

I. EXECUTIVE ORDERS
 JBE 21-06 Flags at Half-Staff—Dr. Virgil Orr 553
 JBE 21-07 Governor’s Task Force on Murdered and Missing Indigenous Women and Girls..... 553

II. EMERGENCY RULES
Education
 Board of Elementary and Secondary Education—Bulletin 140—Louisiana Early Childhood Care and Education Network (LAC 28:CLXVII.509, 511 and 512)..... 556
Governor
 Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River Standards of Conduct (LAC 46:LXX.6311)..... 557
Health
 Licensed Professional Counselors Board of Examiners—License Renewal (LAC 46:LX.609 and 3315)..... 557
 Teletherapy Guidelines for Licensees (LAC 46:LX.505) 558
Wildlife and Fisheries
 Wildlife and Fisheries Commission—Opening of 2021 Spring Inshore Shrimp Season 559
 Reopening of Shrimp Season in Portion of State Outside Waters 560
Workforce Commission
 Office of Unemployment Insurance Administration—Emergency Rule—State Income Tax Withholding from Unemployment Insurance Benefits (LAC 40:IV.383)..... 560

III. RULES
Agriculture and Forestry
 Office of Agro Consumer Services—Commercial Weighing and Measuring Device; Meat Labeling; and Fuel Price Advertising (LAC 7:XXXV.127, 135, and 321)..... 562
 Office of Forestry—Electronic Transfer/Driver Cards (LAC 7:XXXIX.1503)..... 563
 Forestry Productivity Program (LAC 7:XXXIX.1303 and 1307)..... 564
Education
 Board of Elementary and Secondary Education—Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28: XI.301, 405, 409, 413, 501, 503, 601, 603, 605, 607, 703, 705, 709, 903, 907, 909, 3503, 3603, 3605, 3901, 3903, 3905, 4101 and 4103) 565
 Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:XI.5105, 5107, 5305, 5701, 597, 6151, 6153, 6803, 6819, 6823, 6825, 6829, 6901, 6913, 7209, 7301, 7501, 7701, 7703, 8301, 8303, 8306, 8307, 8501, and 8507)..... 565
 Bulletin 126—Charter Schools—Charter School Renewals and Virtual Charter School Attendance (LAC 28:CXXXIX.103, 311, and Chapter 5) 569
 Bulletin 139—Louisiana Child Care and Development Fund Programs—CCAP Household Eligibility (LAC 28:CLXV.509 and 515)..... 573
 Bulletin 139—Louisiana Child Care and Development Fund Programs—CCAP Household Eligibility (LAC 28:CLXV.707)..... 574
 Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.203).....
 Tuition Trust Authority, Office of Student Financial Assistance—Achieving a Better Life Experience (ABLE) Program (LAC 28:VI.507, 509, 511, 513, 517, 519, and 521) 575
Governor
 Division of Administration, Office of State Procurement—Procurement (LAC 34:V.Chapters 1-17, 19, 21, and 23-31)..... 578
Health
 Board of Pharmacy—Labeling and Delivery of Marijuana Products (LAC 46:LIII.2443 and 2451) 590
 Board of Pharmacy—Pharmacy Benefit Managers (LAC 46:LIII.Chapter 30) 590
 State of Emergency (LAC 46:LIII.521) 592
 Bureau of Health Services Financing—Intermediate Care Facilities for Persons with Intellectual Disabilities Temporary Reimbursement for Private Facilities (LAC 50:VII.32904) 593
 Personal Care Services—Long Term Care (LAC 50:XV.Chapter 129)..... 593
 Office of Aging and Adult Services—Personal Care Services—Long Term Care (LAC 50:XV.Chapter 129) 593
Insurance
 Office of the Commissioner—Rule 9—Prelicensing Education (LAC 37:XI.Chapter 5) 594
 Rule 10—Continuing Education (LAC 37:XI.Chapter 7) 599
Wildlife and Fisheries
 Wildlife and Fisheries Commission—Deer Management Assistance Program Signage Change (LAC 76:V.111) 605
 Establishment of Recreational Reef Sites and Restriction of Oyster Harvest (LAC 76:VII.537)..... 605
Workforce Commission
 Office of Workers’ Compensation Administration—Medical Treatment Guidelines (LAC 40:I.5117 and 5157) 606

IV. NOTICES OF INTENT	
Children and Family Services	
Division of Child Welfare , Child Protective Services—Maintenance and Disclosure of Information on Reports and Investigations on the State Repository (LAC 67:V.1105)	608
Economic Stability Section—Expungement of Unused Benefits (LAC 67:III.403).....	609
Culture, Recreation and Tourism	
Office of Cultural Development—State Commercial Tax Credit Program Credit Reservation Process (LAC 25:I.1301 and 1305).....	610
Economic Development	
Office of the Secretary—Angel Investor Tax Credit Program (LAC 13:I.Chapter 33).....	613
Education	
Board of Regents—Academic Program Standards; Student Level Data Collection and Reporting (LAC 28:IX.Chapter 3)	616
Proprietary Schools Section—General Provisions; License Requirements; Affidavits and Bonds; Proprietary Schools Applications; Violations; Student Complaint Procedure; Student Records (LAC 28:III. 101, 105, 501, 503, 505, 507, 509, 511, 513, 701, 703, 901, 903, 1501, 1701, and 1901).....	619
Governor	
Board of Pardons—Meeting and Hearing for the Board of Parole; Inactive Parole Supervision (LAC 22:V.211 and XI.510, 514, and 1502).....	627
Division of Administration, Racing Commission—Pick N Procedure (LAC 35:XIII.11609).....	630
Health	
Bureau of Health Services Financing—Home and Community-Based Services Waivers—Cost Reporting Requirements (LAC 50:XXI.Chapters 7 and Chapter 29).....	631
Home Health Program—Durable Medical Equipment.....	644
Intermediate Care Facilities for Persons with Intellectual Disabilities—Reimbursement Methodology Direct Care Floor Recoupment (LAC 50:VII.32901).....	645
Targeted Case Management (LAC 50:XV.Chapters 101-117)	646
Office for Citizens with Developmental Disabilities—Home and Community-Based Services Waivers—Cost Reporting Requirements (LAC 50:XXI.Chapters 7 and Chapter 29)	631
Targeted Case Management (LAC 50:XV.Chapters 101-117)	646
Office of Aging and Adult Services—Home and Community-Based Services Waivers—Cost Reporting Requirements (LAC 50:XXI.Chapters 7 and Chapter 29).....	631
Physical Therapy Board—Licensing and Certification (LAC 46:LIV.Chapters 1-3)	654
Natural Resources	
Office of Conservation—Pipeline Safety (LAC 43:XIII:Chapters 3-61 and LAC 33:V.Chapter 304).....	663
Transportation and Development	
Offshore Terminal Authority—Offshore Terminal Facilities Air Emissions Recordkeeping and Reporting (LAC 70:VII.303)	672
Uniform Local Sales Tax Board	
Claims for Refund or Credit (LAC 72:I.111)	674
Interest on Refunds or Credits (LAC 72:I.113).....	675
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Domesticated Aquatic Organisms (LAC 76:VII.Chapter 9).....	677
V. GOVERNOR’S REPORT	
Governor’s Review and Determination for an Emergency Rule adopted by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River	690
VI. POTPOURRI	
Health	
Bureau of Health Services Financing—Public Hearing—Substantive Changes to Proposed Rule Facility Need Review—Relocation of Nursing Facility Beds (LAC 48:I.12529)	691
Natural Resources	
Office of Conservation—Orphaned Oilfield Sites.....	691
Public Safety and Corrections	
Oil Spill Coordinator’s Office—Draft Damage Assessment and Restoration Plan and Environmental Assessment for 2008 Mississippi River Oil Spill.....	694
Notice of Final Restoration Plan—Lake Washington 2003 Oil Spill	695
VII. INDEX	697

Executive Orders

EXECUTIVE ORDER JBE 21-06

Flags at Half-Staff—Dr. Virgil Orr

WHEREAS, Dr. Virgil Orr, a former distinguished member of the Louisiana Legislature, died at the age of 98 on Saturday, April 24th, 2021;

WHEREAS, he is survived by his wife of 76 years, Myrtis Chandler Orr; his two daughters Virginia Orr Rice and Marilyn Orr Hyams; four grandchildren, and eight great-grandchildren;

WHEREAS, he served his nation honorably in the United States Army Corps of Engineers during the Second World War;

WHEREAS, in 1944, Dr. Orr earned his Bachelor of Science in Chemical Engineering from the Louisiana Polytechnic Institute (now Louisiana Tech), and later attained the degrees of Master of Science and Doctor of Philosophy in Chemical Engineering; he served the students of this State and the Louisiana Tech Community as a professor, Dean of the College, and Vice President of Academic Affairs until his retirement from academia in 1980;

WHEREAS, he served his state and his home of Lincoln Parish in the Louisiana Legislature for four years, from 1988 until 1992; and

WHEREAS, Dr. Virgil Orr lived his life with integrity and honor, and his public service as an educator and lawmaker to the State of Louisiana will long be remembered.

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

SECTION 1: As an expression of respect for Dr. Virgil Orr, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol from sunrise until sunset on Wednesday, April 28, 2021.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Wednesday, April 28, 2021.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 27th day of April, 2021.

John Bell Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Aroin
Secretary of State
2105#014

EXECUTIVE ORDER JBE 21-07

Governor's Task Force on Murdered and Missing Indigenous Women and Girls

WHEREAS, Indigenous women face a staggering and tragically high rate of violence and assault, due to historically unjust marginalization throughout the United States of America, which has resulted in an ongoing national humanitarian crisis;

WHEREAS, May 5 has been designated by the United States Senate, the legislative bodies of various states and tribes, and numerous community organizations as a National Day of Awareness for Missing and Murdered Indigenous Women and Girls;

WHEREAS, in November of 2019, Presidential Executive Order 13898 established Operation Lady Justice, the Task Force on Missing and Murdered American Indians and Alaska Natives, recognizing the severe concerns of tribal governments regarding missing and murdered members of American Indian and Alaska Native communities, particularly women and girls;

WHEREAS, in April of 2021, United States Interior Secretary Deb Haaland announced the formation of a new Missing and Murdered Unit within the Bureau of Indian Affairs Office of Justice Services to provide leadership and direction for cross-departmental and interagency work involving missing and murdered American Indians and Alaska Natives, seeking to put the full weight of the federal government into investigating these cases and to marshal law enforcement resources across federal agencies throughout Indian Country;

WHEREAS, the State of Louisiana is committed to partnering with federal, state, interstate, and intertribal efforts to address the injustice and violence done to indigenous women residing within our nation and our State; and

WHEREAS, by engaging a wide and diverse group of stakeholders, and through collaboration with state administration and law enforcement, Louisiana can and will reduce the violence and harm threatening the lives and safety of women in our State's Indigenous communities.

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

SECTION 1: The Governor's Task Force on Murdered and Missing Indigenous Women and Girls (hereafter the "Task Force") is hereby established within the executive branch, Office of the Governor – Office of Community Programs.

SECTION 2: The duties of the Task Force shall include, but are not limited to, the following:

A. To investigate and make recommendations to address rates of homicide, human trafficking, and sexual violence being perpetrated upon American Indian/Indigenous women and children in the State of Louisiana, categorized as Murdered and Missing Indigenous Women (MMIWG).

B. To promote greater public awareness of the ongoing crisis of violence against Indigenous women.

C. To investigate and make recommendations to the Governor and the Attorney General as to the manner in which Indigenous people shall be categorized on all future records and reports under the administrative jurisdiction of the State of Louisiana.

D. To investigate and make recommendations to the Governor and the Attorney General with regard to resources available to tribal law enforcement.

E. To investigate and make recommendations to the Governor regarding the formulation of solution-based policies and their implementation regarding the following:

1. Clarification of the responsibilities of federal, state, tribal, and local parish and city law enforcement agencies when responding to cases of murdered and missing Indigenous people;

2. Establishment of methods to increase coordination and communication among Federal, State, Tribal, and local Parish and City law enforcement agencies.

3. Creation of a process and structure to increase the collection of data related to murdered and missing indigenous women and children and the most effective and expeditious method of sharing that information among Federal, State, Tribal, and local Parish and City law enforcement agencies.

4. Formulation of standard law enforcement protocols to respond to the unique challenges and circumstances surrounding the crisis of murdered and missing indigenous women and children, with prioritization for response criteria to a missing person report.

5. Development of an effective framework within which intelligence can be gathered and shared in reciprocal compacts with other states related to human trafficking criminal organizations.

6. Consideration of how temporary habitations that house workers, referred to as “man camps,” can be most effectively policed and monitored, and if existing zoning ordinances need to be amended to achieve that end.

7. Recommendations to ensure that all non-resident workers who have been previously convicted of sex crimes in any jurisdiction register as sex offenders with the requisite authority in the State of Louisiana.

8. Review of current cultural competency practices employed by industrial operators in the State of Louisiana, including but not limited to human trafficking awareness training with a specific focus on murdered and missing indigenous women.

9. Establishment of guidelines specifically for reviewing possible MMIW “cold cases” and improving “cold case” investigative methodology, including analysis of the serial nature of MMIW crimes in reservation and urban environments.

10. Recommendations regarding the establishment of Tribal Liaison Offices, and the possible locations thereof, to ensure access to culturally appropriate victim services for both victims and their families.

F. To make recommendations to the Governor and the Attorney General for the establishment of a statewide administrative process to identify MMIW victims that will be adhered to by all law enforcement agencies, coroners, and the Louisiana Department of Health, the Louisiana State Registrar, and the Louisiana Department of Vital Statistics, as well as the formulation of an oversight mechanism to preserve the integrity of such data.

SECTION 3: On or before June 30, 2021, the Task Force shall submit to the Governor and Attorney General an initial recommendation regarding the manner in which Indigenous people shall be categorized on all future records and reports under the administrative jurisdiction of the State of Louisiana.

SECTION 4: Thereafter, the Task Force shall meet at least quarterly and shall submit quarterly reports to the Governor and Attorney General, for a period of 24 months, regarding its findings and recommendations.

SECTION 5: The Task Force shall be composed of a maximum of twenty-five (25) voting members who, unless otherwise specified, shall serve at the pleasure of the governor:

1. One representative from each of the federally recognized and state-recognized tribal nations located within Louisiana, chosen by each tribe’s respective tribal council;

2. One victims’ advocate with no less than five years of professional experience of working in the field of sexual trauma and victim recovery, appointed by the Governor;

3. The Director of the Governor’s Office of Indian Affairs;

4. One expert in Human Trafficking Prevention, appointed by the Governor;

5. One representative of the Louisiana Department of Justice, designated by the Attorney General;

6. One mental health professional, designated by the Secretary of the Louisiana Department of Health;

7. One Informational Technology expert, designated by the Superintendent of the Louisiana State Police.

8. One representative of the Louisiana Department of Children and Family Services, designated by the Secretary; and

9. Two at-large members, appointed by the Governor.

SECTION 6: The Task Force shall also include three non-voting advisory members from each of the following advocacy bodies, designated by their respective executive leadership: 1) the United South and Eastern Tribes (USET); 2) the Global Indigenous Council; and 3) the National Congress of American Indians.

SECTION 7: The chair of the Task Force shall be designated by the Governor from the membership of the Task Force. All other officers, if any, shall be elected by and from the membership of the Task Force.

SECTION 8: The Task Force shall meet at regularly scheduled intervals and at the call of the Governor or the Chair. All meetings of the Task Force shall be subject to the

Open Meetings Law as contained in La. R.S. 42:11, et seq. A majority of the serving members of the Task Force shall constitute a quorum. The Task Force shall act by a majority vote of its serving members.

SECTION 9: The Governor, the Department of Justice, and the Department of Public Safety and Corrections shall consider the recommendations of the Task Force for inclusion in a comprehensive plan to address the crisis faced by Indigenous people of the State of Louisiana.

SECTION 10:

A. Task Force members shall not receive additional compensation or a per diem from the Office of the Governor for serving on the Task Force.

B. Task Force members who are an employee or an elected public official of the state of Louisiana or a political subdivision of the state of Louisiana may seek reimbursement of travel expenses, in accordance with PPM 49, from their employing and/or elected department, agency and/or office.

SECTION 11: The Task Force shall be staffed by employees of the Office of the Governor, Office of Community Programs.

