, and management changes.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change may result in an increase in state revenue collections as a result of increasing the penalty for 3<sup>rd</sup> offenses from \$250 to \$500 for failure to disclose misdemeanor arrests and marriage/divorce/property settlements on time.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will only affect those video poker licensees and permittees who are found to be in violation of the proposed rule and against whom a penalty is imposed. The rule change increases the penalty from \$250 to \$500 for 3<sup>rd</sup> offense failure to disclose misdemeanor arrests and marriage/divorce/property settlements on time.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1404#057

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Public Safety and Corrections  
Gaming Control Board**

Video Draw Poker—Placement of Devices  
(LAC 42:XI.2415 and 2424)

The Louisiana Gaming Control Board hereby gives notice that, pursuant to R.S. 27:15 and R.S. 27:24, it intends to amend LAC 42:XI.2415.C and LAC 42:XI.2424.B.

**Title 42**

**LOUISIANA GAMING**

**Part XI. Video Poker**

**Chapter 24. Video Draw Poker**

**§2415. Gaming Establishments**

A. - B.2. ...

**C. Placement of Devices in Licensed Establishments**

1. Video draw poker devices shall be physically located within the licensed establishment. Video draw poker devices operated on the premises of a licensed restaurant shall be grouped together in a designated area within the licensed establishment and shall comply with the provisions of R.S. 27:430(F) and LAC 42:XI.2415.D.2.

2. ...

3. Video poker devices operated on the premises of a licensed truck stop facility shall be located in an area designated for gaming and separated for adult patronage only as provided in R.S. 27:417(A)(7). No video draw poker devices operated at a licensed truck stop facility may be located in any fuel facility, convenience store, restaurant, hotel or motel located on the truck stop facility, or in any trucker's lounge, laundry room, shower room, or hallway area of any building located on the truck stop facility.

D. - E.3. ...

**AUTHORITY NOTE:** Promulgated in accordance with L.S. 27:15 and 24.

**HISTORICAL NOTE:** Promulgated by the Department of Public Safety and Corrections, Office of the State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:197 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:1504 (August 1998), LR 26:1321 (June 2000), LR 36:2047 (September 2010), LR 39:329 (February 2013), LR 40:

**§2424. Enforcement Actions of the Board**

A. Pursuant to R.S. 27:308 et seq., in lieu of other administrative action, the division may impose a civil penalty as provided for in the penalty schedule contained in Subsection B.

**B. Penalty Schedule**

Regulation Number	Violation Description	1st	2nd	3rd
***				
<b>Gaming Establishments</b>				
***				
2415 C 1	Device Improperly Located	250 per device	Admin Action	Admin Action

Regulation Number	Violation Description	1st	2nd	3rd
2415 C 2	No Device Shall Be Placed Closer Than 6 Inches To Any Other Device (May Be Placed Back To Back)	100	200	300
2415 C 3	Device Improperly Located	250 per device	Admin Action	Admin Action
* * *				

### Public Comments

All interested persons may submit comments relative to this proposed Rule, through May 10, 2014, to Earl Pitre, Jr., Assistant Attorney General, Louisiana Department of Justice, Gaming Division, 1885 North Third Street, Fifth Floor, Baton Rouge, LA 70802.

Ronnie Jones  
Chairman

C. A violation shall be considered a second or subsequent violation in accordance with the provisions of R.S. 27:308.1(D)(1)(b).

D. All civil penalties shall be paid by personal, company, certified or cashier's check, money order, electronic funds transfer or other form of electronic payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 36:2874 (December 2010), amended LR 38:2936 (November 2012), LR 40:

#### Family Impact Statement

Pursuant to the provisions of R.S. 49:953(A), the Louisiana Gaming Control Board, through its chairman, has considered the potential family impact of amending LAC 42:XI.2415.C and LAC 42:XI.2424.B.

It is accordingly concluded that amending LAC 42:XI.2415.C and LAC 42:XI.2424.B would appear to have no impact on the following:

1. the effect on stability of the family;
2. the effect on the authority and rights of parents regarding the education and supervision of their children;
3. the effect on the functioning of the family;
4. the effect on family earnings and family budget;
5. the effect on the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

#### Poverty Impact Statement

Pursuant to the provisions of R.S. 49:973, the Louisiana Gaming Control Board, through its chairman, has considered the potential poverty impact of amending LAC 42:XI.2415.C and LAC 42:XI.2424.B.

It is accordingly concluded that amending LAC 42:XI.2415.C and LAC 42:XI.2424.B would appear to have no impact on the following:

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 Statement

Pursuant to the provisions of R.S. 49:965.5 the Louisiana Gaming Control Board, through its chairman, has concluded that there will be no adverse impact on small businesses if LAC 42:XI.2415.C and LAC 42:XI.2424.B are amended as the changes will not apply to small businesses.

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

#### RULE TITLE: Video Draw Poker Placement of Devices

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. The proposed rule change amends the placement of devices in restaurants and truck stop facilities, increases violation penalties for placement in restaurants, and creates a penalty amount for improper placement in a truck stop facility.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may result in an increase in state revenue collections. The amount of the penalty depends on the number of devices at an applicant's or licensee's establishment that could be in violation of improper placement. The penalties are \$250 per device for first offense and Administrative Action for second and third offenses.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will only affect those video poker applicants and licensees who are found to be in violation of having their devices improperly located.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Ronnie Jones  
Chairman  
1404#058

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Liquefied Petroleum Gas  
(LAC 55:IX.107, 159, 163, 166,  
201, 203, 205, 1507 and 1543)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, in accordance with R.S. 40:1846 and with the Administrative Procedure Act., R.S. 49:950 et seq., hereby gives notice of its intent to amend: §107 to adjust the permit fees for LP Gas permit applicants; §159 to remove requirements for school buses and mass transit vehicles which are now addressed elsewhere; §163 to align requirements for automatic dispensers of liquefied petroleum gas with the recent statutory changes; §166 to outline registration and inspection



requirements for delivery trucks of liquefied petroleum gas; §201 to specify registration and inspection requirements for school buses and mass transit vehicles; §203 to delete its provisions now provided elsewhere; §205 to correct the NFPA edition citation; §1507 to specify registration requirements for transporters of anhydrous ammonia; and §1543 to also specify registration and inspection requirements for transporters of anhydrous ammonia.

#### **Title 55**

#### **PUBLIC SAFETY**

#### **Part IX. Liquefied Petroleum Gas**

#### **Chapter 1. General Requirements**

#### **Subchapter A. New Dealers**

#### **§107. Requirements**

A. - A.4.b. ...

5.a. Where applicable, applicant shall provide adequate transport and/or delivery trucks satisfactory to the commission. Each transport and/or delivery truck shall be registered in accordance with commission rules and regulations, LAC 55:IX.166.

b. - c. ...

6. Applicants shall have paid a permit fee in the amount of \$75, except for Class VII-E, which shall be \$100, and R-1, R-2 registrations, which shall be \$37.50 and Class VI-X shall be in the amount of \$75 for the first location, plus \$50 for each 2-11 locations, plus \$25 for each 12-infinity locations. For fiscal year 2013-2014, the permit fee shall be 0.1304 of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of \$75, except in the case of Class VI-X for which the minimum permit fee shall be \$75 for the first location, plus \$50 for each 2-11 locations, plus \$25 for each 12-infinity locations; or 0.1304 of 1 percent of annual gross sales of liquefied petroleum gases of all locations whichever is greater. For fiscal year 2014-2015, and for each subsequent fiscal year, the permit fee shall be 0.1369 of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of \$75, except in the case of Class VI-X for which the minimum permit fee shall be \$75 for the first location, plus \$50 for each 2-11 locations, plus \$25 for each 12-infinity locations; or 0.1369 of 1 percent of annual gross sales of liquefied petroleum gases of all locations whichever is greater. For classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$75, except registrations shall be \$37.50 per year.

6.a. - 15. ...

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

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:2553 (December 2002), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1140 (June 2007), effective July 1, 2007, LR 35:2201 (October 2009), LR 35:2465 (November 2009), LR 38:1256 (May 2012), LR 40:

#### **Subchapter D. Forms and Reports**

#### **§159. Required Forms and Reports**

A. - A.2. ...

a. Repealed.

2.b. - 7. ...

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

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:559 (May 1985), LR 15:861 (October 1989), LR 24:466 (March 1998), LR 38:1265 (May 2012), LR 40:

#### **Subchapter E. Automatic Dispensers Used for Motor Fuel**

#### **§163. Automatic Dispensers Used for Motor Fuel**

A. All self-service automatic dispensing stations shall obtain a class VI permit with the LP Gas Commission before engaging in business.

B. The filling of ICC or DOT cylinders at a self-service site is prohibited.

C. Step-by-step operating instructions and fire emergency telephone numbers shall be posted in a conspicuous place in the immediate vicinity of the automatic dispenser.

D. All dispenser meters shall be calibrated at least once every two years. Calibration reports shall be retained by the dealer for at least three years. The commission reserves the right to review the calibration reports upon demand.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1402 (December 1994), amended LR 24:467 (March 1998), LR 38:1265 (May 2012), LR 40:

#### **Subchapter F. Tank Trucks, Semi-Trailers and Trailers**

#### **§166. Truck/Delivery Truck Cargo Containers**

##### **Compliance Requirements**

A. Registration. Dealers that operate transport and/or delivery trucks in the state of Louisiana shall register each unit with the commission annually, the annual registration fee is \$50 for each unit registered. The annual registration period and procedure will be established by the Office of the Director of the commission. Any transport and/or delivery truck operating over the highways of the state of Louisiana with no registration decal or an expired registration decal affixed to the unit will be considered in violation of commission regulations and subject to penalties, this includes any unit operating beyond the established registration period without a current registration affixed to the unit. It is unlawful to load or unload any cargo unit not meeting commission regulations.