SECTION 12: 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 with the Task Force in implementing the provisions of this Order.

SECTION 13: The Task Force may collaborate with or seek input from additional local, state, and federal agencies or other stakeholders, including university or not-for-profit research institutions, to develop, implement, and evaluate the necessary components or actions of the Task Force.

SECTION 14: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 5th day of May, 2021.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Aroin
Secretary of State
2105#015

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network (LAC 28:CLXVII.509, 511 and 512)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:CLXVII in Bulletin 140—*Louisiana Early Childhood Care and Education Network*. Proposed revisions to Bulletin 140 address challenges related to observation coverage of early childhood classrooms as a result of COVID-19:

- Extend 2019-2020 Performance Scores and Ratings for sites where this score is higher than the 2020-2021 Performance Score.
- Mandate Site Improvement Planning (SIP) participation for sites that score below 3.75 in 2020-2021.
- Ensure classrooms are equally weighted and provide unique treatment for classrooms that were not required to receive a spring local observation.
- Abstain from publishing Community Network Performance Scores as well as honor rolls for sites rated “excellent” as well as those making significant growth.

This Declaration of Emergency, effective April 21, 2021, is for a period of 120 days from adoption, or until finally adopted as Rule.

Title 28 EDUCATION

Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

Chapter 5. Early Childhood Care and Education Accountability System

§509. Performance Rating Calculations for Publicly-Funded Sites

A. - A.2. ...

a. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, the performance rating for each site that has received at least one observation during 2020-2021 shall be based on the higher of the site’s published 2019-2020 performance rating and the 2020-2021 performance rating calculated for the site.

i. The LDE shall share performance summaries based on 2020-2021 observations for informational purposes only.

ii. Sites not receiving any observations during the 2020-2021 school year shall not receive a performance rating.

A.3. - B.3. ...

4. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, a classroom that does not have a second observation because the classroom received a fall CLASS® score of 4.50 or higher after third party replacement shall have their fall CLASS® score after third party replacement duplicated and treated as the spring local observation for the purposes of performance rating. A classroom that does not have a second observation for any other reason shall have their score replaced consistent with Subsection B of this Section.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2587 (December 2015), amended LR 42:1873 (November 2016), LR 44:1442 (August 2018), LR 45:1453 (October 2019), LR 47:

§511. Performance Rating Calculations for Community Networks

A. - H. ...

I. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, the Department shall not publish community network ratings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:1874 (November 2016), LR 44:1442 (August 2018), LR 45:1454 (October 2019), LR 47:

§512. Performance Ratings for Publicly-Funded Sites

A. - B.1.c. ...

d. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, publicly-funded sites where the score calculated from observations conducted during the 2020-2021 school year is lower than 3.75 shall be required to participate in an early childhood school or center improvement planning process.

C. - C.2....

3. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, the LDE shall not publish annual honor rolls nor label sites as “top gains.”

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1874 (November 2016), amended LR 44:1442 (August 2018), LR 47:

Sandy Holloway
President

2105#001

DECLARATION OF EMERGENCY

Office of the Governor Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River

Standards of Conduct (LAC 46:LXX.6311)

In accordance with the emergency provisions of the Administrative Procedures Act, R.S. 49:953 (B), and under the authority of R.S. 34:1041, et seq. and Title 46, Professional and Occupational Standards, Part LXX, River Pilots, Subpart 3, Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots, et seq. the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River declares an emergency to exist and adopts by emergency process the attached regulation for the increased mandatory rest period for New Orleans - Baton Rouge Steamship Pilots.

Due to the safety sensitive nature of the duties performed by state commissioned pilots, this board has a strong commitment to the public and maritime industry. The board has promulgated standards of conduct, in order to further enhance the safety and wellbeing of the citizens of Louisiana and New Orleans and Baton Rouge Steamship Pilots as well as to prevent any imminent peril to public health, safety and welfare, and to achieve and maintain reliable, safe and efficient pilotage services.

The board has the authority to compel each and every individual pilot to be available for and accept orders for pilotage assignments in declared emergency situations or in other overriding operational conditions. This emergency rule amends LAC 46:LXX.6311 to provide for an increased mandatory rest period for New Orleans and Baton Rouge Steamship Pilots during time periods of extreme Mississippi River gauge levels and river currents.

This Emergency Rule becomes effective upon the signature of the President of the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River and shall remain in effect for the maximum time allowable by the Administrative Procedures Act, unless rescinded, renewed or until permanent rules and regulations become effective.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXX River Pilots

Subpart 3. Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots

Chapter 63. Standards of Conduct

§6311. Mandatory Rest Period

A. For the purpose of this rule, a turn is the time period from dispatch to the termination of the allotted travel time.

B. All pilots shall have a minimum of 12 hours rest period between turns.

C. For the purpose of this rule, the rest period begins at the termination of the allotted travel time at the completion of one turn and ends at the time of dispatching for the next turn.

D. Notwithstanding Subsection B, the captain of the station and shift pilots shall be exempt from the minimum 12 hours rest period in between turns. However, in no case shall

the captain of the station and shift pilots exceed 12 bridge hours in any 24-hour period.

E. Notwithstanding Subsection B, any pilot completing a turn lasting less than 4 bridge hours or receiving a discharge, shall not be required to comply with the mandatory 12 hours rest period. However, in no case shall any pilot acquire more than 12 hours in a 24-hour period. Pilots requesting 12 hours rest period shall not be called or dispatched in less than 12 hours from the completion of their finishing time.

F. Notwithstanding Subsection B, during a state of declared emergency all pilots shall be exempt from the minimum 8 hours rest period in between turns. However, in no case shall any pilot exceed 12 bridge hours in any 24-hour period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:1041 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 31:56 (January 2005), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010), LR 38:3167 (December 2012), LR 49:

Captain Casey E. Clayton
President

2105#007

DECLARATION OF EMERGENCY

Department of Health Licensed Professional Counselors Board of Examiners

License Renewal (LAC 46:LX.609 and 3315)

The Louisiana Department of Health, Louisiana Licensed Professional Counselors Board of Examiners has exercised the emergency provisions of the Administrative Procedures Act, specifically R.S. 49:953(B), to rescind §609.C and §3315.C.1.c relative to the Practice of Mental Health Counseling. The LPCBE finds an imminent danger to the public's health, safety, and welfare; thereby, requiring the immediate adoption of this rule to respond to the Covid-19 health emergency. The following Emergency Rule, which rescinds §609.C and §3315.C.1.c is effective May 3, 2021, and shall remain in effect for a maximum of 120 days.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 1. Licensed Professional Counselors Chapter 6. Application, Practice, and Renewal Requirements for Provisional Licensed Professional Counselors §609. Renewal Requirements for Provisional Licensed Professional Counselors

A. - B. ...

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 41:716 (April 2015), amended LR 49:

Subpart 2. Professional Standards for Licensed Marriage and Family Therapists and Provisional Licensed Marriage and Family Therapists
Chapter 33. Requirements for Licensure and Provisional Licensure

§3315. Application, Practice, and Renewal Requirements for Provisional Licensed Marriage and Family Therapists

- A. - C.1.b. ...
c. Repealed.

C.1.d. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 29:158 (February 2003), amended LR 29:2787 (December 2003), LR 35:1114 (June 2009), LR 38:1966 (August 2012), LR 39:1806 (July 2013), LR 41:742 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 43:1983 (October 2017), LR 45:1204 (September 2019), LR 47:

Jamie S. Doming, MBA
Executive Director

2105#053

DECLARATION OF EMERGENCY

**Department of Health
Licensed Professional Counselors Board of Examiners**

Teletherapy Guidelines for Licensees (LAC 46:LX.505)

The Louisiana Department of Health, Louisiana Licensed Professional Counselors Board of Examiners has exercised the emergency provisions of the Administrative Procedures Act, specifically R.S. 49:953(B), to rescind rules relative to the Practice of Mental Health Counseling, specifically Section 505. The LPCBE finds an imminent danger to the public's health, safety, and welfare; thereby, requiring the immediate adoption of this rule to respond to the Covid-19 health emergency. The following Emergency Rule, effective April 28, 2021, shall remain in effect for a maximum of 120 days.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS REVISED**

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 1. Licensed Professional Counselors

**§505. Teletherapy Guidelines for Licensees
(Formerly Diagnosing for Serious Mental Illnesses)**

A. This Chapter defines and establishes minimum standards for the delivery of mental health counseling, psychotherapy, and marriage and family therapy services using technology-assisted media. Teletherapy references the provision of counseling and psychotherapy services from a distance which is consistent with the same standards of practice as in-person counseling settings.

B. Teletherapy is defined as a method of delivering mental health counseling, psychotherapy, and marriage and family therapy services as prescribed by R.S. 37:1101 and R.S. 37:1116 using interactive technology-assisted media to

facilitate prevention, assessment, diagnosis, and treatment of mental, emotional, behavioral, relational, and addiction disorders to individuals, groups, organizations, or the general public that enables a licensee and a client(s) separated by distance to interact via synchronous video and audio transmission.

C. The board recognizes that safe and effective practices in teletherapy require specific training, skills, and techniques and has set forth the following regulatory standards to ensure competence and safety. This Rule shall not be construed to alter the scope of practice of any licensee or authorize the delivery of services in a setting, or in a manner, not otherwise authorized by law. Nothing in this Section shall preclude a client from receiving in-person counseling, psychotherapy, and marriage and family therapy services after agreeing to receive services via telemental health. Teletherapy shall be delivered in real-time (synchronous) using technology-assisted media such as telephonic and videoconferencing through computers and mobile devices. The use of asynchronous modalities (e-mail, chatting, texting, and fax) is not appropriate and shall not be used for teletherapy, except in a crisis to ensure the client's safety and stability.

D. Licensees shall provide services consistent with the jurisdictional licensing laws and rules in both the jurisdiction in which licensee is physically located and where the client is physically located. Licensees providing teletherapy services to clients outside of Louisiana must comply with the regulations in the state in which the client is located at the time of service. The licensee shall contact the licensing board in the state where the client is located and document all relevant regulations regarding teletherapy. A nonresident of Louisiana who wishes to provide teletherapy health services in Louisiana must be licensed by the board.

E. Teletherapy is a specialty area and requires board approval. Licensees who may provide teletherapy must meet the following requirements.

1. The licensee must be licensed in Louisiana.
2. The licensee must be licensed in the state where the client is located if licensing is required.
3. The licensee must complete:
 - a. professional training with a minimum of 3 asynchronous or synchronous clock hours in teletherapy. The training shall meet continuing education standards established by the board. Teletherapy education/training shall include but is not limited to:
 - i. appropriateness of teletherapy;
 - ii. teletherapy theory and practice;
 - iii. theory integration;
 - iv. modes of delivery;
 - v. risk management;
 - vi. managing emergencies;
 - vii. legal/ethical issues.
 - viii. HIPAA compliance
4. Licensees privileged in teletherapy must accrue three clock hours of continuing education during each renewal period.

F. At the onset of teletherapy, the licensee shall obtain verbal and/or written informed consent from the client and shall document such consent in the client's record.

1. Electronic signature(s) and date may be used in the documentation of informed consent.

2. Provisions of informed consent for teletherapy services shall include:

- a. mode and parameter of technology-assisted media(s), and technical failure;
- b. scheduling and structure of teletherapy;
- c. risks of teletherapy;
- d. privacy and limits of confidentiality;
- e. contact between sessions;
- f. emergency plan;
- g. consultation and coordination of care with other professionals;
- h. referrals and termination of services;
- i. information and record keeping;
- j. billing and third-party payors;
- k. ethical and legal rights, responsibilities, and limitations within and across state lines and/or international boundaries.

G. The licensee shall provide each client with his/her declaration or statement of practice on file with the board office.

H. At the onset of each session the licensee shall verify and document the following:

1. The identity and location of the licensee and the client. If the client is a minor, the licensee must also verify the identity of the parent or guardian consenting to the minor's treatment. In cases where conservatorship, guardianship, or parental rights of the minor client have been modified by the court, the licensee shall obtain and review a copy of the custody agreement or court order before the onset of treatment.

2. The location and contact information of the emergency room and first responders nearest to the client's location.

I. The licensee shall determine if the client may be properly diagnosed and/or treated via teletherapy; and shall affirm that technology-assisted media are appropriate for clients with sensory deficits. The licensee shall affirm the client's knowledge and use of selected technology-assisted media(s) (i.e., software and devices). Clients who cannot be diagnosed or treated properly via teletherapy services shall be dismissed and treated in-person, and/or properly terminated with appropriate referrals. The licensee shall use technology assisted media(s) that is in compliance with HIPAA and HiTECH standards. The licensee shall not use social media platforms or functions (tweets, blogs, networking sites, etc.) in the delivery of teletherapy, and shall not reference clients generally or specifically on such formats.

J. Policies and procedures for the documentation, maintenance, access, transmission and destruction of record and information using technology assisted media shall be consistent with the same ethical and regulatory standards for in-person services. Services must be accurately documented in teletherapy services, denoting the distance between the licensee and the client. Documentation shall include verification of the licensee's and client's location, type of service(s) provided the date of service, and duration of service. The licensee shall inform clients of how records are maintained, type of encryption and security assigned to the records, and how long archival storage is maintained.

K. Telesupervision is defined as a method delivering clinical mental health and marriage and family therapy supervision as prescribed by R.S 37:1101 and R.S. 37:1116 using technology-assisted media that enables a supervisor and a supervisee separated by distance to interact via synchronous video and audio transmissions. Up to 25 percent of total supervision hours may be used within a telesupervision format.

1. Teletherapy supervision may include but is not limited to, the review of case presentation, audio tapes, video tapes, and observation to promote the development of the practitioner's clinical skills.

2. Teletherapy supervision shall be provided in compliance with the same ethical and regulatory standards as in-person supervision.

3. The supervisor shall inform supervisees of the potential risks and benefits associated with telesupervision.

4. The supervisor shall determine if the supervisee may be properly supervised via teletherapy supervision. Supervisees who cannot be supervised via teletherapy supervision shall be restricted to in-person supervision, and/or properly terminated with appropriate referrals.

5. The supervisor shall affirm the supervisee's knowledge and use of selected technology-assisted media(s) (i.e., software and devices).

6. The supervisor shall use technology assisted media(s) that is in compliance with HIPAA and HiTECH standards.

7. The supervisor shall not use social media platforms or functions (tweets, blogs, networking sites, etc.) in the delivery of teletherapy supervision, and shall not reference supervisee generally or specifically on such formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:438 (December 2020), amended LR 49:

Jamie S. Doming
Executive Director

2105#006

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Opening of 2021 Spring Inshore Shrimp Season

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all or part of inside waters and shall have the authority to open or close outside waters and to increase the minimum mesh size provided in R.S. 56:499 for any trawl, skimmer net, or butterfly net for the duration of any special shrimp season or regular shrimp season extension, the Wildlife and Fisheries Commission does hereby set the 2021 Spring Inshore Shrimp Season in Louisiana state waters to open as follows:

All Louisiana inshore waters from the Mississippi/Louisiana state line westward to the Louisiana/Texas state line will open at 6 a.m. on Monday, May 24, 2021.

The Commission hereby grants authority to the secretary of the Department of Wildlife and Fisheries to delay or advance these opening dates if biological and technical data indicate the need to do so, and, to close any portion of Louisiana inside waters to protect small juvenile white shrimp if biological and technical data indicate the need to do so, or enforcement problems develop. Notice of any opening, delaying or closing of a season by the secretary of the Department of Wildlife and Fisheries will be made by public notice at least 72 hours prior to such action.

Jerri G. Smitko
Chairman

2105#021

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Reopening of Shrimp Season in
Portion of State Outside Waters

The secretary of the Department of Wildlife and Fisheries has been notified that recent biological samples taken by Office of Fisheries biologists indicate that small white shrimp, which have over-wintered in these waters from December through the present time, have reached marketable sizes and the closure is no longer necessary. Notice of any opening, delaying or closing of a season by the secretary will be made by public notice at least 72 hours prior to such action.

In accordance with the emergency provisions of R.S. 49:953, the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicate that marketable shrimp, in sufficient quantities are available for harvest; and, a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 6, 2020 which authorizes the secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the secretary hereby declares:

The portion of state outside waters between the Atchafalaya River Ship Channel at Eugene Island westward to western shore of Freshwater Bayou Canal shall reopen to shrimping at 6:00 a.m. on May 10, 2021. The eastern boundary line originates at the Atchafalaya River Ship Channel at Eugene Island as delineated by the red buoy line at 29 degrees 22 minutes 14.93 seconds north latitude, -91 degrees 22 minutes 58.92 seconds west longitude and ends at a point on the three-mile line as described in R.S. 56:495(A) at 29 degrees 18 minutes 33.89 seconds north latitude, -91 degrees 26 minutes 16.05 seconds west

longitude. The western boundary line originates on the western shore of Freshwater Bayou Canal at 29 degrees 32 minutes 03.00 seconds north latitude, -92 degrees 18 minutes 33.00 seconds west longitude and ends at a point on the three-mile line as described in R.S. 56:495(A) at 29 degrees 29 minutes 02.27 seconds north latitude, -92 degrees 19 minutes 34.60 seconds west longitude.

Jack Montoucet
Secretary

2105#011

DECLARATION OF EMERGENCY

Workforce Commission Office of Unemployment Insurance Administration

Emergency Rule—State Income Tax Withholding from
Unemployment Insurance Benefits (LAC 40:IV.383)

The Louisiana Workforce Commission (LWC) is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., to promulgate a Rule to address the withholding of state income taxes.

This Emergency Rule is necessary to implement Act 33 of the 2020 First Extraordinary Session that created R.S. 23:1693(J), which addresses the withholding of state income taxes from unemployment insurance benefits when a temporary increase in federal emergency unemployment insurance is in effect. A delay in promulgating this Rule would have an adverse impact on the LWC's eligibility for federal funding because R.S. 23:1693(J) is not in conformity with 26 U.S.C. §3304(a)(4)(C) of the Federal Unemployment Tax Act (FUTA) as required under R.S. 23:1664(2). It is imperative that the LWC proceed expediently with this Rule because of the precarious position of the immense number of recently unemployed workers due to COVID-19, which is an imminent peril to public health, safety, and welfare that requires immediate action to provide benefits. Failure to adopt this Rule on an emergency basis may imperil LWC's ability to receive federal funding for failure to meet conformity requirements, which would affect the ability of unemployed workers to receive benefits. This Emergency Rule is being promulgated in order to continue the provisions of the August 29, 2020 Emergency Rule (*Louisiana Register*, Volume 46, Number 08), and the December 27, 2020 Emergency Rule (*Louisiana Register*, Volume 47, Number 01)

This Emergency Rule is effective April 26, 2021, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., or until adoption of the final Rule, whichever occurs first.

Title 40

LABOR AND EMPLOYMENT

Part IV. Employment Security

Chapter 3. Employment Security Law

§383. Voluntary State Income Tax Withholdings from Unemployment Insurance Benefits

A. Pursuant to R.S. 23:1693(J), which was created by Act 33 of the 2020 First Extraordinary Session, withholding of state income taxes was made mandatory when any

temporary federal emergency increase in benefits or any additional federal base benefit is in effect. However, under 26 U.S.C. §3304(a)(4)(C) of the Federal Unemployment Tax Act (FUTA), withholding from unemployment insurance must be voluntary in order to conform with federal requirements. R.S. 23:1664(2) requires that the administrator take such actions as may be necessary to meet the requirements of FUTA as interpreted by the U.S. Department of Labor. Therefore, regardless of whether any temporary federal emergency increase in benefits or any additional federal base benefits are in effect, a claimant may voluntarily

elect to have state income taxes withheld at a rate of 4 percent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1664(2), R.S. 23:1693(J), and R.S. 36:310.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Unemployment Insurance Administration, LR 46:08 (August 2020), repromulgated LR 47:01 (January 2020), LR 49:

Ava M. Dejoie
Secretary

2105#008

Rules

RULE

Department of Agriculture and Forestry Office of Agro Consumer Services

Commercial Weighing and Measuring Device;
Meat Labeling; and Fuel Price Advertising
(LAC 7:XXXV.127, 135, and 321)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:4741 et seq., notice is hereby given that the Department of Agriculture and Forestry (“Department”) has adopted the rules set forth below by revising LAC 7:XXXV.127 and 321 and repealing 135. These revisions are authorized by R.S. 3:4603 through 4622 and R.S. 3:4671, 4672, 4673, 4680, and 4681.

The change to LAC 7:XXXV.127.A. clarifies that the owner of a weighing and measuring device is responsible for registering the device with LDAF. LAC 7:XXXV.127.A. As it is written, the section does not specify who shall register the commercial weighing and measuring device. The change to LAC 7:XXXV.127.D eliminates the regulation language that scanning devices be registered by make, model, and serial number. The repeal of LAC 7:XXXV.135 is necessary because the existing rule is in conflict with 7 CFR Part 60 and 65 (USDA Country of Origin Law). Statements of origin are enforced by LDAF’s Meat Inspection Division and are no longer enforced by Weights and Measures. The changes to LAC 7:XXXV.321, include the deletion of the words anti-knock index (AKI), which is no longer used and replaces it with “automotive fuel rating”. Automotive fuel rating is the current terminology used in 16 CFR 306.5 and 306.6. It is also adding a Subsection G to LAC 7:XXXV,321. Subsection G will clarify signage rules for retailers using street signs for advertising fuel prices. The Rule states that the prices advertised must be equal to the highest price for the offered product unless it is clearly specified that conditions apply for a lower price. This eliminates consumer confusion over fuel prices. This Rule is hereby adopted on the day of promulgation.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§127. Registration

A. Each commercial weighing and measuring device in use in Louisiana shall be registered to the device owner annually with the division insofar as is specified in this regulation.

B. - C.5. ...

D. Scanning devices shall be registered according to the greatest number of scanning devices in use at a location at any given time during the calendar year.

1.- 4. Repealed.

E. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4603 (formerly R.S. 55:3), 3:4607, 4608, and 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Commission of Weights and Measures, LR 13:158 (March 1987), amended LR 15:78 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), LR 23:857 (July 1997), LR 41:2098 (October 2015), LR 42:1649 (October 2016), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services LR 47:562 (May 2021).

§135. Meat Labeling

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608, 3:4607 and R.S. 51:614.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 27:1672 (October 2001), repealed by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 47:562 (May 2021).

Chapter 3. Petroleum Products

§321. Classification and Method of Sale of Petroleum Products

A. When gasoline, gasoline-oxygenate blends, reformulated gasoline, M85 and M100 fuel methanol, ethanol flex fuels, biodiesel, biomass-based diesel, biomass-based diesel blend, diesel fuel, kerosene, aviation gasoline, aviation turbine fuels, or fuel oils are sold, an invoice, bill of lading, shipping paper, or other documentation must accompany each delivery other than a retail sale. This documentation must identify the quantity, the name of the product, the particular grade of the product, the applicable automotive fuel rating, oxygenate type and content (if applicable), the name and address of the seller and buyer, and the date and time of the sale. This documentation must be retained at the retail establishment for a period not less than one year. The sale of any product under any grade name that indicates to the purchaser that it is of a certain automotive fuel rating shall not be permitted unless the automotive fuel rating or ASTM grade indicated in the grade name is consistent with the value and meets the requirements of 16 CFR 306.5 and 306.6 for transfers to anyone who is not a consumer, 16 CFR 306.12 for automotive fuel sold to consumers, and this Subchapter.

B. All retail dispensing devices must identify conspicuously the type of product, the particular grade of the product, and the applicable automotive fuel rating. The device shall automatically show on its face the initial zero condition and the quantity delivered (up to the nominal capacity). However, the first 0.03 L (or 0.009 gal.) of a delivery and its associated total sales price need not be indicated. In the event of a power loss, the information needed to complete any transaction in progress at the time of the power loss (such as the quantity and unit price, or sales price) shall be determinable for at least 15 minutes at the dispenser or at the console if the console is accessible to the customer. The device memory shall retain information on the

quantity of fuel dispensed and the sales price totals during power loss. The primary indicating elements, and primary recording elements if the device is equipped to record, shall be readily returnable to a definite zero indication. However, a key-lock operated or other self-operated device may be equipped with cumulative indicating or recording elements, provided that it is also equipped with a zero-return indicating element. It shall not be possible to return primary indicating elements or primary recording elements beyond the correct zero position.

C. - F. ...

G. A retailer is not required to have a street sign or billboard to advertise available motor fuels and their prices or to advertise every grade of motor fuel available at the retail location. However, if a retailer chooses to use a street sign and/or billboard to advertise the retail location's available motor fuels, then the street sign and/or billboard shall conspicuously display the following:

1. type(s) or grade(s) of motor fuel being advertised; and

2. the highest price(s) for the advertised grade(s) of motor fuel(s). In the event that the same grade of motor fuel is sold at different prices at the same retail location, a lower price for that grade of motor fuel may be displayed as long as the conditions under which the lower price may be obtained are clearly posted on the sign and available to everyone who qualifies for that lower price. If the sign or billboard displays a flashing sign with multiple prices for each grade of motor fuel, each price displayed with the conditions under which it may be obtained shall be visible for a period of at least three seconds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4672, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:31 (January 2005), amended LR 41:2099 (October 2015), amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services LR 47:562 (May 2021).

Mike Strain, DVM
Commissioner

2105#026

RULE

Department of Agriculture and Forestry Office of Forestry

Electronic Transfer/Driver Cards (LAC 7:XXXIX.1503)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:4413, the Department of Agriculture and Forestry ("Department"), through the Office of Agricultural and Environmental Sciences, has amended LAC 7:XXXIX.1503. The Rule change allows purchasing/receiving facilities the option to utilize electronic transfer/driver card systems to identify individual assigned drivers and sets forth requirements for facilities and drivers participating in such systems. The Rule change also incorporates minor clarifications regarding the identification of the timber owner's name and landowner's name on scale tickets. This Rule is hereby adopted on the day of promulgation.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 15. Timber Harvesting and Receiving Records

§1503. Scale/Load Tickets: Required Information; Distribution; Maintenance of Records; Electronic Transfer/Driver Cards

A. Scale tickets must be maintained for a period of not less than six years. Information required by the scale ticket regulations may be kept on a load ticket provided that the scale ticket can be cross-referenced to the load ticket. When both are used, the load ticket and scale ticket must be maintained for a period of not less than six years.

B. On any per-unit sale the purchaser of the timber must provide the timber owner hard copies of the scale tickets relating to any partial or final settlement made during the course of the harvest. Mill generated settlement sheets may be provided to the timber owner in lieu of a copy of the scale ticket provided it includes the load number, scale ticket number, date and time, product and species description, volume and/or weight.

C. Each scale ticket must contain the following information:

1. scale ticket number—each scale ticket issued at a wood receiving facility must be numbered;

2. parish/county and state—the parish/county and state where the timber was harvested;

3. date and time—date and time that the forest product was received (required on scale ticket only);

4. type and quantity of forest product delivered:

a. type—description of forest product received;

b. quantity—board feet, tonnage, or cords;

clarification

NOTE: The following items must be documented on a scale ticket or documented on a load ticket that can be cross referenced to the scale ticket.

5. timber owner's name—owner or owners of timber at the time it was severed

a. On a per-unit sale the seller must be listed as the timber owner;

6. landowner—name of the owner of the land where the timber was severed.

a. For a multi-owned tract of land, the name of the estate, corporation, or what the site is commonly known as, may be listed;

b. For industrial land, the company tract number may be listed;

7. producer—company or individual who is responsible for harvesting the timber;

8. load number—the load number designated by the loaders log book;

9. driver's signature—signature of driver delivering the forest product. Must be legible and as shown on the driver's Commercial Driver's License.

D. A scale ticket may be kept in electronic form. If a scale ticket is kept in electronic form, it shall contain all required information set forth in Subsection C of this regulation and be maintained for a period of not less than six years. The use of an electronic scale ticket does not relieve the purchaser of the timber from the obligations set forth in Subsection B of this regulation. If scale tickets are kept in electronic form as provided by this Rule, the signature

required by Paragraph C.9 of this Section may also be in electronic form.

E. Electronic transfer/driver cards capturing electronic signatures may be used by the purchasing/receiving facility. If a purchasing/receiving facility chooses to utilize electronic transfer/driver cards, the assigned driver shall complete and submit a sworn statement of identity to the facility, in a form provided by the department.

1. The sworn statement of identity shall include the following:

- a. name and physical address of the purchasing/receiving facility;
- b. assigned driver's legal name;
- c. assigned driver's date of birth;
- d. assigned driver's current home physical address, and mailing address, if different; and
- e. driver's signature.

2. A copy of the assigned driver's Commercial Driver's License shall be submitted with the sworn statement of identity.

3. The purchasing/receiving facility shall maintain the sworn statement and copy of the Commercial Driver's License for a period of not less than six years.

4. Upon receipt of an assigned driver's sworn statement and copy of his CDL, the purchasing/receiving facility may issue a unique and individual card to the assigned driver.

5. Electronic transfer/driver cards issued pursuant to this Section, are non-transferable and shall not be used by anyone except the driver to whom they have been issued.

F. Restrictions. Wood-receiving facilities cannot accept any load of timber unless all information required by these regulations is provided at the time of delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4278.3.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, Forestry Commission, LR 27:31 (January 2001), amended LR 27:1005 (July 2001), LR 37:2985 (October 2011), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 42:734 (May 2016); LR 47:563 (May 2021).

Mike Strain, DVM
Commissioner

2105#030

RULE

Department of Agriculture and Forestry Office of Forestry

Forestry Productivity Program (LAC 7:XXXIX.1303 and 1307)

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:4412 and 4413, the Department of Agriculture and Forestry ("Department"), through the Office of Agricultural and Environmental Sciences, has amended LAC 7:XXXIX.1303 and 1307. The amendment to LAC 7:XXXIX.1303 adds the definition of "Commission," to mean the Louisiana Forestry Commission. The amendment to LAC 7:XXXIX.1307 will allow the commissioner of the

Department of Agriculture and Forestry to determine the state's annual level of involvement in the Program, based upon the recommendation of the Forestry Commission, who shall base its recommendation on available program funding and landowner requests for program participation. Furthermore, the Rule change would eliminate the specific maximum cost share rates presently set forth in the Rule. This Rule is hereby adopted on the day of promulgation.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 13. Forestry Productivity Program

§1303. Definitions

A. ...

Commission—Louisiana Forestry Commission

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1678 (September 1998); LR 47:564 (May 2021).

§1307. Extent of State Participation

A. The commissioner shall determine the state's annual level of involvement in the Program. The determination shall be made upon recommendation from the commission. The commission shall base its recommendation on available program funding and landowner requests for program participation.

B. Financial assistance by the state to any one landowner participating in this program shall be limited to a total value not to exceed \$15,000 during a fiscal year.

C. The state's participation under any cooperative agreement shall be limited to either or both of the following types of assistance:

1. a direct grant, for the purpose of assisting the landowner in implementing an approved forestry practice authorized by a cooperative agreement through the use of the landowner's resources or through the landowner's contacts with private firms; or

2. utilization of the state's personnel, equipment, or materials to implement an approved forestry practice authorized by a cooperative agreement, if private sector services are unavailable.

D. A direct grant shall not exceed the approved rate(s), as established in Subsection A, of the cost of implementing the cooperative agreement. In the event that state personnel, equipment, or materials are utilized to implement an approved forestry practice, the landowner shall be invoiced by the department for the cost of implementing the forestry practice. The landowner shall promptly pay such invoice and may subsequently submit the paid invoice for reimbursement under this program and these rules and regulations.

E. The current cost share rate(s) shall be posted on the Department website.

F. The state shall not provide reimbursement under this program for any forestry practice implemented by a landowner unless a cooperative agreement is on file with the department prior to implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4412 and R.S. 3:4413.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 24:1679

(September 1998), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 28:267 (February 2002), LR 34:2338 (November 2008), LR 41:2102 (October 2015), LR 42:733 (May 2016), LR 42:1868 (November 2016); LR 47:564 (May 2021).