B. Safety Inspections. It is incumbent upon dealers and drivers to insure that all transports and/or delivery trucks being operated over the highways of Louisiana meet all federal and state requirements. The commission reserves the right to inspect any transport and/or delivery truck being registered at any time. Inspections may be performed by commission inspectors or a qualified agency acceptable to the commission. Dealer safety inspections performed by a

commission inspector outside the State of Louisiana shall be solely at the discretion and procedures established by the Office of the Director.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:467 (March 1998), amended LR 25:2412 (December 1999), LR 27:2256 (December 2001), LR 38:1266 (May 2012), LR 40:

## **Chapter 2. School Bus and Mass Transit Installations [formerly Chapter 12]**

### **§201. Registration/Inspection of School Bus/Mass Transit Vehicles**

A. Prior to placing in service any school bus or mass transit vehicle installed with a liquefied petroleum gas system used as a motor fuel system, the owner shall register the unit with the Office of the Director or the LP Gas Commission. The Office of the Director shall establish a procedure to register, perform inspections, and affix decals on these vehicles on a periodic basis.

B. It shall be a violation of commission regulations for an owner to operate any school bus/mass transit vehicle which is propelled by liquefied petroleum gas, to which a current registration decal is not permanently affixed.

C. A liquefied petroleum gas dealer or owner shall not fuel any school bus/mass transit vehicle which is propelled by liquefied petroleum gas to which a current registration decal is not permanently affixed.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:471 (March 1998), LR 26:1488 (July 2000), LR 38:1271 (May 2012), LR 40:

### **§203. Inspections**

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:471 (March 1998), amended LR 26:1488 (July 2000), LR 38:1271 (May 2012), repealed LR 40:

### **§205. Installation of Liquefied Petroleum Gas Systems Used as Engine Fuel System for School Bus/Mass Transit Vehicles**

A. Installation of a liquefied petroleum gas system used as an engine fuel system for school bus/mass transit vehicles shall be in accordance with the applicable sections of Chapter 11 of the NFPA 58 of the 2008 edition that the commission has adopted.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 26:1488 (July 2000), LR 38:1271 (May 2012), LR 40:

## **Chapter 15. Sale, Storage, Transportation and Handling of Anhydrous Ammonia**

### **Subchapter A. New Dealers**

#### **§1507. Requirements**

A. - A.4.a. ...

5. Where applicable, the applicant shall provide adequate transport and/or delivery trucks satisfactory to the commission. Each transport and/or delivery truck shall be registered in accordance with commission rules and regulations, LAC 55:XI.1543.

6. - 12. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354. Effective August 15, 2010, Act 579 of the 2010 Regular Session repealed R.S. 3:1354 and enacted R.S. 40:1911 et seq., and particularly R.S. 40:1914 as authority for anhydrous ammonia regulations.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:898 (July 1993), LR 25:2413 (December 1999), amended LR 27:423 (March 2001), repromulgated LR 27:565 (April 2001), amended LR 33:1144 (June 2007), effective July 1, 2007, LR 38:1273 (May 2012), LR 40:

### **Subchapter B. Dealers**

#### **§1543. Transport/Delivery Truck Cargo Compliance**

A. Registration. Dealers that operate transport and/or delivery trucks in the state of Louisiana shall register each unit with the commission annually, the annual registration fee is \$50 for each unit registered. The annual registration period and procedure will be established by the Office of the Director of the commission. Any transport and/or delivery truck operating over the highways of the state of Louisiana with no registration decal or an expired registration decal affixed to the unit will be considered in violation of commission regulations and subject to penalties, this includes any unit operating beyond the established registration period without a current decal affixed to the unit. It is unlawful to load or unload any cargo unit not meeting commission regulations.

B. Safety Inspections. It is incumbent upon dealers and drivers to insure that all transport and/or delivery trucks being operated over the highways of Louisiana meet all federal and state regulations. The commission reserves the right to inspect any transport and/or delivery truck being registered at any time. Inspections may be performed by commission inspectors or a qualified agency acceptable to the commission. Dealer safety inspections performed by a commission inspector outside the State of Louisiana shall be solely at the discretion and procedures established by the Office of the Director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1354. Effective August 15, 2010, Act 579 of the 2010 Regular Session repealed R.S. 3:1354 and enacted R.S. 40:1911 et seq., and particularly R.S. 40:1914 as authority for anhydrous ammonia regulations.

HISTORICAL NOTE: Adopted by the Department of Agriculture, Anhydrous Ammonia Commission (January 1967),

amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 19:903 (July 1993), LR 25:2414 (December 1999), LR 38:1278 (May 2012), LR 40:

#### **Family Impact Statement**

1. The Effect of this Rule on the Stability of the Family. This Rule should not have any effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule should not have any effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule should not have any effect on family earnings and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

#### **Poverty Impact Statement**

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

#### **Small Business Impact**

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

#### **Public Comments**

Interested persons may submit written comments to Department of Public Safety, Office of Legal Affairs, c/o Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through May 15, 2014.

Jill P. Boudreaux  
Undersecretary

## **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

### **RULE TITLE: Liquefied Petroleum Gas**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will not result in any estimated implementation costs or savings to state or local governmental units. The proposed rule raises permit fees for liquefied petroleum gas dealers. In addition, the proposed rule change makes technical changes to the current rules regarding registration and inspection requirements for vehicles used to deliver liquefied petroleum gas and for school buses and mass transit vehicles installed with a liquefied petroleum gas system. The proposed rule also aligns the requirements for automatic dispensers of liquefied petroleum gas as a result of Act 433, which authorized the use of automatic liquefied petroleum gas dispensing devices.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change may result in an estimated increase in annual revenue for the Liquefied Petroleum Gas Commission of approximately \$46,340 beginning in FY 15. The current permit fee is 0.001304% of annual gross sales with a minimum of \$75. The fee increases by 5% to 0.001369 of annual gross sales with a minimum of \$75.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will result in a 5% increase in permit fees for those entities with liquefied petroleum gas sales over \$56,000.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

There will be no effect on competition and employment as a result of the proposed rule change.

Jill P. Boudreaux  
Undersecretary  
1404#053

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

#### **Department of State Commercial Division Office of Uniform Commercial Code**

Uniform Commercial Code  
(LAC 10:XIX.Chapters 1-3)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and under the authority of Louisiana's Uniform Commercial Code (R.S. 10:9-101 et seq.), R.S. 10:9-526, Public Law 99-198 (Food Security Act of 1985), and R.S. 36:742, the Secretary of State is proposing to amend various sections of the Rule for the Uniform Commercial Code (LAC 10:XIX.Chapters 1-3) to comply with legislation enacted.

## Title 10

### FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC

#### Part XIX. Uniform Commercial Code

#### Chapter 1. Secured Transactions

#### §103. Place of Filing—When Filing Is Required in Louisiana

A. The proper place to file in order to perfect a security interest is with the clerk of court of any parish.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3651 et seq., R.S. 10:9-501, R.S. 10:9-526, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, Office of Uniform Commercial Code, LR 39:2789 (October 2013), amended LR 40:

#### §105. Formal Requisites of Financing Statement

A. To be effective, a financing statement must:

1. give the debtor's name and mailing address:

a. a financing statement sufficiently shows the name of the debtor if it gives the individual (if the debtor is an individual to whom Louisiana has issued a driver's license that is not expired, the name of the debtor must be shown as indicated on his driver's license), partnership, or corporate name of the debtor (if the debtor is a registered organization such as a corporation or a limited liability company, the name of the debtor must be the registered organization's name on the public organic record with Louisiana's secretary of state or other jurisdiction of organization) (as applicable); and

b. the trade names of the debtor (providing only the debtor's trade name does not sufficiently provide the name of the debtor), and the names of the partners, members, associates, or other persons comprising the debtor may also be set forth in the financing statement at the option of the secured party;

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-501 et seq., R.S. 10:9-502, R.S. 10:9-526, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, Office of Uniform Commercial Code, LR 39:2789 (October 2013), amended LR 40:

#### §127. Schedule of Fees for Filing and Information Requests

A. ...

B. An additional fee of \$2 per filing will be charged on bulk UCC filings submitted electronically.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-501 et seq., R.S. 10:9-519 et seq., R.S. 10:9-525, R.S. 10:9-526, R.S. 36:742, and R.S. 49:222(A).

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, Office of Uniform Commercial Code, LR 39:2793 (October 2013), amended LR 40:

#### Chapter 2. Internal Revenue Service Tax Liens

#### §201. Place of Filing

A. The proper place to file notices of federal tax liens affecting movable property (corporeal and incorporeal) is with the clerk of court of any parish (the "filing officer").

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-501 et seq., R.S. 10:9-526, R.S. 36:742, and R.S. 52:52.

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, Office of Uniform Commercial Code, LR 39:2793 (October 2013), amended LR 40:

#### Chapter 3. Central Registry

#### §301. Definitions

*Buyer in the Ordinary Course of Business*—a person who, in the ordinary course of business, buys farm products from a person engaged in farming operations and is in the business of selling farm products.

*Central Registry*—the master index maintained by the secretary of state reflecting information contained in all effective financing statements, and statements evidencing assignments, amendments, continuations, and terminations thereof.

*Commission Merchant*—any person engaged in the business of receiving any farm product for sale, on commission, or for or on behalf of another person.

*Creditor*—any person who holds a security interest in a farm product.

*Crop Year*—

1. for a crop grown in soil, the calendar year in which it is harvested or to be harvested;

2. for animals, the calendar year in which they are born or acquired; or

3. for poultry or eggs, the calendar year in which they are sold or to be sold.

*Cumulative Addendum*—a document listing all information transmitted by the filing officers to the central registry as of the date of issuance that was not included on the most recent master list.

*Debtor*—any person who owns or has an ownership interest in farm products which are subject to a security interest of creditors.

*Effective Financing Statement*—a written instrument which is an abstract of a security device and which complies with the provisions of R.S. 3:3654(E). An effective financing statement may also contain additional information sufficient to constitute a financing statement or other statement under Chapter 9 of Title 10 of the Louisiana Revised Statutes.

*EFS*—an effective financing statement.

*Encumbrance Certificate*—a written document which lists all effective financing statements affecting a person which have been filed with the filing officer and containing the information required by this Chapter to be transmitted to the secretary of state for inclusion in the central registry on the date and at the time the certificate is issued and which complies with the provisions of R.S. 3:3654(F).