Mike Strain, DVM
Commissioner

2105#037

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District,
and State Accountability System
(LAC 28:XI.413)

Editor's Note: Section 413 is being repromulgated to correct a submission error. The original Rule may be viewed in its entirety on pages 444-450 of the April 20, 2021 *Louisiana Register*.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:XI, *Accountability/Testing*, Subpart 1, *Bulletin 111—The Louisiana School, District, and State Accountability System*. Amendments are related to the following: a skip-year formula to calculate the progress index for 2021 school performance scores without LEAP 2025 scores from the 2019-2020 school year; a one-year provision for identification of Comprehensive Intervention Required (CIR) and Urgent Intervention Required (UIR) labels due to the cancellation of spring assessments and accountability results for the 2019-2020 school year; adjusted timelines to allow flexibility in the event of a future pandemic or natural disaster; language alignment for statewide assessment and corresponding achievement levels that transition from End-of-Course tests to LEAP 2025 high school and from LAA1 to LEAP Connect; clarification for the inclusion of English Language Proficiency Test (ELPT) scores at pair/share sites; alternative school accountability; and Office of Juvenile Justice accountability to align with alternative school accountability and overlapping measures. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

§413. Dropout/Credit Accumulation Index Calculations

[Formerly LAC 28:LXXXIII.413]

A. - B.4. ...

5. For students pursuing a Jump Start diploma pathway and participating in LEAP Connect, applied courses and course experiences shall count as a unit.

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 39: 2443 (September 2013), LR 40:1315 (July 2014), LR 44:449 (March 2018), LR 47:656 (May 2021), LR 47:446 (April 2021). repromulgated LR 47:565 (May 2021).

Shan N. Davis
Executive Director

2105#022

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment
Standards and Practices

(LAC 28:XI.5105, 5107, 5305, 5701, 597, 6151,
6153, 6803, 6819, 6823, 6825, 6829, 6901, 6913,
7209, 7301, 7501, 7701, 7703, 8301, 8303, 8306,
8307, 8501, and 8507)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practices*. The revisions adjust timelines to allow for flexibility in the event of a future pandemic or natural disaster; update assessments that are included in statewide administrations and the corresponding achievement levels to transition from End-of-Course (EOC) tests to LEAP 2025 high school and from LAA1 to LEAP Connect; align accommodations to new assessments; eliminate language related to LEAP grade 4 and 8 summer retests; and simplify requirements for promotion of students in fourth and eighth grades. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part XI. Accountability/Testing

Subpart 3. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 51. General Provisions

§5105. Testing and Accountability

[Formerly LAC 28:CXI.105]

A. ...

B. All LEAs must administer all assessments according to the testing schedule dates approved by the LDE and reported annually to BESE.

C. - C.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1526 (July 2005), amended LR 33:255 (February 2007), LR 44:462 (March 2018), LR 44:2129 (December 2018), LR 47:565 (May 2021).

§5107. Assessment Programs

[Formerly LAC 28:CXI.107]

A. ...

B. Louisiana Educational Assessment Program (LEAP) 2025. Criterion-referenced tests in English language arts, mathematics, science, and social studies in grades 3-8 and tests administered upon completion of English I, English II, algebra I, geometry, biology, and U.S. history in high school

assess student performance relative to specific benchmarks established in the state's content standards and provide data for evaluating student, school, and district performance.

1. The tests assess a student's complex thinking skills as well as knowledge and application of information.

2. The assessments will be administered to high school students enrolled in and/or receiving credit for a high school course having a LEAP assessment or retesting for the purposes of graduation, as well as for students in the third year assessment cohort as defined in Part XI, Subpart 1, §409.

C. LEAP Connect. The LEAP Connect is an alternate assessment, designed for students with significant disabilities, which evaluates each eligible special education student's knowledge and skills in targeted areas.

D. – F. ...

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 31:1526 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 36:477 (March 2010), LR 40:2509 (December 2014), LR 44:462 (March 2018), LR 47:566 (May 2021).

§5305. Test Security Policy

[Formerly LAC 28:CXL305]

A. - A.9.i.ii. ...

iii. In accordance with R.S. 42:11 et seq., the LDE shall annually convene a test irregularity review committee by no later than 60 days after the close of the testing window. The test irregularity review committee shall conduct a records review of the investigative results from the school system as well as any additional relevant evidence from the LDE.

9.i.iv. - 17. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:391.7(C)-(G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 33:424 (March 2007), LR 33:2033 (October 2007), LR 34:65 (January 2008), LR 34:431 (March 2008), LR 34:1351 (July 2008), LR 35:217 (February 2009), LR 37:858 (March 2011), repromulgated LR 37:1123 (April 2011), amended LR 38:747 (March 2012), LR 39:1018 (April 2013), LR 40:2510 (December 2014), LR 43:634 (April 2017), LR 44:463 (March 2018), LR 44:1857 (October 2018), LR 47:566 (May 2021).

Chapter 57. Assessment Program Overview

§5701. Overview of Assessment Programs in Louisiana

[Formerly LAC 28:CXL701]

A. Norm-Referenced and Criterion-Referenced Testing Programs Since 1986

Name of Assessment Program	Assessment Population	Administered

Name of Assessment Program	Assessment Population	Administered
EOCT	English III	fall 2011-summer 2019 (available for students who have entered a high school cohort prior to 2017-2018 school year-state administered) (fall 2019-district administered)

Special Population Assessments		
LEAP Connect	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3–11	ELA and Math Grades 3 to 8: Spring 2018-ELA and Math Grade 11: Spring 2019-Science grades 4, 8, 11: Spring 2020

LAA 1	ELA and Mathematics (grade spans 3-4; 5-6; 7-8; 9-10); Science (grades 4, 8, and 11)	Revised spring 2008-2017 (ELA and Math) (available for high school students who need to participate in 2017-2018 only) Spring 2008-2019 (Science) (no longer administered)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the 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 39:74 (January 2013), LR 39:1019 (April 2013), LR 40:1319 (July 2014), LR 40:2512 (December 2014), LR 44:465 (March 2018), LR 44:2127 (December 2018), LR. 46:15 (January 2020), LR 47:566 (May 2021).

Chapter 59. Kindergarten Entry Assessment

§5907. Agency Administrative Participation

[Formerly LAC 28:CXL907]

A. - B.1. ...

2. Beginning with the 2021-2022 academic year and annually thereafter, assessment administration and reporting shall occur by October 31.

3. The LDE may extend the deadline to no later than November 30 in academic years in which a natural disaster or emergency is declared.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq., and R.S. 17:139 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1535 (July 2005), amended LR 44:467 (March 2018), LR 47:566 (May 2021).

Subchapter C. LEAP 2025 Assessment Structure

§6151. Retests and Rescores

[Formerly LAC 28:CXL1151]

Repealed.

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 31:1547 (July 2005), amended LR 32:236 (February 2006), LR 36:974 (May 2010) repealed LR 47:566 (May 2021).

§6153. Transfer Students

[Formerly LAC 28:CXI.1153]

A. The following rules apply for transfer students who are Louisiana residents transferring into Louisiana public schools from out-of-state schools, nonpublic schools, or approved home study programs.

1. Requirements for transfer students in grade 4 or 8 or those who are seeking to enroll in grade 5 or 9 who have never been in membership in a public school in Louisiana or who were in membership in Louisiana public schools and transferred out-of-state or who transferred from Louisiana nonpublic schools or from an approved home study program are as follows.

a. A fourth or eighth grade student who transfers to a Louisiana public school must take and pass either the spring administration of LEAP English Language Arts and Mathematics (ELA/Math) tests or the LEAP 2025 state placement test prior to enrollment in grades five or nine.

b. Grade placement determinations for students in grades 4 or 8 who transfer from out of state, nonpublic or home study and seek enrollment in grade 5 or 9, and do not pass both the ELA and mathematics test, shall be made in accordance with promotion policy as outlined in Part XXXIX.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1547 (July 2005), amended LR 32:236 (February 2006), LR 47:567 (May 2021).

Chapter 68. LEAP 2025 Assessments for High School

Subchapter A. General Provisions

§6803. Introduction

[Formerly LAC 28:CXI.1803]

A. - B.1.5. ...

6. U.S. history.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:214 (February 2009), LR 36:477 (March 2010), amended LR 38:35 (January 2012), LR 40:2514 (December 2014), LR 44:469 (March 2018), LR 44:2129 (December 2018), LR 47:567 (May 2021).

Subchapter C. LEAP 2025 for High School

Administrative Rules

§6819. Double Jeopardy Rule

[Formerly LAC 28:CXI.1819]

A. If a school administers LEAP 2025 tests that the student has already passed and the student scores Unsatisfactory on the retest, the passing score will be used to determine the student's eligibility for a standard high school diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:977 (May 2010), amended LR 44:470 (March 2018) LR 47:567 (May 2021).

§6823. Rescores

[Formerly LAC 28:CXI.1823]

A - C. ...

D. Students may request a rescore of LEAP 2025 tests at specified achievement levels and scaled score ranges. If the following criteria is met, the rescore will be expedited.

1. The test has a scaled score that is within 10 points below the *Unsatisfactory* achievement level (Algebra I, Geometry, Biology, or U.S. History) or within 20 points below the *Approaching Basic* achievement level (English I or English II).

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 36:977 (May 2010), amended LR 37:820 (March 2011), LR 47:567 (May 2021).

§6825. LEAP 2025 for High School Administration

Rules

[Formerly LAC 28:CXI.1825]

A. Students enrolled in LEAP 2025 courses shall take the LEAP 2025 test for that course at the conclusion of the course.

B. - C. ...

D. If a student was issued a HiSET diploma and subsequently meets the requirements for the LEAP 2025, the student may surrender the HiSET diploma and be issued a standard high school diploma.

E. ...

F. Students who request a retest for the Louisiana high school diploma endorsements may retest during the fall, spring, or summer retest administration only one time for each LEAP 2025 test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:977 (May 2010), amended LR 39:77 (January 2013), LR 44:471 (March 2018), LR 47:567 (May 2021).

§6829. LEAP 2025 Transfer Rules

[Formerly LAC 28:CXI.1829]

A. - A.2. ...

3. A transfer student may choose to take a LEAP 2025 test for a course he/she already successfully completed if:

a. the student scored *Unsatisfactory* on a LEAP 2025 test in another course;

b. and the student has passed the LEAP 2025 test for one of the LEAP 2025 pairs.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:978 (May 2010), amended LR 37:820 (March 2011), LR 44:471 (March 2018), LR 46:1372 (October 2020), LR 47:567 (May 2021).

Chapter 69. LEAP Connect Alternate Assessment

Subchapter A. Background

§6901. Overview

[Formerly LAC 28:CXI.1901]

A. The LEAP Connect alternate assessment is a specially designed assessment program that evaluates students with

the most significant cognitive disabilities. LEAP connect represents an assessment of connector standards relative to the general education components of the LEAP 2025 As such, it meets ESSA requirements to assess students with the most significant cognitive disabilities in the state, with its results contributing to school, district, and state accountability decisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1556 (July 2005), amended LR 32:239 (February 2006), LR 33:425 (March 2007), LR 35:208 (February 2009), LR 44:471 (March 2018), LR 47:567 (May 2021).

Subchapter D. Alternate Achievement Levels and Performance Standards

§6913. Performance Standards [Formerly LAC 28:CXI.1913]

A. Performance standards for LEAP Connect English language arts, mathematics, and LEAP Connect science tests are finalized in scaled-score form.

B. LEAP Connect Alternate Achievement Levels and Scaled-Score Growth Ranges

B.1. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4(F)(3) and R.S. 17:183.1-17:183.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:426 (March 2007), amended LR 35:209 (February 2009), amended by the Board of Elementary and Secondary Education, LR 44:472 (March 2018), LR 44:1237 (July 2018), LR 47:568 (May 2021).

Chapter 72. ACT Program

§7209. WorkKeys [Formerly LAC 28:CXI.2209]

A. - A.2. ...

3. WorkKeys certificates awarded based on a remote site test administration that was not proctored or monitored, will not be used for accountability purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:1320 (July 2014), amended LR 44:474 (March 2018), LR 47:568 (May 2021).

Chapter 73. English Language Proficiency Test (ELPT)

Subchapter A. Background

§7301. Overview [Formerly LAC 28:CXI.2301]

A. The federal Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeed Act (ESSA), requires standards-based assessment of the progress of all English learners enrolled in grades kindergarten through 12 in attaining English proficiency, including speaking, listening, reading, and writing skills in English.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 20 USCS, Section 6311.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1557 (July 2005), amended LR 33:259 (February 2007), LR 44:474 (March 2018), LR 46:15 (January 2020), LR 47:568 (May 2021).

Chapter 75. Field Testing

§7501. General Provisions [Formerly LAC 28:CXI.2501]

A. - C.2.iv. ...

v. EL, and Section 504, and school size;

C.2.c. - C.2.f.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1558 (July 2005), amended LR 35:220 (February 2009), LR 47:568 (May 2021).

Chapter 77. Placement Tests

§7701. Administration and Scoring [Formerly LAC 28:CXI.2701]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1558 (July 2005), amended LR 35:220 (February 2009), repealed LR 47:568 (May 2021).

§7703. Security [Formerly LAC 28:CXI.2703]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1558 (July 2005), repealed LR 47:568 (May 2021).

Chapter 83. Assessment of Special Populations

§8301. Participation [Formerly LAC 28:CXI.3301]

A. - A.2. ...

3. English learners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1560 (July 2005), amended LR 44:476 (March 2018), LR 47:568 (May 2021).

§8303. Students with Disabilities [Formerly LAC 28:CXI.3303]

A. All students with disabilities must participate in statewide assessments. Students are to take the test that corresponds to the grade in which they are enrolled. Students who meet specific participation criteria as stated in *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities* and whose individualized education plans (IEPs) indicate they will participate in an alternate assessment may participate in the LEAP Connect assessment. The assessment in which the student is to participate and any accommodations the student is to receive for instruction and assessment must be documented annually on the program/services page of the student's IEP. Test accommodations cannot be different from or in addition to the accommodations indicated on the student's IEP and provided in regular classroom instruction and assessment.

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1560 (July 2005), amended LR 32:239 (February 2006), LR 36:983 (May 2010), LR 38:37 (January 2012), LR 40:2515 (December 2014), LR 44:476 (March 2018), LR 47:568 (May 2021).

§8306. Approved Accommodations for Students with IEPs or 504 Plans
[Formerly LAC 28:CXI.3306]

A. - A.5.a. ...

6. Communication Assistance Script

a. Students who are deaf or hard of hearing and have the communications assistance script accommodation for testing must have a test administrator who is fluent in the cuing or signing modality routinely used by a student. The test administrator should be available to repeat or clarify directions and sign portions of the test if warranted by the student's reading level as documented on the IEP or IAP.

b. Students with Communication Assistance accommodation may have all of the LEAP 2025 tests signed. However, no passages, questions, or distractors (multiple choices) of reading comprehension session(s) may be signed or cued for GEE, LAA 2, or English III EOC. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

7. - 7.a. ...

8. Tests Read Aloud

a. Students with a Tests Read Aloud accommodation can have all of the LEAP 2025 tests read aloud. However, no passages, questions, or distractors (multiple choices) of reading comprehension session(s) may be read aloud for GEE, English III EOC, and LAA 2. Directions only to these sessions may be signed or cued. When signing or cueing, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

9. - 9.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24 et seq., R.S. 17:391-400, R.S. 17:1941 et seq., R.S. 17:397, R.S. 17:1946, and R.S. 17:1947.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:263 (February 2007), amended LR 33:1010 (June 2007), LR 44:477 (March 2018), LR 47:569 (May 2021).

§8307. English Language Learners
[Formerly LAC 28:CXI.3307]

A. - B.6.c. ...

C. Approved Accommodations for English Learners

1. The following accommodations may be provided for ELL students participating in the LEAP 2025, GEE, LAA 2, LEAP Connect, English III EOC or high school LEAP 2025 assessments.

a. - b. ...

c. Tests Read Aloud. Students with accommodation of test read aloud may have all parts of the LEAP 2025 tests read aloud. When reading aloud, the test administrator must exercise caution to avoid providing answers. It is a breach of test security to provide signs or cues that convey answers.

C.1.d. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:1941 et seq., and R.S. 17:24.4(F)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1562 (July 2005),

amended LR 32:240 (February 2006), LR 33:264 (February 2007), LR 33:1010 (June 2007), LR 36:983 (May 2010), LR 37:821 (March 2011), LR 41:616 (April 2015), LR 44:478 (March 2018), LR 46:16 (January 2020), LR 47:569 (May 2021).

Chapter 85. Assessment of Students in Special Circumstances

§8501. Approved Home Study Program Students
[Formerly LAC 28:CXI.3501]

A. - F. ...

G. Students enrolled in state-approved home study programs or non-public/non-scholarship schools are not eligible to participate in LEAP Connect, ELPT, or the state administration of 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, and 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 40:1320 (July 2014), LR 40:2515 (December 2014), LR 47:569 (May 2021).

§8507. Office of Juvenile Justice

[Formerly LAC 28:CXI.3507]

A. Students enrolled in grade levels K through 12 who are under the supervision of correctional facilities shall take the appropriate assessment for their enrolled grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:151.3 and R.S. 17:24.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1563 (July 2005), amended LR 33:2043 (October 2007), LR 44:479 (arch 2018), LR 47:569 (May 2021).

Shan N. Davis
Executive Director

2105#033

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Charter School Renewals and Virtual Charter School Attendance
(LAC 28:CXXXIX.103, 311, and Chapter 5)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:CXXXIX (Bulletin 126). Amendments better ensure alignment between BESE and local charter authorizing processes, provide for the inclusion of intentional questions requiring applicants to substantiate that the proposed school will improve outcomes for the intended student population, and reflect updated authorizing priorities aligned to national best practices. This Rule is hereby adopted on the day of promulgation.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 1. General Provisions

§103. Definitions

A. - A.1. ...

2. a different definition is prescribed for a particular provision.

* * *

Charter—the agreement and authorization to operate a charter school, which includes the charter contracts and exhibits.

Charter Management Organization (CMO)—nonprofit entities that manage two or more charter schools.

Charter Operator—the nonprofit corporation or school board authorized to operate a charter school.

* * *

Domicile—the place where the student predominantly sleeps, takes meals, and maintains personal belongings.

Education Service Provider (ESP)—any third-party entity, whether non-profit or for-profit, that provides comprehensive education management services to a school via contract with the school governing board.

Face Covering—a piece of material used to cover both the nose and mouth for the purpose of forming a barrier to droplets or airborne particles that are coughed, sneezed, or exhaled when talking. Face coverings are meant to protect both the wearer of the face covering and surrounding individuals.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:439.1, 17:3391, 17:3981, and 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 40:1321 (July 2014), LR 42:1018 (July 2016), LR 43:2476 (December 2017), LR 46:1670 (December 2020), LR 47:569 (May 2021).

Chapter 3. Charter School Authorizers

§311. Application Process for Locally-Authorized Charter Schools

A. – A.6. ...

B. Competitive Process

1. The charter application process shall be a competitive process whereby any entity meeting eligibility requirements may be approved.

2. The charter application shall be in the form of a request for applications.

3. The release of a request for application must include:

a. public notice;

b. notice to national, regional, and state organizations that support charter schools; and

c. notice to all known interested parties.

4. Local school boards, as the authorizer of type 1 and type 3 charter schools, shall make public through the local school board website, and in printed form upon request, the guidelines for submitting a charter proposal, all forms required for submission of a charter proposal, the timelines established for accepting and reviewing charter proposals, the process used to review charter proposals submitted to the board, and the name and contact information for a primary point of contact for charter proposals.

5. Charter Applicant Orientation. The local authorizer shall provide an orientation session for interested applicants

prior to full application submission. The orientation shall provide applicants a clear understanding of the application process, expectations for high-quality applications, evaluation criteria, and authorizer expectations upon approval.

C. Application Evaluation

1. Local school boards must provide for an independent evaluation of the charter proposal by a third party with educational, organizational, legal, and financial expertise.

2. Local school boards must engage in a transparent application review process that complies with the latest *Principles and Standards for Quality Charter School Authorizing*, as promulgated by the National Association of Charter School Authorizers.

3. Final decisions regarding the approval of charter applications must be made by local school boards according to the local district charter application timeline.

4. Prior to approving a charter for a Type 1 or Type 3 school, the local school board shall hold a public meeting for the purpose of considering the proposal and receiving public input. Such meeting shall follow applicable open meeting laws and shall be held after reasonable efforts have been made by the local school board to notify the public of the meeting and content.

5. Prior to the consideration of a charter school proposal by any local school board, each charter applicant shall be afforded the opportunity to provide a written response to the independent evaluation of the application. Such response shall be available to the independent reviewers for consideration prior to issuing a final recommendation to the chartering authority.

6. The local board shall send to the charter applicant, either by electronic means or hand delivery, the final evaluation and recommendations of the third-party evaluator. Such information shall be sent no later than five business days prior to the meeting at which the local board will take action on the charter proposal.

7. The local school board shall notify the department of the receipt of charter applications and any local board action taken on such applications in accordance with procedures developed as part of the local district timeline.

8. If a proposal is not approved by the local school board and then also not approved by BESE within the same approval cycle, then the proposal shall be submitted to the local school board for consideration during the next approval cycle prior to being submitted to BESE.

D. 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.

E. Appeals to State Process

1. If a charter applicant believes that a local school board has not complied with the requirements in §306 of this

part, the charter applicant may submit the proposal to BESE for review and approval as a type 2 charter as part of the annual request for applications.

a. Upon local receipt of the application from the local charter applicant, the department shall investigate and make a determination as to whether the local school board failed to comply with §306 of this part.

b. If the department determines that the local school board failed to comply with §306, the LDE shall notify the local school board of that determination within 30 days, and BESE may proceed with review of the charter application.

2. The charter applicant may submit a proposal to BESE for review and approval as a type 2 charter for other reasons as provided for in §503 of this part.

F. Partnerships with the Department

1. A local school board may enter into an agreement with the Louisiana Department of Education by which the department will conduct the local school board charter application and evaluation process, Local school boards that have entered into such agreements shall be exempt from Subsection A of this Section, and shall instead follow timelines established by the department.

2. The department shall create the process and timeline by which such agreements can be created and implemented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3981, 17:93, and R.S. 17:3983.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 44:231 (February 2018), LR 47:570 (May 2021).

Chapter 5. Application and Approval Process for BESE-Authorized Charter Schools

§503. Eligibility to Apply for a Type 2 Charter School

A. - A.2. ...

3. have a board of directors with a minimum of three members and at least 60 percent of the board of directors shall reside in the Parish or Parishes in which the school seeks to enroll;

4. ...

5. except as provided in Subsection B or C of this Section, has submitted a proposal for a type 1 or type 3 charter school to the local school board in whose jurisdiction the charter school is proposed to be located which:

a. has been denied in the most recent application cycle, as evidenced by a motion or resolution of the local school board; or

A.5.b. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:3982, R.S. 17:3983, and R.S. 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1360 (July 2008), amended LR 37:868 (March 2011), LR 38:3117 (December 2012), LR 39:1431 (June 2013), LR 39:3064 (November 2013), LR 44:232 (February 2018), LR 47:571 (May 2021).

§511. Application Process for BESE-Authorized Charter Schools

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

4. BESE, as the authorizer of type 2, type 4, and type 5 charter schools, shall make public through the BESE website, and in printed form upon request, the guidelines for submitting a charter proposal, all forms required for submission of a charter proposal, the timelines established

for accepting and reviewing charter proposals, the process used to review charter proposals submitted to BESE, and the name and contact information for a primary point of contact for charter proposals.

5. Charter Applicant Orientation. The department shall provide an orientation session for interested applicants prior to full application submission. The orientation shall provide applicants a clear understanding of the application process, expectations for high-quality applications, evaluation criteria, and authorizer expectations upon approval.

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 34:1361 (July 2008), amended LR 39:1431 (June 2013), LR 39:3064 (November 2013), LR 44:233 (February 2018), LR 47:571 (May 2021).

§513. Stages of Application Cycle for BESE-Authorized Charter Schools

A. - B.2. ...

C. Application Process Components

1. Letter of Intent. As a prerequisite for application submission, the charter applicant shall submit a letter of intent to the department in accordance with BESE Charter Application timelines. The letter of intent shall include the mission, vision, instructional model, grades to be served, anticipated number of students, and potential physical location.

2. Eligibility Determination. Applicants shall submit the required documents to the department to determine eligibility prior to the submission of the full application.

3. Charter Board Capacity Interview. The charter applicant and charter board shall demonstrate the capacity to execute and operate a high-quality charter school. A majority of the identified charter board members of the charter applicant group shall attend the capacity interview. Members of the charter board shall be prepared to discuss the content of the application, inclusive of the academic, organizational, and financial proposals.

D. Evaluators shall make recommendations to the LDE for approval or denial of each charter school application.

E. Prior to the consideration of a charter school proposal by BESE, each charter applicant shall be afforded the opportunity to provide a written response to the independent evaluation of the application. Such response shall be available to the independent reviewers for consideration prior to issuing a final recommendation to BESE.

F. Prior to approving a charter for a Type 2, Type 4, or Type 5 school, BESE shall hold a public meeting for the purpose of considering the proposal and receiving public input. Such meeting shall be held after reasonable efforts have been made by BESE to notify the public of the meeting and agenda content.

G. The department shall forward to the charter applicant, either by electronic means or hand delivery, the final evaluation and recommendations of the third-party evaluator. Such information shall be sent no later than five business days prior to the meeting at which BESE will take action on the charter proposal.

H. The department shall notify the local school district superintendent of the receipt of a charter application and any BESE action taken on such application in accordance with procedures developed as part of the BESE approved timeline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1361 (July 2008), amended LR 37:869 (March 2011), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:3118 (December 2012), LR 39:1431 (June 2013), LR 43:2477 (December 2017), LR 44:233 (February 2018), LR 47:571 (May 2021).

§515. Application Components for BESE-Authorized Charter Schools

A. - B. ...

C. The charter school application questions contained in the BESE request for applications shall consist of questions in the following areas: executive summary, education program design and capacity, organizational plan and capacity, and financial plan and capacity.

D. - D.6. ...

7. minimum budgeted and maximum enrollment per grade per year for the term of the charter contract;

8. evidence of community engagement throughout the development of the charter application and the mechanisms by which community stakeholders will be engaged in decision-making processes throughout the proposed charter term;

9. - 10. ...

11. the proposed school calendar and sample daily student schedules representing a population of diverse learners, including students with exceptionalities and English language learners;

12. ...

13. a description of the school's instructional design, including the type of learning environment (such as classroom-based or independent study), class size and structure, curriculum overview, and teaching methods, and how the program will meet the needs of students from diverse backgrounds, circumstances and ability levels;

14. the school's plans for identifying and successfully serving students with disabilities, English language learners, students who are academically behind, and gifted and talented students, as applicable, in order to comply with applicable laws and regulations;

15. - 22. ...

23. plans for recruiting, developing, and retaining a diversified school leadership and staff;

24. - 35. ...

36. evidence of anticipated fundraising contributions, if claimed in the application;

37. academic, organizational, and financial goals to be achieved within the contract term, and how results will be measured and assessed;

38. - 39. ...

40. rationale and purpose for seeking to serve the proposed student population;

41. - 46. ...

47. provisions regarding the inspection and operation of all fire prevention and safety equipment at the school;

48. - 49. ...

50. research-based evidence demonstrating the proposed educational model will lead to increased academic performance for the proposed student population;

51. the school plan for providing trauma-informed care, administering mental health screeners, and providing social emotional supports;

52. a detailed, hybrid learning plan which outlines the circumstances under which the plan would be implemented and details regarding the school plan to acquire and disseminate technology, track and monitor attendance, utilize a learning management system, provide technical support, and communicate with students, families, and staff;

53. a proposed Student Code of Conduct or Discipline Policy and Procedures; and

54. parent and employee grievance process and policies.

E. For a proposed public charter school that intends to contract with an education service provider for substantial educational services, management services, or both types of services, the request for proposals shall additionally require the applicants to:

1. provide evidence of provider success in serving student populations similar to the targeted population, including demonstrated academic achievement, fiscal responsibility, and organizational effectiveness;

2. provide the contract or MOU setting forth the proposed duration of the service contract; roles and responsibilities of the governing board, the school staff, and the service provider; scope of services and resources to be provided by the service provider; performance evaluation measures and timelines; compensation structure, including clear identification of all fees to be paid to the management organization; methods of contract oversight and enforcement; investment disclosure; and conditions for renewal and termination of the contract; and

3. disclose and explain any existing or potential conflicts of interest between the school governing board and proposed service providers or any affiliated business entities;

4. provide a detailed plan outlining the mechanisms by which the charter board will oversee and will hold the management organization or vendor to agreed-upon terms, as well as the conditions under which the contractual relationship may be terminated; and

5. provide rationale for consideration of an education service provider and evaluation of all providers considered.

F. For a public charter school proposal from an applicant that is an education service provider or is using an education service provider that currently operates one or more schools in any state or nation, the request for proposals shall additionally require the applicant to provide evidence of past performance and current capacity for growth, financial audits, and details regarding any previous, pending, or current litigation.

G. - H.9. ...

10. a plan for verifying student participation and performance, including specific intervention procedures the school will take when students are not participating as required;

11. a plan for complying with Title 28, Chapter 11, §1119, Health Screening as part of enrollment and the ongoing functioning of the school;

12. a plan for student engagement, attendance and truancy; and

13. a plan to provide at least 20 percent of instruction to struggling students in-person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1362 (July 2008), amended LR 37:869 (March 2011), LR 37:2383 (August 2011), LR 38:38 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 38:3118 (December 2012), LR 39:1432 (June 2013), LR 43:2477 (December 2017), LR 44:233 (February 2018), LR 44:2130 (December 2018), LR 47:572 (May 2021).

Shan N. Davis
Executive Director

2105#034

RULE

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs—CCAP Household Eligibility (LAC 28:CLXV.509 and 515)

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 139—Louisiana*

Child Care and Development Fund Programs. The amendments provide for revisions related to Child Care Assistance Program (CCAP) increases, payments to providers at state maximum rate, and updates to CCAP income eligibility. This Rule is hereby adopted on the day of promulgation.

Title 28 EDUCATION

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs Chapter 5. CCAP Household Eligibility §509. Certification Requirements for Non-Categorically Eligible Households

A. - A.2. ...

3. have household income that does not exceed 65 percent of the state median income for a household of the same size. *Household income* is defined as:

A.3.a. – A.5.e.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.28. and 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:43 (January 2016), amended LR 42:2175 (December 2016), LR 44:261 (February 2018), effective March 1, 2018, LR 45:900 (July 2019), LR 46:1373 (October 2020), LR 47:573 (May 2021).

§515. Payments Made on Behalf of Households

A. The state maximum daily rates for CCAP care are as follows.

Child Care Provider Type	Regular Care	Regular Care for Toddlers	Regular Care for Infants	Special Needs Care Incentive	Special Needs Care Incentive for Toddlers	Special Needs Care Incentive for Infants
Type III Early Learning Center	\$30.00	\$31.05	\$35.65	\$37.80	\$39.12	\$44.92
School Child Care Center	\$24.00	\$24.00	\$24.00	\$30.24	\$30.24	\$30.24
Family Child Care Provider	\$25.00	\$25.75	\$29.65	\$31.50	\$32.45	\$37.36
In-Home Provider	\$25.00	\$25.25	\$26.65	\$31.50	\$31.82	\$33.58
Military Child Care Centers	\$30.00	\$31.05	\$35.65	\$37.80	\$39.12	\$44.92

B. Categorically Eligible Households

1. Payments made to providers on behalf of categorically eligible households will be the state maximum daily rate for CCAP care as provided in Subsection A of this Section.

B.2. - C.2. ...

3. Payments made to providers on behalf of non-categorically eligible households will be a portion of the state maximum daily rate for CCAP care as provided in Subsection A.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:6 and 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015), amended LR 42:44 (January 2016), LR 42:1870 (November 2016), LR 44:801 (April 2018), LR 45:1745 (December 2019), LR 47:573 (May 2021).

Shan N. Davis
Executive Director

2105#035

RULE

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs—CCAP Household Eligibility (LAC 28:CLXV.707)

Editor’s Note: Section 707 is being repromulgated to correct a submission error. The original Rule may be viewed in its entirety on pages 452 of the April 20, 2021 Louisiana Register.