*Farm Product*—any type of crop whether growing or to be grown, and whether harvested or unharvested, or any species of livestock, or any type of agricultural commodity or product raised or cultivated of every type and description, including but not limited to cattle, hogs, sheep, horses, bees, rabbits, or poultry, and oysters, crabs, prawns, shrimp, alligators, turtles, and fish raised, produced, cultivated, harvested, or gathered on any beds of bodies of water, whether owned, leased, or licensed by the debtor, grains, beans, vegetables, grasses, legumes, melons, tobacco, cotton, flowers, shrubberies, plants and fruits, nuts and berries, and other similar products whether of trees or other sources, or if they are a product of such crop or livestock in its unmanufactured state, such as seed, ginned cotton, wool-clip, honey, syrup, meat, milk, eggs, and cut, harvested, or standing timber, or supplies used or produced in farming

operations, and if they are in the possession, including civil possession as defined in Civil Code Articles 3421 and 3431, of a debtor engaged in planting, producing, raising, cultivating, harvesting, gathering, fattening, grazing, or other farming operations.

*Filing*—the receipt of an EFS, amendment, assignment, continuation, release, or termination of an EFS by the filing officer stamped with the date and time received and assigned a file number.

*Filing Officer*—the clerk of court of any parish.

*Knows or Knowledge*—actual knowledge.

*Master List*—a document listing all effective financing statements, amendments, assignments, and continuations of effective financing statements which:

1. is organized according to farm products; and
2. is arranged within each such product:
  - a. in alphabetical order according to the last name of the individual debtors, or, in the case of debtors doing business other than as individuals, the first word in the name of such debtors;
  - b. in numerical order according to the Social Security number of the individual debtors, or, in the case of debtors doing business other than as individuals, the Social Security number or employer identification number of such debtors;
  - c. geographically by parish; and
  - d. by crop year.

*Office*—the Office of the Secretary of State of the state of Louisiana.

*Person*—any individual, partnership, corporation, trust or any other business entity.

*Portion*—portion of the master list distributed to registrants regularly that cover the farm products in which such registrant has indicated an interest.

*Registrant*—any person, who has made application with the office of the secretary of state, has paid the required registration fee, and received written notice that his application has been accepted.

*Regular Business Day*—any day that the Office of the Secretary of state and filing officers are open for routine business.

*Secretary*—the *Secretary* of State of the state of Louisiana, or his duly authorized agent.

*Secured Party*—a creditor with a security interest in farm products.

*Security Device*—a written instrument that establishes a creditor's security interest in farm products or any pledge or privilege described in R.S. 9:4521, whether or not evidenced by a written instrument.

*Security Interest*—an interest in or encumbrance upon farm products that secures payment or performance of an obligation.

*Selling Agent*—a person, other than a commission merchant, who is engaged in the business of negotiating the sale and purchase of any farm product on behalf of a person engaged in farm operations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3652, R.S. 3:3654, R.S. 3:3655, R.S. 10:9-526, R.S. 36:742, Civil Code Articles 3421 and 3431, and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, Office of Uniform Commercial Code, LR 39:2794 (October 2013); amended LR 40:

### §307. Filing Procedures

A. The proper place to file in order to perfect a security interest in farm products is with the clerk of court of any parish (the “filing officer”).

B. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3651 et seq., R.S. 10:9-526, R.S. 36:742, and Public Law 99-198 (Food Security Act of 1985).

HISTORICAL NOTE: Promulgated by the Department of State, Commercial Division, Office of Uniform Commercial Code, LR 39:2795 (October 2013), amended LR 40:

#### Family Impact Statement

The proposed amendments to various sections of LAC 10:XIX.Chapters 1-3 regarding the Uniform Commercial Code should not have any known or foreseeable impact on any family as defined by R.S. 49:927 or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children; and
6. the ability of the family or a local government to perform the function as contained in the proposed amendments to the Rule.

#### Poverty Impact Statement

The proposed amendments to various sections of Rule LAC 10:XIX regarding the Uniform Commercial Code should not have any known or foreseeable impact on poverty as defined by R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. the household income, assets and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### Small Business Statement

The impact of the proposed amendments to various sections of the Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small business.

#### Public Comments

Interested persons may submit written comments to Steve Hawkland, Deputy General Counsel, Legal Division, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. He will be responsible for responding to inquiries regarding the proposed amendments to various sections of the Rule. All comments must be submitted in writing. The deadline for the Department of State to receive

written comments is 4:30 p.m. on Wednesday, May 29, 2014 after the public hearing.

### Public Hearing

A public hearing on the proposed amendments to various sections of the Rule is scheduled for Tuesday, May 27, 2014 at 10 am in the Auditorium at State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded the opportunity to submit data, views, or arguments either orally or in writing.

Tom Schedler  
Secretary of State

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE: Uniform Commercial Code

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule change to the Uniform Commercial Code (UCC).

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will increase self-generated revenue by an indeterminable amount. The proposed amendments are being made to comply with existing legislation and in response to comments received by the Department during the rule-making process for the UCC Rules that were published in October 2013.

The Department recently upgraded its UCC software for the Commercial Online Registration Application (CORA) system. Included in the upgrade, the Department will allow UCC filers to transmit bulk filings electronically. The Department is proposing a fee of \$2 for each electronic bulk filing. Since the Department's past computer system did not allow for electronic bulk filings, it is not known how many filers would take advantage of this provision. Any revenue generated by the fee is expected to be minimal.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Currently, UCC filers are not allowed to submit electronic bulk filings. If a filer takes advantage of the new electronic bulk filing provision, the proposed fee would be \$2 for each electronic bulk filing.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Joe R. Salter  
Undersecretary  
1404#043

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

## NOTICE OF INTENT

### Department of Transportation and Development Professional Engineering and Land Surveying Board

Board Committees and Examination/Experience  
Requirements for Professional Engineer Licensure  
(LAC 46:LXI. 707, 1305, and 1509)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land

Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.707, 1305, and 1509.

This is a technical revision of existing rules under which LAPELS operates. The revisions include an update to the structure and duties of various board standing committees and the decoupling of the examination and experience requirements for professional engineer licensure for certain applicants.

### Title 46

## PROFESSIONAL AND OCCUPATIONAL STANDARDS

### Part LXI. Professional Engineers and Land Surveyors

#### Chapter 7. Bylaws

#### §707. Board Organization

##### A. - D.4. ...

E. Committees. The board may establish standing committees, including but not limited to the following: executive committee, engineering committees, land surveying committee, engineer intern committee, liaison and law review committee, education/accreditation committee, finance committee, nominations and awards committee, complaint review committees, continuing professional development committee, firm licensure committee, and enforcement committee. The board may also establish ad hoc committees from time to time as necessary.

1. Power to Appoint. Unless otherwise provided below, the chairman of the board shall have the power to make all committee appointments. All committee appointments shall be effective from date of appointment until March 31 of the following year.

2. Executive Committee. The chairman, vice chairman, secretary, and treasurer shall constitute the executive committee. The chairman of the board shall serve as chairman of the executive committee. The executive committee shall oversee the operations of the office of the board and shall advise the executive director as to the conduct of the business of the board between meetings. The executive committee shall also make recommendations to the board with respect to personnel, policies and procedures.

3. Engineering Committees. The chairman of the board shall appoint one or more engineering committees, with not less than two board members on each committee. At least two of the board members on each engineering committee shall be professional engineers. Each of these committees shall:

a. review applications for licensure in each respective discipline of engineering; and  
b. recommend approval or disapproval of applications.

4. Land Surveying Committee. The chairman of the board shall appoint a land surveying committee composed of not less than two board members. At least two of the board members on the land surveying committee shall be professional land surveyors. The land surveying committee shall:

a. - b. ...  
c. recommend approval or disapproval of applications;  
d. conduct oral examinations or interviews of applicants, as necessary;  
e. supervise the selection of examinations on the Louisiana laws of land surveying; and

f. recommend passing scores for the examinations on the Louisiana laws of land surveying.

5. Engineer Intern Committee. The chairman of the board shall appoint an engineer intern committee composed of not less than two board members. At least two of the board members on the engineer intern committee shall be professional engineers. The engineer intern committee shall review, as necessary, applications for certification as an engineer intern and shall recommend approval or disapproval of applications.

6. Liaison and Law Review Committee. The chairman of the board shall appoint a liaison and law review committee composed of not less than two board members. The liaison and law review committee shall work with similar committees of professional and technical organizations on matters of mutual concern. The liaison and law review committee shall also make recommendations to the board in matters concerned with the licensure law and the rules of the board.

7. Education/Accreditation Committee. The chairman of the board shall appoint an education/accreditation committee composed of not less than two board members. The education/accreditation committee shall evaluate and make recommendations to the board concerning the quality of the engineering and land surveying curricula, along with evaluation of the faculties and facilities of schools within Louisiana. The education/accreditation committee shall also have the power to make inspections in the course of its evaluations.

8. Finance Committee. The chairman of the board shall appoint a finance committee composed of not less than two board members. The treasurer will serve as the chairman of the finance committee. The finance committee shall make studies, reports and recommendations to the board on fiscal matters. The finance committee shall also prepare a budget for presentation to the board no later than the November meeting.

9. Nominations and Awards Committee. The chairman of the board shall appoint a nominations and awards committee composed of not less than two board members. The nominations and awards committee shall present to the board a list of nominations for election of board officers and for any applicable awards.

10. Complaint Review Committees. Complaint review committees shall be composed of not less than three board members appointed by the enforcement staff on a case-by-case basis. Complaint review committees shall review the results of investigations against licensees, certificate holders and unlicensed persons; decide whether or not to prefer charges; and/or recommend appropriate action to the board. Any decision, including the preferal of charges, shall be made by a minimum two-thirds vote of the board members serving on a committee.

11. Continuing Professional Development Committee. The chairman of the board shall appoint a continuing professional development committee composed of not less than two board members. The continuing professional development committee shall review and make recommendations to the board regarding continuing professional development rules, policies and providers/sponsors.