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 139—Louisiana Child Care and Development Fund Programs*. The amendments provide, for the 2020 calendar year only, an early learning center director or staff member shall only have to verify having worked at the same early learning center for at least 300 hours in order to meet the SRTC work requirement. This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

Chapter 7. Administration of School Readiness Tax Credits

§707. Credit for Early Learning Center Directors and Staff

A. - B. ...

C. Each early learning center director and staff member will also have to verify that he/she has worked at the same early learning center for at least six months in the calendar year and for an average of at least 30 hours per week, unless otherwise approved by the LDE.

1. Due to the COVID-19 pandemic, for the 2020 calendar year, a center director or staff member will only have to verify that he/she has worked at the same early learning center for at least 300 hours in the calendar year in order to meet the work requirement in this Subsection.

D. - E. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Department of Revenue, LR 41:2118 (October 2015), amended by the Board of Elementary and Secondary Education LR 43:1280 (July 2017), LR 47:452 (April 2021), repromulgated LR 47:574 (May 2021).

Shan N. Davis
Executive Director

2104#031

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.203)

Editor’s Note: Section 203 is being repromulgated to correct a submission error. The original Rule may be viewed in its entirety on pages 453 of the April 20, 2021 Louisiana Register.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:CXXXI (Bulletin 746). Amendments extend the effective date of the PRAXIS Core Academic Skills for Educators: 5712, 5722, and 5732 exams to December 31, 2020. This revision would allow the LDE to consider, for purposes of initial certification, performance on the PRAXIS Core Academic Skills for Educators: 5712, 5722, and/or 5732 for those educators who registered for and achieved a passing score by December 31, 2020. This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

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

Chapter 2. Initial Teacher Certification

Subchapter B. Testing Required for Certification Areas

§203. Certification Exams and Scores (Formerly §243)

A. A teacher applicant for certification must successfully complete the appropriate written or computer-delivered tests identified in this Section prior to Louisiana teacher certification.

1. Core Academic Skills for Educators². Teacher applicants in all content areas must pass all three Praxis core academic skills tests for educators.

Pre-Professional Skills Test “Paper or Computer Administrations”	Test #	Score	Effective Date
PPST:R—Pre-Professional Skills Test: Reading	0710/5710	176	Effective 7/1/10 to 12/31/13
PPST:W—Pre-Professional Skills Test: Writing	0720/5720	175	
PST:M—Pre-Professional Skills Test: Mathematics	0730/5730	175	

Core Academic Skills for Educators	Test #	Score	Effective Date
Reading	5712	156	Effective 1/1/14 to 12/31/2020
Writing	5722	162	
Mathematics	5732	150	

Core Academic Skills for Educators	Test #	Score	Effective Date
Reading	5713	156	Current-
Writing	5723	162	
Mathematics	5733	150	

¹ NOTE: To differentiate the computer delivered tests, Educational Testing Service has placed the number “5” or “6” preceding the current test code. The department will accept computer delivered passing test scores for licensure.

² NOTE: An ACT composite score of 22 or an SAT combined verbal and math score of 1100 or higher (new SAT) or 1030 or higher (pre-March 2016 SAT) may be used in lieu of PRAXIS 1 PPST exams or core academic skills for educators in reading, writing and math by prospective teachers in Louisiana.

A.2. - F. ...

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015), LR 41:916 (May 2015), LR 42:233 (February 2016), LR 43:1292 (July 2017), LR 44:264 (February 2018), LR 44:1999 (November 2018), LR 45:228, 230 (February 2019), repromulgated LR 45:403 (March 2019), amended LR 45:1458 (October 2019), LR 46:325 (March 2020), LR 46:557 (April 2020), LR 46:1374 (October 2020), LR 47:453 (April 2021), repromulgated LR 47:574 (May 2021).

Shan N. Davis
Executive Director

2105#024

RULE

Tuition Trust Authority Office of Student Financial Assistance

Achieving a Better Life Experience (ABLE) Program
(LAC 28:VI.507, 509, 511, 513, 517, 519, and 521)

The Louisiana Tuition Trust Authority has amended its administrative rules (R.S. 17:3091 et seq.). This Rule is hereby adopted on the day of promulgation.

Title 28 EDUCATION

Part VI. Student Financial Assistance—Higher Education Savings

Chapter 5. Achieving a Better Life Experience (ABLE)

§507. Applicable Definitions

A. Words and terms not otherwise defined in these rules shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Redemption Value—the cash value of the money in an ABLE Account invested in a fixed earnings option that are attributable to the sum of the principal deposited and the earnings on principal authorized to be credited to the account by the LATTA, less any disbursements and refunds. Redemption value is not applicable to an ABLE account invested in variable earnings.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:639 (April 2017), amended LR 44:1888 (October 2018), LR 47:575 (May 2021).

§509. Establishment of an ABLE Account

A. - C.3. ...

D. Through April 30, 2021, an ABLE account may be established by the account owner or an administrator who is authorized by law or by authentic act to administer the account on behalf of the account owner.

1. An administrator who is not the account owner may establish an account on behalf of an eligible individual upon provision of documentation to LOSFA evidencing that person has the legal right to act on behalf of the eligible individual.

2. Documentation required to establish an account on behalf of an eligible individual includes:

- a. if a parent, a copy of the eligible individual’s birth certificate;
- b. if an adoptive parent, documentation evidencing the adoption of the eligible individual;
- c. if a custodian, court documents evidencing the appointment of the custodian by a court of law;
- d. if designated by the eligible individual to administer his affairs, documentation evidencing such designation;
- e. if a juridical entity, documentation evidencing that the eligible individual, or a person authorized to act on his behalf, as indicated in §509.D.2.a-d above, has designated the juridical entity to act on his behalf for purposes of an LA ABLE account program account.

E. Beginning on May 1, 2021, an ABLE account may be established by or on behalf of an eligible individual by the highest ranked person listed below, who shall certify, under penalty of perjury, that he or she is authorized to establish an ABLE account on behalf of an eligible individual and that there is no other person with a higher priority who is willing or able to do so:

1. a person selected by the eligible individual or by an agent appointed by the eligible individual;
2. a custodian appointed by a court of law or a legal guardian;
3. the spouse of the eligible individual;
4. a parent of the eligible individual;
5. a sibling of the eligible individual;
6. a grandparent of the eligible individual;
7. a representative payee appointed by the Social Security Administration.

F. Program Enrollment Period. An account may be established at any time during the calendar year.

G. Completing the Owner's Agreement

1. This agreement must be completed and signed by the administrator.

2. The administrator who is also the account owner may designate a limited power of attorney to an administrator who would be authorized to act on his behalf in the event the account owner becomes incapacitated.

3. The administrator must certify:

a. that the person for whom the account is being established is an *eligible individual* as defined in §507;

b. that the eligible individual is a Louisiana resident;

c. that the eligible individual meets the citizenship requirements set forth in §509.B;

d. that if he is not the eligible individual, that he is authorized by law or by authentic act to open and administer the ABLE account on behalf of the eligible individual and that there is no other person higher in priority as provided in Subsection E.1-7 who is willing and able to do so;

e. that he will provide the documentation necessary to establish the certifications made for Subsections D.2.a-d upon request by LOSFA or the Internal Revenue Service;

f. that he will notify LOSFA immediately upon a determination that the person for whom the ABLE account was opened has ceased to be an eligible individual as that term is defined in §507;

g. that he will annually certify that the person for whose benefit the account was opened continues to be an *eligible individual* as defined in §507;

h. that he has read and understands the owner's agreement and participation materials.

4. The administrator agrees to the following terms when completing the account owner's agreement.

a. All transactions involving the ABLE account will be reported to the Social Security Administration on a monthly basis.

b. Fees

i. Except for penalties which may be imposed on refunds, the LATTA shall not charge fees for the opening or the maintenance of a fixed earnings account.

ii. Fees imposed by investment institutions for opening or maintenance of variable earnings accounts may be charged to the account owner.

c. Financial and investment institutions may be authorized by the LATTA to offer prospective owners information and assistance in opening an ABLE account.

d. Only the account owner, his heirs, or his estate may be designated to receive refunds from the ABLE account. In the event of the death of the account owner when the account owner is designated to receive the refund or when no successor beneficiary is named, the refund shall be made to the account owner's estate.

H. Acceptance of the Owner's Agreement

1. A properly completed and submitted owner's agreement will be reviewed within 48 hours of receipt for completeness. If additional information is required to accept the owner's agreement, the Administrator will be contacted to provide that information.

2. Upon acceptance of the owner's agreement, the LATTA will establish the ABLE account.

I. Providing Personal Information

1. The administrator is required to disclose personal information regarding the eligible individual, including:

a. his Social Security number;

b. his date of birth; and

c. his relationship to the administrator.

2. If not the eligible individual, the administrator will be required to disclose the following information:

a. his relationship to the eligible individual;

b. if a parent of the eligible individual, his Social Security number.

3. The eligible individual's Social Security number and federal and state employer identification numbers will be used for purposes of federal and state income tax reporting to access individual account information for administrative purposes, and to provide necessary reports to the Social Security Administration.

4. The following protected health information is collected only for IRS reporting purposes:

a. basis for the eligible individual's eligibility:

i. code A—Social Security disability Income—title II SSA;

ii. code B—Social Security income—title XVI SSA;

iii. code C—eligible individual is the subject of a disability certification filed with the IRS for 2016;

b. type of disability:

i. code 1—developmental disorders, including autistic spectrum disorder, Asperger's disorder, development delays, learning disabilities;

ii. code 2—intellectual disability. May be reported as mild, moderate or severe intellectual disability;

iii. code 3—psychiatric disorders, including schizophrenia, major depressive disorder, post-traumatic stress disorder (PTSD), anorexia nervosa; attention deficit/hyperactivity disorder (AD/HD), bipolar disorder;

iv. code 4—nervous disorders, including blindness, deafness, cerebral palsy, muscular dystrophy, spina bifida, juvenile-onset Huntington's disease, multiple sclerosis, severe sensorineural hearing loss, congenital cataracts;

v. code 5—congenital anomalies: chromosomal abnormalities, including down syndrome, osteogenesis imperfecta, xeroderma pigmentosum, spinal muscular atrophy, fragile X syndrome, Edwards syndrome;

vi. code 6—respiratory disorders: cystic fibrosis;

vii. code 7—other: includes tetralogy of fallot, hypoplastic left heart syndrome, end-stage liver disease, juvenile-onset rheumatoid arthritis, sickle cell disease, hemophilia; and any other disability not listed under codes 1-6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:640 (April 2017), amended LR 44:1888 (October 2018), amended LR 47:575 (May 2021).

§511. Deposits to ABLE Accounts

A. Application Fee and Initial Deposit Amount

1. No application fee will be charged to those applying for an ABLE account on behalf of an eligible individual.

2. Financial and investment institutions may be authorized by the LATTA to offer assistance in establishing an ABLE account. (See fees in §509.G.4.).

3. An initial deposit is not required to open an ABLE account; however, a deposit of at least \$10 must be made within 180 days from the date on the letter of notification of approval of the account.

4. A lump sum deposit may not exceed the annual contribution limit unless such deposit is the result of a rollover from another ABLE Program.

B. Deposit Options

1. The administrator shall select one of the following deposit options during the completion of the owner's agreement; however, the administrator may change the monthly deposit amount at any time and the payment method by notifying the LATTA:

a. occasional lump sum payment(s) made directly to the LATTA or to a LATTA-approved investment institution;

b. monthly payments made directly to the LATTA or to a LATTA-approved financial or investment institution;

c. automatic account debit, direct monthly transfer from the Administrator's checking or savings account to the LATTA or a LATTA-approved investment institution;

d. payroll deduction, if available through the administrator's employer.

C. Limitations on Deposits

1. All deposits must be rendered in amounts of at least \$10 and must be made in cash, check, money order, automatic account debit or payroll deduction, defined as any of the deposit options listed in §511.B.1.

2. Once the cumulative contributions and earnings on contributions have reached or exceeded the maximum allowable account balance, principal deposits will no longer be accepted to the account until a distribution is made which reduces the account balance below the maximum allowable account balance.

3. ABL account balances of up to \$100,000 will not affect Social Security income (SSI) benefits. However, once an account exceeds \$100,000, SSI benefits will be suspended until such time as the balance is reduced below \$100,000.

4. If the person for whose benefit an ABL account was opened ceases to be an eligible individual as defined in §507, no further deposits will be accepted unless and until such time as the person becomes an eligible individual again.

D. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:641 (April 2017), amended LR 47:576 (May 2021).

§513. Disbursement of Account Funds for Payment of QDEs

A. Request for Disbursement

1. An ABL account administrator may request a disbursement at any time, but no more than twice per month.

2. The request for disbursement must include:

a. the ABL account number;

b. the eligible Individual's name, address, and Social Security number;

c. the administrator's signature (may be electronic);

and

d. the amount to be disbursed.

3. Requests for disbursements must be in whole dollar increments, must be no less than \$200 and may be no more than the account balance.

4. In the event funds are invested in more than one investment option, the disbursement shall be made proportionally from each investment option in the account.

5. Disbursements will be made only to the administrator of the account.

6. Disbursements from investment options with variable earnings shall be assigned a trade date of one business day after the business day of receipt of the transfer request.

7. Disbursements made during a period in which the person for whose benefit the account was opened is not an eligible individual as defined in §507 will not be considered qualified disbursements.

B. Rate of Expenditure

1. The amount to be disbursed from an account shall be drawn from deposits and interest in the same ratio as these funds bear to the total value of the account as of the date of the disbursement.

2. The administrator may not withdraw an amount in excess of the QDEs of the eligible individual or the value of the account, whichever is less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:642 (April 2017), amended LR 47:577 (May 2021).

§517. Termination, Refund, and Rollovers of an Education Savings Account

A. Account Termination

1. The administrator may terminate an ABL account at any time.

2. Through April 30, 2021, in the event the person for whose benefit the account was opened is no longer an *eligible individual* as defined in §507, the administrator shall

- terminate the account; or
- transfer the account to another eligible individual who is also a member of the family of the original *eligible individual* within 60 days of the determination that the original eligible individual is no longer qualified.

3. Beginning on May 1, 2021, in the event the person for whose benefit the account was opened ceases to be an *eligible individual* as defined in §507, the account may remain open through the end of the fifth full calendar year during which the person ceases to be an *eligible individual* as defined in §507. The administrator shall exercise one of the following options by the end of the applicable calendar year:

a. terminate the account; or

b. transfer the account to another eligible individual who is also a member of the family of the eligible individual.

4. The LATTA may terminate an account as follows.

a. If LATTA determines that funds have been disbursed for expenses other than QDEs, LATTA may require the return of the funds to the ABL account. If funds are not returned to the account within 60 days of a request to do so, LATTA, in its sole discretion, may refund any balance remaining and close the account.

b. The LATTA may terminate an account if no deposit of at least \$10 has been made within 180 days from the date of notification of approval of the account.

c. The LATTA may terminate an account if the eligible individual for whom the account was opened no longer meets the criteria to be an eligible individual and a new eligible individual is not named by the end of the fifth full calendar year during which the person for whose benefit the account was opened ceases to be an eligible individual.

d. The LATTA may terminate an owner's agreement if it finds that the account owner or beneficiary provided false or misleading information (see §507).

i. If the LATTA terminates an owner's agreement under this Subsection, all interest earnings on principal deposits may be withheld and forfeited, with only principal being refunded.

ii. An individual who obtains program benefits by providing false or misleading information will be prosecuted to the full extent of the law.

B. Refunds

1. Requests for refund may result in the termination of the account and in the refund of:

a. the deposits invested in fixed earnings, if the account has been open for less than 12 months;

b. the redemption value, if the account has been open for 12 or more months;

c. the deposits to or the current value of an account invested in a variable earnings option, whichever is less, if the account has been open for less than 12 months;

d. the current value of an account invested in variable earnings, if the account has been open for 12 or more months.

2. Refunds from investment options with variable earnings shall be assigned a trade date of one business day after the business day of receipt of the request.

C. Designation of a Refund Recipient. The refund recipient can only be the account owner, his heirs, or his estate, and the administrator shall designate the refund recipient when completing the owner's agreement.

D. Voluntary Termination of an Account

1. Refunds shall be equal to the redemption value of the ABE account at the time of the refund, and shall be made to the person designated in the owner's agreement or by rule.

D.2. - G.2.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:642 (April 2017), amended LR 44:1888 (October 2018), amended LR 47:577 (May 2021).