12. Firm Licensure Committee. The chairman of the board shall appoint a firm licensure committee composed of not less than two board members. The firm licensure committee shall review and make recommendations to the board regarding applications for firm licensure and other issues relating to firm licensure.

13. Enforcement Committee. The chairman of the board shall appoint an enforcement committee composed of not less than two board members. At least one of the board members on the enforcement committee shall be a professional engineer and at least one of the board members shall be a professional land surveyor. The enforcement committee shall make recommendations to the board regarding the board's investigative, disciplinary and enforcement policies, procedures and practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:52 (February 1976), amended LR 5:110 (May 1979), LR 11:1179 (December 1985), LR 19:54 (January 1993), LR 21:1353 (December 1995), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1024 (July 2001), LR 30:1707 (August 2004), LR 33:2788 (December 2007), LR 35:1908 (September 2009), LR 37:2411 (August 2011), LR 38:2563 (October 2012), LR 40:

## **Chapter 13. Examinations**

### **§1305. Approval to Take the Examination in the Principles and Practice of Engineering**

A. An applicant who meets all of the other requirements for licensure as a professional engineer may be permitted to take the examination in the principles and practice of engineering in the discipline in which he/she seeks licensure.

B. An applicant who has already been duly certified as an engineer intern by the board, but has not yet met the experience requirement for licensure as a professional engineer, may be permitted to take the examination in the principles and practice of engineering in the discipline in which he/she seeks licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 5:113 (May 1979), amended LR 7:647 (December 1981), LR 11:363 (April 1985), LR 11:950 (October 1985), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1030 (July 2001), LR 30:1715 (August 2004), LR 40:

## **Chapter 15. Experience**

### **§1509. Experience at Time of Application**

A. ...

B. For applicants for professional engineer licensure under §903.A.1 of these rules who have not already been duly certified as engineer interns by the board, the "verifiable record of four years or more of progressive experience obtained subsequent to meeting the educational and applicable experience qualifications to be an engineer intern" must be gained by the time of application. However, for any such applicant who has already been duly certified as an engineer intern by the board, such experience may be gained up to the time of licensure, rather than by the time of application.

C. For applicants for professional land surveyor licensure under §909.A.1 of these rules, the “verifiable record of four years or more of combined office and field experience in land surveying including two years or more of progressive experience on land surveying projects under the supervision of a professional land surveyor” must be gained by the time of application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Professional Engineering and Surveying Board, LR 27:1031 (July 2001), amended LR 30:1716 (August 2004), LR 37:2413 (August 2011), LR 38:2565 (October 2012), LR 40:

#### **Family Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*. The proposed Rule has no known impact on family formation, stability or autonomy.

#### **Poverty Impact Statement**

In accordance with R.S. 49:953(A)(1)(a)(ix) and 973, the following Poverty Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*: The proposed Rule has no known impact on child, individual or family poverty in relation to individual or community asset development.

#### **Public Comments**

Interested parties are invited to submit written comments on the proposed Rule through May 12, 2014 at 4:30 p.m., to Donna D. Sentell, Executive Director, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Board Committees and Examination/Experience Requirements for Professional Engineer Licensure**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There will be no costs or savings to state or local governmental units resulting from this proposed rule change. These changes consist of updates to the structure and duties of various board standing committees and the decoupling of the examination and experience requirements for professional engineer licensure for certain applicants.

#### **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 change.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule change will allow certain applicants for professional engineer licensure to take the principles and practice of engineering examination prior to satisfying the applicable experience requirement.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change will have no effect on competition or employment.

Donna D. Sentell  
Executive Director  
1404#034

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

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

#### **Black Bass Regulations (LAC 76:VII.149)**

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby advertise their intent to increase the possession limit up to three times the daily take for black bass (*Micropterus spp.*) below U.S. Highway 90.

#### **Title 76**

#### **WILDLIFE AND FISHERIES**

#### **Part VII. Fish and Other Aquatic life**

#### **Chapter 1. Freshwater Sports and Commercial Fishing**

#### **§149. Black Bass Regulations—Daily Take, Size Limits, and Possession Limits**

A. ...

B. In addition, the commission establishes special size, daily take, and possession regulations for black bass on the following water bodies:

1. - 6.a. ...

\* \* \*

7. below U.S. Highway 90 in Louisiana.

a. The possession limit shall be equal to the daily take limit for the number of consecutive days up to three days that a fisherman has been actively on the water or at a remote camp that can only be accessed by water provided the fisherman is in compliance with the following requirements.

i. The fisherman holds and is in possession of a current basic recreational fishing license.

ii. The fisherman is in possession of a landing receipt from a public boat landing located south of U.S. Highway 90 that demonstrates, to the satisfaction of the department, the number of consecutive days the fisherman has been on the water or at a remote camp that can only be accessed by water.

iii. The fish are kept whole or whole gutted in separate bags for each daily take limit. The bags are marked with the date fish were taken, the species and number of fish contained in the bag, and the name and recreational fishing license number of the person taking the fish.

iv. The fisherman is only in possession of his or her fish and shall not transport fish taken by another person back to the boat landing.

v. The fisherman is not in possession of more than the daily take limit on the water while engaged in or actively fishing.

AUTHORITY NOTE: Promulgated in accordance R.S. 56:6(25)(a), R.S. 56:325(C), R.S. 56:326.3, and R.S. 56:673.



HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:277 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998), LR 26:97 (January 2000), LR 28:104 (January 2002), LR 29:373 (March 2003), LR 30:2339 (October 2004), repromulgated LR 30:2495 (November 2004), amended LR 37:2440 (August 2011), LR 39:1833 (July 2013), LR 40:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

#### **Family Impact Statement**

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

#### **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).

#### **Public Comments**

Interested persons may submit written comments relative to the proposed Rule to Mike Wood, Director, Inland Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, prior to June 4, 2014.

Billy Broussard  
Chairman

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Black Bass Regulations**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change is expected to have no effect on implementation costs to state or local governmental units. The proposed rule change would allow anglers that have been active on the water or at remote camp for multiple days at a time to transport their catch back to the boat launch in saltwater areas of the state. The proposed rule would allow anglers to possess up to three times the daily creel limit of black bass (*Micropterus* spp).

The term "possession limit" refers to the number of fish of a particular species that a recreational angler may have in his or her possession at a particular time on or off the water. When onboard a vessel on the water, anglers may have in their possession a number of fish of a particular species equal to the species' daily creel limit. Fish onboard a vessel must be whole or gutted, not filleted. Because the daily creel limit for black bass in all Louisiana water bodies south of U.S. Highway 90 is 10 fish, anglers in saltwater areas of Louisiana may have up to 10 black bass in their possession when on the water.

Currently the possession limit for recreational fish species off the water in Louisiana is twice the daily creel limit for a particular species. Thus anglers may have in their possession up to 20 black bass at a time when off the water.

Anglers who take prolonged fishing trips from remote locations are concerned that the current black bass possession limits confronts them with a difficult choice. To remain compliant with the possession limits during a multiple-day fishing trip, they must either cease fishing for black bass after harvesting a single day's creel limit or take a boat trip from their remote camp to a distant land point to unload the equivalent of a single day's black bass creel limit.

The proposed rules change adjusts the general possession limit for black bass for anglers fishing in saltwater areas of the state for more than one day at a time. Anglers who fish from remote locations south of U.S. Highway 90 that are inaccessible from land would be permitted to possess up to three times the daily creel limit of black bass both on and off their vessels. The angler must be in possession of a landing receipt from a public boat landing that demonstrates the number of consecutive days that he or she has been on the water or at a remote camp accessible from water south of Highway 90. The angler may be in possession of a daily creel limit for each consecutive day that he or she has been on the water. For example, if an angler has been on the water for two consecutive days, he or she may have twice the daily creel limit and if he or she has been on the water for three consecutive days, he or she may have three times the daily limit. The black bass must be kept in separate marked bags for each day's creel limit.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change is expected to have no effect on revenue collections of state or local governmental units.

#### **III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule may result in a minor increase in activity among Louisiana anglers who fish for black bass from remote camps south of U.S. Highway 90. The proposed rule change may also benefit this group of anglers by reducing expenditures related to additional boats trips taken to and from distant land sites to unload black bass to avoid noncompliance with current possession limits and general possession limits for black bass.

#### **IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

The proposed rule change is expected to have no effect on competition or employment.

Bryan McClinton  
Undersecretary  
1404#051

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### **NOTICE OF INTENT**

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

Film and Entertainment Industry Animal Permits  
(LAC 76:V.133)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission does hereby advertise their intent to promulgate rules and regulations governing the possession of Louisiana wildlife for the film and entertainment industry.

**Title 76  
WILDLIFE AND FISHERIES**

**Part V. Wild Quadrupeds and Wild Birds**

**Chapter 1. Wild Quadrupeds**

**§133. Film/Entertainment Industry Animal Permit**

**A. Purpose**

1. The purpose of this Section is to establish regulations for the possession, purchase, and educational exhibition of Louisiana wildlife to be used in the movie, film, entertainment, and educational industry. These regulations provide and establish general rules regarding permit requirements, fees, animal origin, purchase and use of animals, holding pen specifications, travel enclosure requirements, and reporting requirements.

**B. Definitions**

*Bill of Sale*—an itemized invoice or receipt on a legitimate business form from a licensed business showing the animal purchased, the date of purchase, and the signature and contact information for the person selling the animal

*Bona Fide Resident*—any person who has resided in the state of Louisiana continuously during the 12 months immediately prior to the date on which he applies for this permit and who has manifested his intent to remain in this state by establishing Louisiana as his legal domicile as demonstrated with all of the following, as applicable.

a. If registered to vote, he is registered to vote in Louisiana.

b. If licensed to drive a motor vehicle, he is in possession of a valid Louisiana driver's license

c. If owning a motor vehicle located within Louisiana, he is in possession of a Louisiana registration for that vehicle.

d. If earning an income, he has filed a Louisiana state income tax return and has complied with state income tax laws and regulations.

*Department or LDWF*—the Louisiana Department of Wildlife and Fisheries.

*Escape Plan*—a written plan of actions, individuals, and equipment to be utilized by the permittee in the event that any permitted animal escapes from confinement, either at the permanent holding facility of the permittee, while the animal is in transport, or when the animal is being utilized in a public venue or at any type of film/entertainment industry location.

*Film/Entertainment Industry*—live or recorded activity or events of a temporary nature involving scripted and/or unscripted dialogue and/or action for the purpose of amusement, marketing, promoting, entertainment, or education. Includes audio, video, film, streaming, and live performances on constructed sets, at studios, or on location. Does not include rodeos, zoos, or circuses.

*Game Breeder*—a person who possesses a valid *game breeder permit* from LDWF.

*Humane Care*—care of animals including, but not limited to, the provision of adequate heat, ventilation, sanitary shelter, and wholesome and adequate food and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed. Inhumane care includes any act, omission, or neglect, which causes unjustifiable physical pain, suffering, or death to any living animal.

*LDWF-Approved Applicant*—an individual who has had no felony convictions, no major wildlife or fisheries violations during the past three years, who has a minimum of 5 years of verifiable film/entertainment industry experience, and who is at least 21 years old. Verifiable experience requires a resume detailing at least 5 years of professional, documented animal training for film/entertainment industry activities within the previous 10 years.

*Louisiana Wildlife*—all tetrapod species, excluding domestic dogs (*Canis familiaris*) and domestic cats (*Felis catus*), with a presently or historically free-ranging, reproducing population within the state boundary of Louisiana. For migratory wildlife, timing of reproduction does not necessarily have to occur within Louisiana to be considered *Louisiana wildlife*.

*Nongame Quadruped Breeder*—a person who possesses a valid *nongame quadruped breeder permit* from LDWF.

*Permittee*—any individual who has obtained a valid film/entertainment industry permit from LDWF.

*Person*—unless specifically provided for otherwise, the term *person*, for any *person* required to be licensed pursuant to this part, shall mean an individual and shall not include any type of association, corporation, partnership, or other type of legal entity recognized by law.

*Possess*—in its different tenses, the act of having in possession or control, keeping, detaining, restraining, holding as owner, or as agent, or custodian for another.

*Rabies Vector Species*—mammalian species defined by LDWF as potential carriers of the rabies virus including, but not limited to, raccoons, foxes, coyotes, skunks, and bats.

*Subpermittee*—person authorized to conduct activities under the supervisory responsibility of an individual who possesses a current and valid film/entertainment industry animal permit.

*Supervisory Responsibility*—to direct actions and accept responsibility for the actions of a named individual engaged in film/entertainment industry animal permit activities.

*Take*—in its different tenses, the attempt or act of hooking, pursuing, netting, capturing, snaring, trapping, shooting, hunting, wounding, or killing by any means or device.

*Transport*—in its different tenses, the act of shipping, attempting to ship, receiving or delivering for shipment, *transporting*, conveying, carrying, or exporting by air, land, or water, or by any means whatsoever.

**C. Permits**

1. It shall be unlawful for any person to keep, hold or possess in captivity any Louisiana wildlife intended for use in the film/entertainment industry or otherwise solicit or engage in providing Louisiana wildlife to the film/entertainment industry without first obtaining a film/entertainment industry animal (FEIA) permit from LDWF.

2. A film/entertainment industry animal permit authorizes the permittee to transport, possess, trade, barter, or transfer Louisiana wildlife for any permitted, legal purpose relative to that animal's film/entertainment industry use, training, or physical welfare. Except, no rabies vector species may be traded, bartered, or transferred, either temporarily or otherwise, to any out of state location or individual.

3. Possession of an FEIA permit does not exempt the permit holder from other local, state, or federal permit requirements, including, but not limited to, obtaining a valid United States Fish and Wildlife Service (USFWS) permit to possess or provide film/entertainment industry animals which are currently listed in the Migratory Bird Treaty Act, Bald and Golden Eagle Protection Act, or the Endangered Species Act.

4. No Louisiana wildlife species may be possessed by the applicant prior to a FEIA permit being granted by LDWF, unless those animals were legally and previously possessed by the applicant.

#### D. Permit Requirements

1. Application for a Film/Entertainment Industry Animal permit shall be made on an official application form provided by the Department of Wildlife and Fisheries. FEIA permits will expire on December 31 of each year, and a renewal request should be received by that date.

2. An applicant for this permit must be a bona fide Louisiana resident who has a minimum of 5 years of verifiable film/entertainment industry experience, and who is at least 21 years old. Verifiable experience requires a resume detailing at least five years of professional, documented animal training for film/entertainment industry activities within the previous 10 years. This verifiable resume must be submitted as part of the application.

3. An applicant for a FEIA permit must provide verification of having access to veterinary services provided by a Louisiana licensed veterinarian by submitting a statement of veterinary support form provided by LDWF.

4. All facilities where animals will be housed, maintained, or trained shall be inspected by LDWF prior to issuance of an initial FEIA permit.

5. Anyone who has been convicted of a Class II or greater wildlife violation in Louisiana, or the equivalent in another state within the past five years, or has been convicted of a felony in Louisiana or another state, shall not be eligible for a FEIA permit.

6. An applicant must possess a U.S. Department of Agriculture Animal Welfare Act Class C license and submit a copy of this license as part of the application for an FEIA permit.

7. The application must contain a proposed animal inventory list including species and number of animals to be possessed under the permit. Once a FEIA permit has been granted by LDWF, the applicant must submit and maintain a revised, up to date animal inventory list to LDWF within 48 hours of changes (additions or deletions) to the animal inventory list, as detailed below.

8. The application must contain a written escape plan as defined above. The escape plan shall contain a permanent written log sheet that describes each escape event.

9. The application must contain a signed waiver statement holding the Department of Wildlife and Fisheries and its employees harmless for liability as a result of issuing an FEIA permit. FEIA permits will only be issued to those applicants who are willing to accept full responsibility and liability for any damages or injuries resulting from their animals or from any injuries that occur during educational or entertainment activities relating to the FEIA permit.

#### E. General Rules

1. This permit is valid only for Louisiana wildlife species.

2. Potentially dangerous quadrupeds, big exotic cats, and non-human primates, as listed in R.S. 56:6 and LAC 76.V.1.115 are specifically prohibited from being permitted under this permit, and cannot be possessed by an FEIA permittee.

3. Louisiana wildlife permitted under these regulations cannot be taken from the wild by the permittee, and cannot be released back into the wild. Permitted animals must have been obtained from a licensed trapper, a licensed game breeder, or a licensed nongame quadruped breeder. The source of each permitted animal must be verifiable via a bill of sale or sales invoice.

4. Rabies vector species shall be vaccinated by a licensed veterinarian with a killed rabies vaccine, and proof of such vaccination shall be retained by the permittee in the permanent records of that animal. Annual renewal of rabies vaccinations is required for any permitted rabies vector species animal.

5. Each permitted animal must have an official health certificate signed by a Louisiana licensed veterinarian. This health certificate shall reference a specific microchip identification tag that has been surgically implanted into the animal by the licensed veterinarian. Veterinary health inspections on any and all animals possessed under the film/entertainment industry animal permit must be performed at least annually.

6. Per LAC 76:V.1.113.D.6, no person shall transport, possess, purchase, or sell any live coyotes or foxes taken outside the state of Louisiana. Therefore, any live coyote or live fox submitted for permitting under these film/entertainment industry animal permit regulations must have been taken from within the state of Louisiana. Proof of Louisiana origin (bill of sale or sales invoice from a licensed Louisiana trapper or nongame quadruped breeder) must be kept on file by the permittee during the life of the animal, and made available for inspection when requested by an authorized LDWF representative.

7. Permittee must allow inspections of premises by Department of Wildlife and Fisheries employees for purposes of enforcing these regulations. Inspections may be unannounced and may include, but are not limited to, pens, stalls, holding facilities, records, and examination of animals as necessary to determine species identification, sex, health and/or implanted microchip number.

8. Whenever an animal is present, humane care must be provided in all FEIA facilities, film/entertainment industry locations and venues, public entertainment/educational venues, permanent and temporary housing enclosures, and during transport.

9. Animals held under this permit may be utilized in the film/entertainment industry, displayed for educational purposes, or otherwise displayed in a public entertainment/educational venue provided that the specific animal(s) being displayed is included in the most current animal inventory list submitted to LDWF by the applicant. Except, no animal may be used in any type of wrestling, photography opportunity with a patron, or any activity which allows physical contact between the animal and the general public.

10. Permitted animals may be displayed at public entertainment or educational venues by the permittee or his or her subpermittees outside of a secure enclosure provided that these animals are under constant control and immediate physical constraint of the permittee or subpermittee, such constraint precluding any chance of escape or physical contact, intentional or accidental, with an audience member or individual other than the permittee or a subpermittee.