§519. Substitution, Assignment, and Transfer

A. Substitute Beneficiary. The beneficiary of an ABE account may be changed to a substitute beneficiary provided the account owner completes a beneficiary substitution form and the following requirements are met:

1. the substitute beneficiary is a member of the family as defined under §107;

2. the substitute beneficiary meets the citizen/resident alien requirements of §301.F, and, if the account owner is a nonresident of the state of Louisiana, the substitute beneficiary meets the applicable residency requirements (see §301.G).

B. Substitution/Transfer of Account Ownership. The administrator may transfer ownership of an ABE account only with the written approval of the LATTA and only to a member of the family of the eligible individual for whom the account was opened.

C. Assignment of Account Ownership. Ownership of an ABE account cannot be assigned.

D. Changes to the Owner's Agreement

1. The administrator may request changes to the owner's agreement.

2. Changes must be requested in writing and be signed by the administrator.

3. Changes, if accepted, will take effect as of the date the notice is received by the LATTA.

4. The LATTA shall not be liable for acting upon inaccurate or invalid data which was submitted by the administrator.

5. The administrator will be notified by the LATTA of any changes affecting the owner's agreement which result from changes in applicable federal and state statutes and rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:643 (April 2017), amended LR 47:578 (May 2021).

§521. Miscellaneous Provisions

A. - J.1. ...

2. Through April 30, 2021, funds in excess of the maximum allowable account balance may remain in the account and continue to accrue interest and may be disbursed in accordance with §309, or will be refunded in accordance with §311 upon termination of the account.

3. Beginning May 1, 2021, Funds in excess of the maximum allowable account balance, along with any interest earned on those amounts, will be returned to the contributor on a last-in-first-out basis as an unqualified disbursement.

K. Withdrawal of Funds. Funds may not be withdrawn from an ABE account except as set forth in §513 and §515.

L. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3081-3089.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 43:643 (April 2017), amended LR 47:578 (May 2021).

Robyn Rhea Lively
Senior Attorney

2105#020

RULE

Office of the Governor
Division of Administration
Office of State Procurement

Procurement
(LAC 34:V.Chapters 1-17, 19, 21, and 23-31)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., as authorized pursuant to R.S. 39:1561 and 39:1581, the Office of the Governor, Division of Administration, Office of State Procurement, has

amended Chapters 1-17, 19, 21, and 23-31, and adopted Chapters 24 and 26 of LAC 34:V, Procurement. The Rules are revised to align with Act 312 of the 2019 Regular Legislative Session, Act 273 of the 2020 Regular Legislative Session, further align together provisions for purchasing and professional service contracting more consistently, reduce redundancy and potential for disagreement with the *Louisiana Procurement Code*, and make other policy revisions and clarifications consistent with the goal of ensuring full, fair, and open competition within public procurement activities. This Rule is hereby adopted on the day of promulgation.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part V. Procurement

Chapter 1. General Provisions

§109. Definitions and Use

A. - A.3. ...

4. - 4.e. Repealed.

B - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 21:566 (June 1995), repromulgated LR 40:1347 (July 2014), LR 40:2548 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1281 (July 2015), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:750 (April 2018), LR 47:579 (May 2021).

Chapter 3. Competitive Sealed Bidding

§301. Content of the Invitation to Bid (ITB)

A. Invitation to Bid

1. Purchases whose estimated cost exceeds the defined maximum value for small purchases established by executive order of the governor shall provide adequate public notice in accordance with R.S. 39:1594. Determination of adequate public notice shall take into consideration the nature and complexity of the solicitation. All advertisements, written invitations to bid, or other forms of solicitations allowed by law posted through a secure centralized electronic interactive environment pursuant to the Louisiana Uniform Electronic Transaction Act (R.S. 9:2601-2621) and applicable rules and regulations (i.e. LAC 4:XV.701 et seq.) shall contain general descriptions of the classes of commodities on which bids are solicited and shall state:

A.1.a - E.2. ...

F. Request for Proposals. In the event the state uses the request for proposals method of procurement pursuant to R.S. 39:1595, the procurement shall be made in accordance with Chapter 26 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:328 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1349 (July 2014), LR 40:2549 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1281 (July 2015), LR 44:751 (April 2018), LR 47:579 (May 2021).

§303. Bidding Time

A. Bidding time is the period of time between the date of distribution of the invitation to bid and the date set for opening of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. For bids whose estimated cost exceeds the defined maximum value for *small purchases* established by executive order of the governor, a minimum of 10 days shall be provided unless the chief procurement officer or his designee deems that a shorter time is necessary for a particular procurement. However, in no case shall the bidding time be less than 10 days, except as provided in R.S. 39:1598 and Chapter 11 of these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:328 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1349 (July 2014), amended LR 40:2550 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1281 (July 2015), LR 44:751 (April 2018), LR 47:579 (May 2021).

§307. Bidder Submissions

A. - A.1. ...

2. bid filled out in pencil;

3. bid not received as specified in the invitation to bid,

4. bid not received at the address specified in the invitation to bid prior to bid opening.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:328 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1350 (July 2014), LR 40:2550 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:752 (April 2018), LR 47:579 (May 2021).

§311. Pre-Bid Conferences

A. Pre-bid conferences may be conducted to explain the procurement requirements. They shall be announced to all prospective bidders known to have received an invitation to bid and shall be advertised and/or electronically posted if the estimated cost exceeds the defined maximum value for small purchases established by executive order of the governor and attendance is mandatory. The conference should be held long enough after the invitation to bid has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids. Nothing stated at the pre-bid conference shall change the invitation to bid unless a change is made by written addenda as provided in §305.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:329 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1350 (July 2014), LR 40:2551 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:752 (April 2018), LR 47:579 (May 2021).

§315. Pre-Opening Modification or Withdrawal of Bids

A. ...

B. Withdrawal of Bids. A written request for the withdrawal of a bid or any part thereof will be granted if the request is received prior to the specified time of opening. If a bidder withdraws a bid prior to bid opening, the bid will be returned to the ownership and possession of the bidder in accordance with §319.D of this Part.

C. ...

D. Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file, except in accordance with Subsection E of this Section.

E. The final disposition of unopened bids which are withdrawn in accordance with this Section shall be managed in accordance with §319. D of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:329 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1350 (July 2014), LR 40:2551 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:752 (April 2018), LR 47:580 (May 2021).

§317. Late Bids

A. ...

B. The final disposition of unopened bids which are late as described in this Section shall be managed in accordance with §319.D of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:329 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1351 (July 2014), LR 40:2551 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:753 (April 2018), LR 47:580 (May 2021).

§319. Receipt, Opening and Recording of Bids

A. - C. ...

D. The final disposition of an unopened withdrawn bid or an unopened late bid shall be managed according to the following steps.

1. For purposes of this Subsection only, *bid* shall be understood to also refer to a competitive sealed proposal, and *bidder* shall be understood to also refer to a person submitting a competitive sealed proposal.

2. The Office of State Procurement or the using agency shall not open an unopened bid in its possession for any reason unless so properly ordered by a court of competent jurisdiction.

3. The Office of State Procurement or the using agency shall document by scan, photograph, or similar means any and all visible surfaces of the bid envelope or packaging which appear to contain text. Resulting images shall be retained in the bid file.

4. The Office of State Procurement or the using agency shall notify, in writing, the bidder whose bid is withdrawn or late that such bid is not the property of the state because it has been withdrawn or determined to be late, and that the bidder should retrieve, or arrange for third-party disposition of, its property within 30 days of written notice.

5. If the bidder fails to retrieve its bid within 60 days of written notice, the Office of State Procurement or the using agency shall dispose of the bid using secure means.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:329 (July 1992), amended LR 21:566 (June 1995), repromulgated LR 40:1351 (July 2014), LR 40:2551 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:753 (April 2018), LR 47:580 (May 2021).

§327. Bid Evaluation and Award

A. - B. ...

Responsible Bidder or Proposer—as defined in §1501 of this Part.

a. The Office of State Procurement, or using agency, whichever is applicable, may request suitable evidence that a vendor is a responsible bidder or proposer in accordance with Chapter 15 of this Part.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:330 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1352 (July 2014), LR 40:2553 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:754 (April 2018), LR 47:580 (May 2021).

§335. Publicizing Awards

A. Written notice of award shall be sent to the successful bidder. Notice of award shall be made a part of the procurement file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:331 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1353 (July 2014), LR 40:2554 (December 2014), LR 47:580 (May 2021).

§341. Blackout Period

A. All competitive sealed bids conducted in accordance with R.S. 39:1594 and all competitive sealed proposals conducted in accordance with R.S. 39:1595 (for purposes of this Section together called *competitive sealed procurements*) shall:

1. provide for a defined blackout period relative to such procurement in which communication between the bidder or proposer and the state relative to the procurement itself is generally prohibited, with defined exceptions;

2. provide a summary of the application of the state of Louisiana's blackout period policy;

3. provide a reference to the full text of the state of Louisiana's blackout period policy; and

4. designate a contact person, and corresponding method of communication, to whom all communications by bidders or proposers should be addressed.

B. The blackout period is a period of time beginning with posting of the competitive sealed procurement and ending with the award or cancellation of the same. During a competitive sealed procurement, any proposer, bidder, or its agent or representative, is prohibited from communicating with any state employee or contractor of the state involved

in any step in the procurement process about the affected procurement other than the designated contact person. Communications properly sent to the designated contact person regarding questions, clarifications, or complaints regarding procedures or status related to the competitive sealed procurement are allowed. *Involvement* in the procurement process includes but may not be limited to project management, design, development, implementation, procurement management, development of specifications, or evaluation of a particular procurement.

C. Upon notification of receipt of a timely protest to an award, and a resulting stay of award, the blackout period shall be reinstated until such time as the stay has been lifted by the chief procurement officer. All communications regarding the protested award shall be addressed to the chief procurement officer. In the case of an appeal, all communications shall be addressed to the Commissioner of Administration.

D. Any state employee or contractor who discovers any inappropriate contact shall immediately report such inappropriate contact to the chief procurement officer, whether the discovery occurs during or after the award of the contract.

E. The head of any agency conducting any competitive sealed procurement subject to a blackout period shall provide notice to staff regarding the affected procurement and instructions. An agency may choose to implement a blanket blackout period program in which employees acknowledge their responsibility to comply for all competitive sealed procurements rather than by the agency providing individual notices.

F. In any instance in which a prospective vendor is also an incumbent vendor for any contract, the state and the incumbent vendor may contact each other regarding the existing contract, but the incumbent vendor and/or its representative(s) may not discuss the procurement subject to the blackout period unless pursuant to an exception in this Section.

G. Notwithstanding any conflicting provision of this Section, the blackout period shall not apply to:

1. the submission of a protest to a solicitation pursuant to R.S. 39:1671;
2. duly noticed site visits and/or conferences for bidders or proposers;
3. oral presentations during the evaluation process;
4. communications regarding a particular solicitation between any person and staff of the procuring agency, provided the communication is limited strictly to matters of procedure. Procedural matters include deadlines for decisions or submission of proposals and the proper means of communicating regarding the procurement, but shall not include any substantive matter related to the particular procurement or requirements of the competitive sealed procurement. Any employee who receives such an inquiry shall report it and the response, if any, to the designated contact who shall keep a record of the inquiry in the agency's files regarding the procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 47:580 (May 2021).

Chapter 5. Reverse Auctions

§501. Authorization

A. The reverse auction process may be utilized in accordance with R.S. 39:1600(D), subject to the approval of the state chief procurement officer that the best interests of the state would be served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 47:581 (May 2021).

§503. Application

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 38:1406 (June 2012), repromulgated LR 40:1354 (July 2014), LR 40:2555 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 42:51 (January 2016), LR 44:755 (April 2018), repealed LR 47:581 (May 2021).

§509. Withdrawal of Bids

A. Withdrawal of bids will be handled in accordance with §315 and §321 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 38:1407 (June 2012), repromulgated LR 40:1355 (July 2014), LR 40:25560 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:755 (April 2018), LR 47:581 (May 2021).

Chapter 9. Sole Source Procurement

§905. Conditions for Use of Sole Source Procurement

A. - A.2.d. ...

e. - f. Repealed.

B. - B.3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:331 (July 1982) amended LR 21:566 (June 1995), repromulgated LR 40:1356 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1281 (July 2015), LR 44:756 (April 2018), LR 47:581 (May 2021).

§907. Record of Sole Source Procurement

A. A record of sole source procurement shall be maintained that lists:

1. - 2. ...

3. a listing of the supplies, services, major repairs, or professional, personal, consulting or social services procured under each contract; and

A.4. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing,

LR 8:332 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1356 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 47:581 (May 2021).

Chapter 11. Emergency Procurement

§1101. Application

A. The provisions of this Chapter apply to every procurement made under emergency conditions that will not permit other source selection methods to be used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:332 (July 1982), repromulgated LR 21:566 (June 1995), LR 40:1356 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 47:582 (May 2021).

§1103. Definition of Emergency Conditions

A. An emergency condition is a situation which creates a threat to public health, welfare, safety, or public property such as may arise by reason of floods, epidemics, riots, equipment failures, or such other reason as may be proclaimed by the chief procurement officer. The existence of such condition creates an immediate and serious need for supplies, services, major repairs, or professional, personal, consulting or social services that cannot be met through normal procurement methods and the lack of which would seriously threaten:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:332 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1356 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 47:582 (May 2021).

§1105. Scope of Emergency Procurement

A. Emergency procurement shall be limited to only those supplies, services, major repairs, or professional, personal, consulting or social services necessary to meet the emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:332 (July 1982), repromulgated LR 21:566 (June 1995), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 40:1357 (July 2014), LR 47:582 (May 2021).

§1107. Authority to Make Emergency Procurement

A. Any state agency may make emergency procurements in accordance with R.S. 39:1598 and R.S. 39:1600(E), when an emergency condition arises and the need cannot be met through normal procurement methods. Prior to all such emergency procurements, the chief procurement officer or his designee shall approve the procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:332 (July 1982), amended LR 21:566 (June 1995), LR 40:1357 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 47:582 (May 2021).

§1111. Determination and Record of Emergency Procurement

A. Determination. The procurement officer or the head of a purchasing agency shall make a written determination stating the basis for any emergency procurement or award of a contract, and for the selection of a particular contractor. Such determination shall be sent promptly to the chief procurement officer for approval or rejection.

B. - B.1.b. ...

c. a listing of the supplies, services, major repairs, or professional, personal, consulting or social services procured under each contract; and

d. ...

2. The record for the previous fiscal year shall be provided by the Office of State Procurement at the beginning of the legislative session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:332 (July 1982), repromulgated LR 21:566 (June 1995), LR 40:1357 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1282 (July 2015), LR 44:756 (April 2018), LR 47:582 (May 2021).

Chapter 13. Cancellation of Solicitations; Rejection of Bids or Proposals

§1301. Scope

A. The provisions of this Chapter shall govern the cancellation of solicitations issued by the state and rejections of bids or proposals in whole or in part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:332 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1357 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 47:582 (May 2021).

§1307. Reasons for Cancellation

A. ...

B. When a solicitation is canceled prior to opening, a notice of cancellation shall be sent to all businesses solicited. When a solicitation or item is canceled after bids are opened, a notice of cancellation should be sent to all bidders if the amount canceled exceeds the defined maximum value for *small purchases* established by executive order of the Governor.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:333 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1358 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 47:582 (May 2021).

§1309. Rejection of Individual Bids or Proposals

A. ...

1. *Proposals* (as used in this Section)—competitive responses solicited in accordance with R.S. 39:1595 and Chapter 26 of these regulations.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:333 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1358 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:757 (April 2018), LR 47:582 (May 2021).

§1313. Appeals of a Cancellation

A. In accordance with R.S. 39:1605, R.S. 39:1630 and R.S. 39:1691, the pre-award cancellation of a solicitation by the chief procurement officer or his designee shall be final and conclusive unless the person adversely affected by the cancellation has timely appealed to the Nineteenth Judicial District Court, in accordance with R.S. 39:1691(D), within 14 days of the cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 47:583 (May 2021).

Chapter 15. Responsibility and Prequalification

§1501. Definitions

Responsible Bidder or Proposer—a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance. See also R.S. 39:1606 of the Louisiana procurement code. For the purpose of these regulations, *capability* as used in this definition means capability at the time of award of the contract, unless otherwise specified in the solicitation.