11. Holding Pens and Enclosure Requirements

a. FEIA permittees should recognize and provide for any unique requirements of the species they possess. Permitted animals must be kept in a sanitary and safe condition and may not be kept or utilized in a manner that results in the maltreatment or neglect of the permitted animal.

b. FEIA permitted facilities and enclosures must provide adequate quantities of palatable food that is nutritiously sufficient to ensure normal growth and body maintenance.

c. FEIA permitted facilities and enclosures must provide adequate water which is fresh, uncontaminated, and available at all times. Drinking water must be provided in clean containers on a daily basis, unless the unique requirements of the permitted animal requires additional drinking water be made available. Enclosures must have adequate surface water drainage, and hard floor surfaces must be scrubbed and disinfected as needed.

d. Fecal and food waste must be removed from enclosures daily and disposed of in a manner that prevents noxious odors and insect infestations.

e. FEIA permitted enclosures must provide adequate space for movement, postural adjustments, and resting places. The pen dimensions and specifications described herein are minimum requirements for permanent enclosure and exhibit facilities. These are minimum standards, and the optimum conditions for most animals would include dimensions several times greater than those cited:

i. waterfowl (ducks, geese, swans and coots endemic to or migratory through Louisiana):

(a). ducks and coots—100 square feet with 25 percent in water area for up to four birds; increase pen size by 25 square feet for each additional bird with one-fourth of this increase being in water area;

(b). geese—150 square feet per goose;

ii. doves (order columbiformes endemic to Louisiana except rock dove, i.e., domestic pigeon):

(a). single bird—3 feet by 2 feet by 5 feet high;

(b). community group—large enough to fly or at least 8 feet in diameter;

iii. game birds (ringneck pheasant, chukar, and bobwhite quail endemic to Louisiana), 20 square feet per bird;

iv. hawks, falcons—refer to federal raptor facilities specifications and LDWF falconry regulations;

v. squirrels (gray, fox, and flying squirrels endemic to Louisiana):

(a). single animal—3 feet by 3 feet by 4 feet high;

(b). additional squirrels—add 6 inches per animal to total cage length per additional animal; enclosures

must contain tree trunks, limbs, and vines for climbing and a nest or den box for sleeping;

vi. rabbits (cottontail and swamp rabbits endemic to Louisiana):

(a). single animal—6 feet by 3 feet by 3 feet high with gnawing logs and a sleeping den or nest box;

(b). additional rabbits—add 1 foot per animal to total cage length;

vii. muskrat, opossum, mink—3 feet by 3 feet by 2 feet high with a den box for sleeping;

viii. nutria, raccoon, skunk—4 feet by 4 feet by 2 feet high with a den box for sleeping (raccoon and skunk), a dirt mound for burrow digging (nutria), aquatic habitat for nutria and/or tree branches, trunks, limbs, and vines for climbing (raccoon);

ix. foxes, bobcats, beavers, otters—10 feet by 10 feet x 3 feet high with a den box for sleeping (fox and bobcat), scratching post and elevated perch (bobcat), and appropriate aquatic (swimming) habitat for beavers and otters;

x. coyotes—12 feet by 12 feet by 3 feet with a den box for sleeping;

xi. lizards—minimum cage size shall be based relative to the length of the body and tail, and shall be at least 1.5 times that length on the longest side, 1 times on its shortest side, and 1.2 times in height;

xii. snakes—minimum cage size shall be based relative to the length of the body and tail, and shall be  $\frac{3}{4}$  that length on its longest side,  $\frac{1}{3}$  that length on its shortest side and in height;

xiii. turtles and tortoises—minimum cage or aquarium size shall be based on straight-line shell length, and shall be 5 times that length on its longest side, 3 times on its shortest side, and 2 times in height. Aquaria must contain a basking platform.

F. Reporting and Renewal Requirements

1. An annual report of activities completed under this permit shall be required when submitting a request for permit renewal. This annual report shall be completed on official forms provided for this purpose by LDWF.

2. Application for renewal must contain copies of any and all USDA Animal Welfare Act Inspections performed during the previous year. Proof of current USDA class C license must also accompany renewal application.

3. Certificate of veterinary inspection or other proof of veterinary health examinations for any and all animals kept under this permit must be submitted with renewal application.

4. Escape plan log sheet covering the previous year's activities must accompany renewal application

5. A report detailing injuries to permittee or subpermittees involving an animal kept under this permit, or an injury to any animal kept under this permit during the previous year must accompany renewal application. Reportable injuries include those occurring during housing at primary facility, transport, at temporary housing facilities, and during film/entertainment industry activities. Report must contain narrative describing circumstances surrounding the injury, identification of remedial measures, conclusive identification of animal(s) involved, and disposition of said animals. For the permittee or subpermittees, a reportable injury includes a bite, scratch, or claw wounding, no matter

how minor, or any other type of injury requiring first aid or more serious medical intervention. For an animal kept under this permit, a reportable injury is one that causes unjustifiable physical pain, suffering, or death to any living animal, including, but not limited to, any wound, bite, broken bone, damage to organ or tissue, or environment-related stress that requires first aid, veterinary attention, euthanasia, or removal from availability for use in film/entertainment industry activities.

6. At least 24 hours prior to transporting any permitted animal to a film/entertainment industry venue, public entertainment/educational venue or job location, the FEIA permittee shall notify LDWF with details of the job or appearance. These details shall include date, location, type of job, duration of job, travel times, specific animals involved, the permittee or subpermittee involved, and any overnight housing/caging facilities to be used. Contact information for the agent or contractor should also be included.

7. Written notification of any animal escape must be submitted to LDWF within 48 hours of detection of the escape event. A copy of the escape log sheet shall be considered proper and sufficient notification. This notification must include date, time, location, the species of animal that escaped, a description of actions taken to recover the escaped animal, and the outcome of the event. Repeated escapes (more than three per year) may result in suspension of the permit until remedial solutions are added to the escape plan. Failure to notify LDWF within the 48 hour time frame of any animal escape may result in immediate and/or permanent loss of this permit.

8. Once an FEIA permit has been granted by LDWF, the permittee shall submit and maintain an up to date accurate written inventory list of animals in possession. This inventory list shall include species, sex, and microchip number of specific animals that are actually in possession of the permittee. Individual animals must be identifiable through microchip implantation. Permittee shall maintain records of microchip numbers and make such records available to LDWF upon demand. LDWF must be notified in writing within 48 hours of any changes (either additions or deletions) to this animal inventory list. Deletions must be justified and contain the disposition of the animal. Additions must contain a bill of sale documenting the source of the animal. Alterations to the list of species being kept by a permittee are subject to approval at the discretion of LDWF, and may require re-inspection of facilities. Failure to maintain an accurate, up to date animal inventory list and submit this list to LDWF in a timely basis may subject the permittee to loss or suspension of this permit.

9. Any injury (bite, scratch, or claw wounding, no matter how minor, or any other type of injury requiring first aid or more serious medical intervention), accidentally or otherwise incurred by an audience member or any individual of the general public, that is caused by an animal possessed by an FEIA permit holder shall be immediately reported in writing to LDWF within 48 hours of the occurrence. Such injuries may subject the permittee to loss of the FEIA permit.

10. Any injury (bite, scratch, or claw wounding, no matter how minor, or any other type of injury requiring first aid or more serious medical intervention), accidentally or otherwise incurred by an audience member or any individual

of the general public, that is caused by an unpermitted animal or an animal that was not specifically listed in the permittee's most recent animal inventory list, may result in immediate and permanent loss of this permit.

11. Any unreported injury (bite, scratch, or claw wounding, no matter how minor, or any other type of injury requiring first aid or more serious medical intervention), accidentally or otherwise incurred by an audience member or any individual of the general public, that is caused by a permitted or unpermitted animal may result in immediate and permanent loss of this permit and possible criminal prosecution.

#### G. Penalties for Violation

1. Unless another penalty is provided by law, violation of these regulations will be a class two violation as defined in title 56 of the *Louisiana Revised Statutes*. In addition, upon conviction for violation of these regulations, the FEIA permit associated with the facility or permittee may be revoked, and all animals housed within the facility may be seized by LDWF and forfeited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:105(A).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

#### Family Impact Statement

In accordance with Act #1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

#### Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

#### Public Comments

Interested persons may submit written comments relative to the proposed Rule until 4:30 p.m., Friday, May 23, 2014 to Camille Warbington, Wildlife Permits Coordinator, P.O. Box 98000, Baton Rouge, LA 70898, or via email to [cwarbington@wlf.la.gov](mailto:cwarbington@wlf.la.gov).

Billy Broussard  
Chairman

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Film and Entertainment Industry Animal Permits**

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is expected to have no effect on implementation costs to state or local governmental units. Pursuant to Act 550 of the 2012 Regular Legislative Session, the proposed rule change allows possession of Louisiana native wildlife for entertainment purposes. The proposed rule change

establishes regulations for the possession, purchase, and display of Louisiana native animals to be used in the movie, film, and entertainment industry. These regulations provide and establish general rules regarding permit requirements, fees, animal origin, purchase and display of animals, holding pen specifications, travel enclosure requirements, and reporting requirements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may result in higher revenues among Louisiana animal trainers, collectors, and dealers that handle native Louisiana animals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have a minor positive effect on competition and employment in the public sectors, particularly in the Louisiana movie and film industry and the Louisiana animal training, collecting, and dealing sectors.

Bryan McClinton  
Undersecretary  
1404#052

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

# Administrative Code Updates

CUMULATIVE: January-March 2014

LAC Title	Part #.Section #	Action	Location:		LAC Title	Part #.Section #	Action	Location:		
			Month	LR 40 Page#				Month	LR 40 Page#	
13	I.701-749	Amended	Mar.	490	50	I.Chapters 31,33	Amended	Feb.	310	
	I.751	Adopted	Mar.	490		I.3303,3503	Amended	Jan.	66	
	I.2901-2905,2911	Amended	Jan.	49		I.8341-8349	Amended	Jan.	83	
	I.2913,2915	Adopted	Jan.	49		I.8345	Repealed	Jan.	83	
	III.101-115	Amended	Feb.	264		II.20003	Amended	Mar.	541	
	III.131-145	Repealed	Feb.	264		II.20027	Adopted	Mar.	541	
19	VII.109,309	Amended	Feb.	273	50	III.20305	Amended	Mar.	545	
	VII.7713,8713	Amended	Feb.	274		V.551	Amended	Feb.	312	
22	V.101	Repealed	Jan.	57	50	V.Chapter 9	Amended	Feb.	312	
	XI.108	Repealed	Jan.	57		V.901-905,15105	Adopted	Feb.	315	
	XI.511,701,705,1115,1301	Amended	Jan.	57		V.1125	Amended	Mar.	541	
	XI.903	Amended	Mar.	527		V.5311,5511,5711,5911,6113	Amended	Mar.	542	
	XI.904-909	Repealed	Mar.	527		V.5313,5317,5513,5517,5713,5719,6115	Amended	Feb.	313	
						V.5319,5519,5715,6127	Amended	Feb.	314	
28	IV.301,703,1701,1703	Amended	Jan.	53	50	V.6119	Amended	Feb.	313	
	IV.1805	Amended	Jan.	52		IX.15151,15153	Adopted	Mar.	544	
	IV.301,1903	Amended	Feb.	281		XI.16301,16701	Amended	Jan.	82	
	LXXIX.2102	Amended	Feb.	275		XXI.5717,5719	Adopted	Jan.	81	
	CXV.2314	Amended	Feb.	275		XXI.6101	Amended	Jan.	81	
	CXXXI.Chapters 2,3,6	Amended	Feb.	276		XXI.11107	Amended	Mar.	539	
	CLIII.501	Amended	Mar.	498		XXI.11107	Amended	Mar.	540	
	CLV.303,311,501,505,703,705,1103,1107	Amended	Mar.	498		XXI.11303,12101	Amended	Jan.	67	
	CLV.1109	Amended	Mar.	498		XXI.13701-13709,13901-13929,14101	Amended	Jan.	68	
						XXI.13931-13937	Adopted	Jan.	68	
						XXI.14301	Amended	Jan.	68	
31	II.105	Amended	Feb.	372	50	XXIX.123,991	Amended	Jan.	82	
						XXIX.993	Adopted	Jan.	82	
33	III.2701-2707,2711-2725,2735,2739,2799	Amended	Mar.	500	55	I.1575	Amended	Feb.	370	
	III.2741	Adopted	Mar.	500		III.Chapter 1	Amended	Jan.	90	
	III.5151	Amended	Mar.	518		61	I.1401	Amended	Jan.	91
	V.10303,10309	Amended	Feb.	371			V.101,304,703,907,1103,1307,1503,2503	Amended	Mar.	528
	VII.303,407,513,517,519,527,709,717,719	Amended	Feb.	292		V.3101	Amended	Mar.	528	
	VII.1303,1399,10313	Amended	Feb.	292		67	III.5124	Adopted	Jan.	49
	XV.102,304,322,324,328,399,460,465,499	Amended	Feb.	282			III.7302-7305,7311,7315,7317	Amended	Feb.	243
	XV.717,729,731,732,735,1302	Amended	Feb.	282			III.7331-7335	Amended	Feb.	243
				III.7355-7365,7371	Amended		Feb.	253		
35	I.1797	Amended	Mar.	528	55	III.7372	Adopted	Feb.	253	
						III.7385	Repealed	Feb.	253	
40	I.306,307,4119,4339,5101,5127,5157,5315	Amended	Feb.	374	55	VII.Chapter 19	Repealed	Jan.	84	
	I.5321,5399	Amended	Feb.	374		76	III.320	Repealed	Jan.	94
	I.6631	Amended	Feb.	386			VII.113	Repealed	Mar.	548
	IV.111	Amended	Feb.	374			VII.125	Amended	Mar.	548
	IV.303,364	Adopted	Feb.	374			VII.131	Repealed	Mar.	548
	IV.317	Adopted	Mar.	549			VII.159	Repealed	Mar.	546
IV.375	Adopted	Mar.	548	VII.183	Repealed		Mar.	545		
43	I.724	Amended	Jan.	88	55	VII.335	Amended	Jan.	95	
	XVII.Chapter 3	Adopted	Feb.	342		VII.361	Amended	Jan.	101	
	XVII.Chapter 33	Adopted	Feb.	316		VII.367	Amended	Jan.	96	
46	XXV.117,119,307,315,319,703,705,905,907	Amended	Feb.	303	55	VII.375	Adopted	Jan.	100	
	XXV.911	Amended	Feb.	303		VII.377	Amended	Jan.	94	
	XXXIV.Chapters 1-5	Repealed	Feb.	369		VII.379	Adopted	Feb.	373	
	XLVII.Chapter 45	Amended	Jan.	59		VII.701	Amended	Mar.	545	
	LXIX.Chapter 1	Amended	Feb.	301		VII.907	Amended	Mar.	546	
	LXXXV.301,303,307,700,702,801,803,816	Amended	Feb.	307		IX.Chapter 1	Amended	Mar.	546	
	LXXXV.1103,1200,1201	Amended	Feb.	307		XIX.113	Amended	Jan.	96	
48	I.Chapter 19	Amended	Jan.	84	55	XIX.115	Amended	Jan.	99	

# Potpourri

## POTPOURRI

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

#### Annual Quarantine Listing Plant Protection and Quarantine

In accordance with LAC 7:XV.107 and 109, we are hereby publishing the annual quarantine.

1.0 Sweetpotato Weevil (*Cylas formicarius elegantulus* Sum)

(a) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweetpotato weevil.

(b) In the State of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana.

2.0 Pink Bollworm (*Pectinophora gossypiella* Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

#### Arizona

(1) Generally infested area: the entire state.

#### California

(1) Generally infested area: the entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: the entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

#### New Mexico

(1) Generally infested area: the entire state.

#### Texas

(1) Generally infested area: the entire state.

3.0 Phytophagous Snails

The states of Arizona and California.

4.0 Sugarcane Pests and Diseases

All states outside of Louisiana.

5.0 Lethal Yellowing

The state of Florida.

6.0 Texas Phoenix Decline

The states of Texas and Florida.

7.0 Tristeza, Xyloporosis, Psorosis, Exocortis.

All citrus growing areas of the United States.

8.0 Burrowing Nematode (*Radopholus similis*)

The states of Florida and Hawaii and the Commonwealth of Puerto Rico.

9.0 Oak Wilt (*Ceratocystis fagacearum*)

#### Arkansas

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

#### Illinois

Entire state.

#### Indiana

Entire state.

#### Iowa

Entire state.

#### Kansas

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

#### Kentucky

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson,

Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

#### Maryland

Infected Counties: Allegany, Frederick, Garrett, and Washington.

#### Michigan

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

#### Minnesota

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Lacs, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

#### Missouri

Entire state.

#### Nebraska

Infected counties: Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.



**North Carolina**

Infected counties: Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

**Ohio**

Entire state.

**Oklahoma**

Infected counties: Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

**Pennsylvania**

Infected counties: Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

**South Carolina**

Infected counties: Chesterfield, Kershaw, Lancaster, Lee, and Richland.

**Tennessee**

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

**Texas**

Infected counties: Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

**Virginia**

Infected counties: Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

**West Virginia**

Infected counties: all counties except Tucker and Webster.

**Wisconsin**

Infected counties: Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

10.0Phony Peach

**Alabama**

Entire state.

**Arkansas**

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

**Florida**

Entire state.

**Georgia**

Entire state.

**Kentucky**

County of McCracken.

**Louisiana**

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

**Mississippi**

Entire state.

**Missouri**

County of Dunklin.

**North Carolina**

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

**South Carolina**

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

**Tennessee**

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

**Texas**

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

11.0Citrus Canker (*Xanthomonas citri* subsp. *citri*)

**Louisiana**

Infested parishes: Entire parish of Orleans and portions of Jefferson, Plaquemines and St. Charles.

Any other areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

12.0Pine Shoot Beetle [*Tomicus piniperda* (L.)]

Any areas designated as quarantined under the Federal Pine Shoot Beetle quarantine 7 CFR 301.50 et seq.

13.0Citrus Greening [*Candidatus Liberibacter asiaticus*]

**Louisiana**

Infested parishes: Orleans and Washington.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

14.0Asian Citrus Psyllid [*Diaphorina citri* Kuwayama]

**Louisiana**

Infested parishes: Jefferson, Orleans, Lafourche, Plaquemines, St. Bernard, St. Charles, St. James, St. Tammany, Tangipahoa and Terrebonne.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

15.0Boll Weevil (*Anthonomus grandis*)

Any states or portions of states or areas where the boll weevil is known to occur.

Date: April 1, 2014

Approved by:

Mike Strain DVM  
Commissioner

1404#017

**POTPOURRI**

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

State Implementation Plan (SIP) for Regional Haze Program

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Services, Air Permits Division, will submit to the U.S. Environmental Protection Agency (US EPA) a proposed revision to the SIP for the Regional Haze Program as required under the Clean Air Act, Part C, Section 169, and 40 CFR Part 51.308. Regional haze is visibility impairment caused by the cumulative air pollutant emissions from numerous sources over a wide geographic area. (1404Pot1)

On July 3, 2012, the US EPA made final a partial limited approval and partial disapproval of the original SIP submitted on June 13, 2008. This revision answers the requirements for the four non-electrical generating units (non-EGUs) facilities that were addressed under the Best Available Retrofit Technology (BART) section in the original SIP and that are the subject of the EPA partial disapproval.

A public hearing will be held at 1:30 pm on May 22, 2014, in the Galvez Building, Oliver Pollock Room C-111, 602 North Fifth Street, Baton Rouge, LA. Individuals with a disability and need accommodation in order to participate, please contact Vivian H. Aucoin at (225) 219-3389 or at the address listed below. Interested persons are invited to attend and submit oral comments on the proposal.

All interested persons are invited to submit written comments concerning the SIP revision no later than 4:30 p.m., May 22, 2014 to Vivian H. Aucoin, Office of Environmental Services, P.O.Box 4313, Baton Rouge, LA 70821-4314 or to Fax (225) 219-3156 or by e-mail to vivian.aucoin@la.gov.

A copy of the SIP revision for the Regional Haze Program may be viewed from 8 a.m. to 4:30 p.m. in the DEQ Public Records Center, Room 127, 602 North Fifth Street, Baton Rouge, LA. The document is available at [www/deq.louisiana.gov/portal/Default.aspx?tabid=2381](http://www/deq.louisiana.gov/portal/Default.aspx?tabid=2381).

Herman Robinson, CPM  
Executive Counsel

1404#037

**POTPOURRI**

**Department of Natural Resources  
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Great Southern Oil & Gas Co Inc	Port Barre	L	VUA;A Dezauche et al	001	157891(30)
E. H. Lange, et al	Caddo Pine Island	S	N B Stoer et al	001	38454
John F Mitchell et al	Caddo Pine Island	S	Gamm	001	52096
Choate Oil Corporation	Wildcat-No LA Shreveport Dist	S	Glassell	002	4005
Ken Blake	Wildcat-No La Shreveport Dist	S	Brewton A	001	216804
Cohen & Cheatham	Caddo Pine Island	S	Noel	A-2	40844
S. L. Carruth Jr.	Port Barre	L	C Devillier	001	146849
Cabot Petroleum Corporation	White Castle	L	Baist Cooperage & LBR Co Inc	001	164581(30)
Doran And Braddock	Caddo Pine Island	S	Reuben V Glassell	001	135383
Pilgrim Oil Co.	Wildcat-No LA Shreveport Dist	S	Ramsey	002	4660
TPE Tiger, LLC	Pinewood	L	AUS C RA SUA;Bailey 32	001	220568
TPE Tiger, LLC	Sugartown	L	AUS C RA SUH;Crosby 25	001	221416
TPE Tiger, LLC	Sugartown	L	AUS C RA SU;Crosby 36 A	001	221647
TPE Tiger, LLC	Chasmore	L	AUS C RA SUE;Churchman 9	001	221976
TPE Tiger, LLC	Chasmore	L	AUS C RA SUF;Crosby 2	001	222061
TPE Tiger, LLC	Chasmore	L	AUS C RA SUH;Stickland 17	001	222352
TPE Tiger, LLC	Sugartown	L	Crosby 25 SWD	001	972762
TPE Tiger, LLC	Chasmore	L	Churchman 9 SWD	001	972789
TPE Tiger, LLC	Chasmore	L	Crosby 2 SWD	001	972793
TPE Tiger, LLC	Chasmore	L	Stickland 17 SWD	001	972799

Operator	Field	District	Well Name	Well Number	Serial Number
U. S. Oil And Gas, Inc.	Hollywood	L	L KBR RB SUF; Southdown	007	93972
U. S. Oil And Gas, Inc.	Hollywood	L	U KBR RB SUG; Southdown	007D	94562
U. S. Oil And Gas, Inc.	Fausse Pointe	L	Juliette R H Provost et al	003	51141(30)
Segars Operating	Monroe	M	Rea & Green	002	12693
Segars Operating	Monroe	M	Osterland	001	135789
Segars Operating	Monroe	M	Osterland	002	135790
Segars Operating	Monroe	M	Osterland	003	135791
Segars Operating	Monroe	M	Hudson	001	136758
Segars Operating	Monroe	M	Hudson	002	136988
Segars Operating	Monroe	M	Central S	001	137983
Segars Operating	Monroe	M	Central S	002	138199
Segars Operating	Monroe	M	Snyder Heirs D	001	138426
Segars Operating	Monroe	M	Pennzoil M R 850	001	139129
Segars Operating	Monroe	M	Pennzoil M R 850	002	139130
Segars Operating	Monroe	M	Pennzoil M R 850	003	139131
Segars Operating	Monroe	M	G Eubanks	002	142726
Segars Operating	Monroe	M	G Eubanks A	001A	142862
Segars Operating	Monroe	M	Leiber et al	001	143196
Segars Operating	Monroe	M	Leiber et al	002	143197
Segars Operating	Monroe	M	Leiber et al	003	143198
Segars Operating	Monroe	M	Lieber Estate	001	143252
Segars Operating	Monroe	M	Lieber Estate	002	143253
Segars Operating	Monroe	M	Lieber Estate	003	143254
Segars Operating	Monroe	M	Philly	001	143480
Segars Operating	Monroe	M	Robinson	001	151193

Operator	Field	District	Well Name	Well Number	Serial Number
Segars Operating	Monroe	M	Robinson	002	151225
Segars Operating	Monroe	M	Robinson	003	151226
Segars Operating	Monroe	M	Robinson	004	151290
Segars Operating	Monroe	M	Robinson	005	151291
Segars Operating	Monroe	M	Robinson	006	151398
Segars Operating	Monroe	M	Robinson	007	151399
Segars Operating	Monroe	M	Ouachita Parish School Board	001	169129
Segars Operating	Monroe	M	Ouachita Parish School Board	002	169232
Segars Operating	Monroe	M	Ouachita Parish School Board	003	169233
Segars Operating	Monroe	M	Ouachita Parish School Board	004	169769
Segars Operating	Monroe	M	Ouachita Parish School Board	005	169770
Segars Operating	Monroe	M	Ouachita Parish School Board	006	169952
Segars Operating	Monroe	M	Ouachita Parish School Board	007	169953
Segars Operating	Monroe	M	Ouachita Parish School Board	008	170056
Segars Operating	Monroe	M	Ouachita Parish School Board	009	170057
Segars Operating	Monroe	M	Clark 80	001	170499
Segars Operating	Monroe	M	Clark 80	002	170500
Segars Operating	Monroe	M	Clark 80	003	170501
Segars Operating	Monroe	M	W A Smith	001	170523
Segars Operating	Monroe	M	W A Smith	002	170524

Operator	Field	District	Well Name	Well Number	Serial Number
Segars Operating	Monroe	M	Pecan Bayou Land Corp	001	172332
Segars Operating	Monroe	M	East Ouachita Recreation Dist	003	172333
Segars Operating	Monroe	M	Pennzoil Osterland	001	172334
Segars Operating	Monroe	M	Pennzoil Osterland	002	172335
Segars Operating	Monroe	M	Pennzoil Osterland	003	172336
Segars Operating	Monroe	M	Pennzoil Osterland	004	172337
Segars Operating	Monroe	M	East Ouachita Recreation Dist	004	172341
Segars Operating	Monroe	M	Osterland	004	172342
Segars Operating	Monroe	M	Osterland	005	172343
Segars Operating	Monroe	M	Osterland	011	172363
Segars Operating	Monroe	M	Osterland	006	172364
Segars Operating	Monroe	M	Osterland	008	172550
Segars Operating	Monroe	M	Osterland	007	172551
Segars Operating	Monroe	M	Osterland	012	172552
Segars Operating	Monroe	M	East Ouachita Recreation Dist	002	172553
Segars Operating	Monroe	M	Osterland Pennzoil	001	172577
Segars Operating	Monroe	M	Osterland Pennzoil	005	172582
Segars Operating	Monroe	M	Osterland Pennzoil	006	172583
Segars Operating	Monroe	M	Pennzoil Osterland	005	172614
Segars Operating	Monroe	M	Pennzoil Osterland	006	172615
Segars Operating	Monroe	M	Pennzoil Osterland	007	172616

Operator	Field	District	Well Name	Well Number	Serial Number
Segars Operating	Monroe	M	East Ouachita Recreation Dist	001	172803
Segars Operating	Monroe	M	Osterland	013	172804
Segars Operating	Monroe	M	Sturgeon	001	172978
Segars Operating	Monroe	M	Osterland	009	173382
Segars Operating	Monroe	M	Osterland	010	173384
Segars Operating	Monroe	M	Osterland-Pennzoil A	001	173666
Segars Operating	Monroe	M	Cole Heirs	001	176010
Segars Operating	Monroe	M	Cole Heirs	002	176011
Segars Operating	Monroe	M	Cole Heirs	003	176012
Segars Operating	Monroe	M	Cole Heirs	004	176013
Segars Operating	Monroe	M	Cole Heirs	005	176014
Segars Operating	Monroe	M	Cole Heirs	006	176934
Segars Operating	Monroe	M	Cole Heirs	007	176935
Segars Operating	Monroe	M	Cole Heirs	008	176936
Segars Operating	Monroe	M	Manville 748	002	181309
Segars Operating	Monroe	M	Cole Heirs A	001	182207
Segars Operating	Monroe	M	Cole Heirs A	002	182607
Segars Operating	Monroe	M	Cole Heirs A	003	182608
Segars Operating	Monroe	M	Cole Heirs A	004	182662
Segars Operating	Monroe	M	Cole Heirs A	005	182663
Segars Operating	Monroe	M	Cole Heirs A	006	182664

James H. Welsh  
Commissioner

1404#032

**POTPOURRI**

**Department of Natural Resources  
Office of the Secretary  
Fishermen's Gear Compensation Fund**

**Underwater Obstruction—Latitude/Longitude Coordinates**

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 6 claims in the amount of \$26,815.89 were received for payment during the period March 1, 2014-March 31, 2014.

There were 4 paid and 2 denied.

Latitude/longitude coordinates, in degree decimal minutes, of reported underwater obstructions are:

29 28.735	90 08.459	Lafourche
29 34.075	90 43.280	Terrebonne
29 35.651	89 35.015	Plaquemines
29 36.697	89 40.377	Plaquemines
29 37.731	91 47.521	Iberia

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-9388.

Stephen Chustz  
Secretary

1404#087

**POTPOURRI**

**Department of Revenue  
Policy Services Division**

**Natural Gas Severance Tax Rate**

The natural gas severance tax rate effective July 1, 2014-June 30, 2015 has been set at 16.3 cents per thousand cubic feet (MCF) measured at a base pressure of 15.025 pounds per square inch absolute and at the temperature base of 60 degrees fahrenheit.

This tax rate is set each year by multiplying the natural gas severance tax base rate of 7 cents per MCF by the "gas base rate adjustment" determined by the secretary of the Department of Natural Resources in accordance with R.S. 47:633(9)(d)(i). The "gas base rate adjustment" is a fraction, of which the numerator is the average of the New York Mercantile Exchange (NYMEX) Henry Hub settled price on the last trading day for the month, as reported in the *Wall Street Journal* for the previous 12-month period ending on March 31, and the denominator is the average of the monthly average spot market prices of gas fuels delivered into the pipelines in Louisiana as reported by the Natural Gas Clearing House for the 12-month period ending March 31, 1990 (1.7446 \$/MMBTU).

Based on this computation, the secretary of the Department of Natural Resources has determined the natural gas severance "gas base rate adjustment" for April 1, 2013, through March 31, 2014, to be 232.34 percent. Applying this gas base rate adjustment to the base tax rate of 7 cents per MCF produces a tax rate of 16.3 cents per MCF effective July 1, 2014, through June 30, 2015. The reduced natural gas severance tax rates provided for in R.S. 47:633(9)(b) and (c) remain the same.

Questions concerning the natural gas severance tax rate should be directed to [policy.publications@la.gov](mailto:policy.publications@la.gov).

Tim Barfield  
Secretary

1404#031

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