Solicitation—an invitation to bid, or any other document, such as a request for quotations or a request for proposals issued by the state for the purpose of soliciting offers or proposals to perform a state contract.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:333 (July 1982), amended LR 21:566 (June 1995), LR 40:1358 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:757 (April 2018), LR 47:583 (May 2021).

Chapter 17. Types of Contracts

§1705. Cost-Plus-a-Percentage-of-Cost Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:334 (July 1982), repromulgated LR 21:566 (June 1995), repromulgated LR 40:1360 (July 2014), LR 47:583 (May 2021).

§1709. Use of Brand Name, LaMAS (Louisiana Multiple Award Schedule), and Multi-State Contracts

A. ...

B. Where Louisiana price schedules ("LaPS") exist for same or similar item(s) and the estimated cost of the procurement exceeds the defined maximum value for *small purchases* established by executive order of the Governor, all eligible users of these contracts will utilize the following procedures.

1. - 3.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 33:2650 (December 2007), repromulgated LR 40:1360 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:758 (April 2018), LR 47:583 (May 2021).

Chapter 19. Multi-Year Contracts

§1901. Determination

A. For purposes of this Chapter, *multi-year contract* shall be defined as a contract whose term exceeds 12 months.

B. Multi-year contracts may be entered into for supplies, services, major repairs, or professional, personal, consulting and social services in accordance with R.S. 39:1615 or as otherwise provided by law.

C. Prior to the utilization of a multiyear contract for supplies, services, or major repairs, it shall be determined in writing:

1. that estimated requirements cover the period of the contract and are reasonably firm and continuing; and
2. that such a contract will serve the best interests of the state by encouraging effective competition or otherwise prompting economies in state procurement.

D. All contracts shall contain a termination for non-appropriation clause in accordance with R.S. 39:1615(C), (E) and (I), unless specifically exempted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:337 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1361 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 47:583 (May 2021).

§1903. Conditions for Purchasing and Contracting Use of Multi-Year Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:337 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1361 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:759 (April 2018), repealed LR 47:583 (May 2021).

§1905. Multi-Year Contract Procedure

A. Solicitation. The solicitation shall state:

1. the estimated amount of supplies, services or major repairs required for the proposed contract period;
2. ...
3. that the multi-year contract will be canceled if funds are not appropriated, un-appropriated, or otherwise not made available to support continuation of performance in any fiscal period succeeding the first;
4. if an installment purchase, that the provisions of R.S. 39:1616 shall apply.
5. ...

B. Repealed.

C. - C.2. ...

3. Nothing in this Section shall be construed to limit the authority otherwise existing for an agency to terminate a contract for convenience, or for cause, or for any other

lawful reason allowable in the contract, or as required in law or regulation.

D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:337 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1362 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:759 (April 2018), LR 47:584 (May 2021).

Chapter 21. Miscellaneous Contract Provisions for Supplies, Services, and Major Repairs

§2101. Contract Provisions

A. - C.6. ...

7. when a contract requires an original signature as provided by R.S. 9:2601-2621 and LAC 4:I.Chapter 7, Implementation of Electronic Signatures in Global and National Commerce Act—P.I., 106-229, an electronic signature is considered an original signature.

D. - D.10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:337 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1362 (July 2014), amended LR 41:670 (April 2015), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:759 (April 2018), LR 47:584 (May 2021).

§2105. Goods Manufactured or Services Performed by Supported Employment Providers

A. R.S. 39:1604.4 provides in part that a preference shall be given by all agencies in purchasing products and services from individuals with disabilities through supported employment providers.

B. Purchases of goods manufactured by or services performed by individuals with disabilities through supported employment providers as defined in R.S. 39:1604.4 shall be exempt from competitive sealed bidding in accordance with the provisions of R.S. 39:1594.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:337 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1363 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:760 (April 2018), LR 47:584 (May 2021).

Chapter 23. Reporting of Suspected Collusive Bidding or Negotiations

§2301. Anticompetitive Practices

A. For the purposes of this Chapter, an anticompetitive practice is a practice among bidders or proposers which reduces or eliminates competition or restrains trade. An anticompetitive practice can result from an agreement or understanding among competitors to restrain trade such as submitting collusive bids or proposals, or result from business actions which have the effect of restraining trade, such as controlling the resale price of products. Indications of suspected anticompetitive practices include identical bids or proposals, rotated low bids or proposals, sharing of the business, tie-in sales, resale price maintenance, and group boycotts (see Identical Bidding, §2309).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:338 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1363 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:760 (April 2018), LR 47:584 (May 2021).

§2305. Reporting Suspected Anticompetitive Practices

A. The chief procurement officer, in consultation with the attorney general, shall develop procedures, including forms, for reporting suspected anticompetitive practices. A procurement officer who suspects that an anticompetitive practice has occurred or may be occurring shall report the suspected anticompetitive practice to the Attorney General's Office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:338 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1363 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement LR 47:584 (May 2021).

Chapter 24. Suspension, Debarment and Reinstatement

§2401. Suspension, Debarment and Reinstatement [Formerly LAC 34:V.2539]

A. Authority. After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the state chief procurement officer shall have authority to suspend or debar an individual or business for cause from consideration for a contract, in accordance with the provisions of R.S. 39:1672.

1. The state shall also have the right to suspend or terminate a contract based on the absence of appropriated, funds for the acquisition of goods or services or for cause; or, when in the best interest of the state.

B. Reinstatement

1. If the commissioner finds that the state chief procurement officer was in error, then he may reinstate said individual or business. If the commissioner affirms the decision of the state chief procurement officer that decision is final and conclusive.

2. The state chief procurement officer, upon request of a debarred individual or business shall review the requesting debarred contractor's file on an annual basis, and may reinstate said contractor for future consideration if he believes the circumstances warrant reinstatement and it would be in the best interest of the state. A list of debarred individuals and businesses shall be kept by the Office of State Procurement and made available upon request to state agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 8:594 (November 1982), amended LR 10:458 (June 1984), LR 11:1071 (November 1985), repromulgated LR 40:2566 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1282 (July 2015), amended LR 44:766 (April 2018), repromulgated LR 47:584 (May 2021).

Chapter 25. Procurement of Professional, Personal, Consulting, Social Services, and Energy Efficiency Contracts

Subchapter A. General Provisions

§2503. Definitions and Classes of Contractual Services

A. - A.1. ...

2. *Professional Service*—for contracts with a total amount of compensation of \$50,000 or more, the definition of "professional service" shall be limited to lawyers, doctors, dentists, psychologists, certified advanced practice nurses, veterinarians, architects, engineers, land surveyors, landscape architects, accountants, actuaries, claims adjusters, pharmacists, visiting professors, municipal advisors, and any other profession that may be added by regulations adopted by the Office of State Procurement of the Division of Administration.

3. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 7:181 (April 1981), amended LR 8:591 (November 1982), LR 10:455 (June 1984), LR 11:1067 (November 1985), LR 13:652 (November 1987), LR 17:264 (March 1991), LR 20:542 (May 1994), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 41:1669 (September 2015), LR 40:2556 (December 2014), amended LR 40:2544 (December 2014), repromulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1669 (September 2015), amended LR 44:761 (April 2018), LR 47:585 (May 2021).

§2512. Modification of Contract

A. All amendments to contracts for professional, personal, consulting and social services shall be submitted to the Office of State Procurement and shall become effective only upon approval by the director of the Office of State Procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 4:497 (December 1978), amended LR 7:182 (April 1981), LR 8:592 (November 1982), LR 10:456 (June 1984), LR 11:1068 (November 1985), LR 13:653 (November 1987), repromulgated LR 40:2562 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:763 (April 2018), LR 47:585 (May 2021).

§2518. Submission of Contracts

A. At least one copy of said contract and attachments shall be submitted to the Office of State Procurement. Copies of such contracts shall be forwarded to the Legislative Fiscal Office upon request. The Office of State Procurement will not accept for review and approval any contract that is not accompanied by the necessary attachments and copies as required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 4:497 (December 1978), amended LR 7:182 (April 1981), LR 8:592 (November 1982), LR 10:456 (June 1984), LR 11:1068 (November 1985), LR 13:653 (November 1987), repromulgated LR 40:2562 (December 2014), amended LR 41:671 (April 2015), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:764 (April 2018), LR 47:585 (May 2021).

§2521. Contractual Review Process

A. - D.2. ...

E. Legal and Content Review. There are a number of different types of contracts, and content requirements may vary. All contracts shall contain the following:

1. - 3. ...

4. beginning and termination dates for the contract. Contracts shall not include a clause permitting automatic renewal or extension of the original beyond a three-year period, unless authorized by the funding statute. Per R.S. 39:1622(C)(1) performance-based energy efficiency contracts shall have a term not to exceed 10 years;

5. - 10.b.ii. ...

F. Each contract submitted for approval which exceeds the value specified in R.S. 39:1623(A) shall be accompanied by a certification letter as described in R.S. 39:1623, signed by the using agency's representative.

G. - G.5. ...

H. If a contract is subject to the provisions of R.S. 39:1621(B), it must have been awarded pursuant to the requirements of R.S. 39:1595(B), unless exempt in accordance with Chapter 9 or Chapter 11 of this Part. Failure to so comply shall result in the using agency having to reconduct the process. Prior to approval of a contract for consulting services pursuant to this Subsection, the Office of State Procurement shall verify that the requirements of §2605 of this Part have been met.

I. Information technology consulting service contracts whose value exceeds the maximum amount specified in R.S. 39:1621(C) shall be procured in accordance with Subchapter B of this Chapter.

J. If a contract is for services defined as social services in R.S. 39:1556(54) it must have been awarded pursuant to the requirements of R.S. 39:1595(B) unless exempt by R.S. 39:1619. Failure to so comply shall result in the using agency having to reconduct the process. Prior to approval of a contract for consulting services pursuant to this Subsection, the Office of State Procurement shall verify that the requirements of §2605 of this Part have been met.

K. A formal, dated board resolution, disclosure of ownership or annual report filed with the Louisiana Secretary of State's office identifying the signatory as an officer, or equivalent document signed by one or more owners of the contractor must be secured and attached to the contract indicating that the signatory is a representative of the contractor and authorized to sign said contract.

L. ...

M. A performance evaluation for every personal, professional, consulting or social services contract shall be conducted by the using agency in accordance with R.S. 39:1569.1. This performance evaluation shall be retained by the using agency for all contracts approved under delegated authority. For all other contracts, this performance evaluation shall be submitted to the Office of State Procurement within 120 days after the termination of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 7:182 (April 1981), amended LR 8:592 (November 1982), LR 10:456 (June 1984), LR 11:1069 (November 1985), LR 13:87 (February 1987), LR 13:653 (November 1987), LR 15:81

(February 1989), repromulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 40:2562 (December 2014), amended LR 40:2545 (December 2014), LR 41:671 (April 2015), repromulgated LR 41:1669 (September 2015), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:764 (April 2018), LR 47:585 (May 2021).

§2527. Delegation of Signature Authority

A. R.S. 39:1595(A)(10)(b)(i), (ii) and 39:1595.1 requires that the head of the using agency or his designee shall sign all contracts for personal, professional, consulting or social services. All delegations of signature authority by the head of the using agency must be in writing and must be approved by the Office of State Procurement.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 8:593 (November 1982), amended LR 10:457 (June 1984), LR 11:1070 (November 1985), repromulgated LR 40:2564 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:765 (April 2018), LR 47:586 (May 2021).

§2530. Confidentiality of Technical Data or Trade Secrets

A. The using agency shall be responsible for protecting technical data, financial information, overhead rates, and trade secrets which may come into their possession from individuals and businesses doing business with the state. Any such information received by the Office of State Procurement shall be returned to the using agency upon completion of said review or retained using secure means if return to the using agency is not practicable or permissible.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 7:181 (April 1981), amended LR 8:593 (November 1982), LR 10:457 (June 1984), LR 11:1070 (November 1985), repromulgated LR 40:2564 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:765 (April 2018), LR 47:586 (May 2021).

§2533. Multi-Year Contracts

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 7:181 (April 1981), amended LR 8:593 (November 1982), LR 10:458 (June 1984), LR 11:1070 (November 1985), LR 17:266 (March 1991), repromulgated LR 40:2564 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:766 (April 2018), repealed LR 47:586 (May 2021).

§2536. Determination of Responsibility

A. In order to qualify as responsible, a proposer must meet and, upon request by the agency or the chief procurement officer, present evidence of compliance with the standards identified in §1505.A of this Part, as they relate to the particular procurement under consideration.

B. No contract for consulting services meeting the value specified in R.S. 39:1621(B), regardless of time period, or for social services exceeding the value indicated in R.S. 39:1619(B)(7), regardless of time period or other exemption

applicable pursuant to R.S. 39:1619(B), shall be awarded to any person or firm unless the head of the using agency has first determined that such person or firm is responsible.

C. In any case where a contract for consulting services meets the value threshold specified in R.S. 39:1621(B), regardless of time period, or where a contract for social services exceeds the value threshold specified in R.S. 39:1619(B)(7), regardless of time period or other exemption applicable pursuant to R.S. 39:1619(B), the head of the using agency shall prepare, sign, and place in the contract file a statement of the facts on which a determination of responsibility was based. Any supporting documents or reports and any information to support determinations of responsibility of the proposer or potential subcontractors should be kept on file with the agency, subject to inspection upon the request by the director of state procurement or his designee.

D. Before making a determination of responsibility, the head of the using agency shall have sufficient current information to satisfy himself that the prospective contractor meets the standards identified in §1505.A of this Part. Information from the sources identified in §1505.A.2 and 3 of this Part shall be utilized before making a determination of responsibility.

E. To the extent that a prospective contractor cannot meet the standards identified in §1505.A of this Part except by means of proposed subcontracting, the prospective prime contractor shall not be considered to be responsible unless recent performance history indicates an acceptable subcontracting system or prospective major subcontractors are determined by the Office of State Procurement or the head of the using agency to satisfy that standard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 4:496 (December 1978), amended LR 8:593 (November 1982), LR 10:458 (June 1984), LR 11:1070 (November 1985), LR 13:654 (November 1987), repromulgated LR 40:2565 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:766 (April 2018), LR 47:586 (May 2021).

§2539. Suspension, Debarment and Reinstatement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 8:594 (November 1982), amended LR 10:458 (June 1984), LR 11:1071 (November 1985), repromulgated LR 40:2566 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1282 (July 2015), amended LR 44:766 (April 2018), repealed LR 47:586 (May 2021).

Subchapter B. Review of Certain Contracts for Information Technology Consulting Services

§2542. Source Selection Methods [Formerly LAC 34:V.142]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 7:179 (April 1981), amended LR 8:594 (November

1982), LR 10:459 (June 1984), LR 11:1071 (November 1985), LR 13:655 (November 1987), repromulgated LR 40:2566 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1282 (July 2015), amended LR 44:766 (April 2018), repealed, LR 47:586 (May 2021).

§2545. Request for Proposals

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 4:495 (December 1978), amended LR 7:180 (April 1981), LR 8:594 (November 1982), LR 10:459 (June 1984), LR 11:1072 (November 1985), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2567 (December 2014), amended LR 40:2545 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1283 (July 2015), repromulgated LR 41:1670 (September 2015), amended LR 44:767 (April 2018), repealed, LR 47:587 (May 2021).

§2549. Procurement Support Team

A. Unless a procurement support team (PST) is formed in accordance with R.S. 39:200(I), a procurement support team shall be formed in accordance with the procedures defined herein for every contract for the procurement of information technology consulting services in an amount exceeding the maximum value specified in R.S. 39:1621(C). At the discretion of the director of the Office of State Procurement, all other consulting services anticipated to exceed the maximum value specified in R.S. 39:1621(C) may require PST review of the RFP, the selection process, and subsequent contract. The formation of a procurement support team shall be accomplished by the Office of State Procurement and shall include one or more representatives from each of the following: the Office of State Procurement, the Attorney General's Office; the using agency initiating the procurement action; and the Legislative Fiscal Office. The procurement support team shall submit a recommendation to the director of the Office of State Procurement concerning the final contract. Where a procurement support team is formed in accordance with R.S. 39:200(I), the requirements of this Section may be met by including a representative from the Attorney General's Office.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 10:460 (June 1984), amended LR 11:1073 (November 1985), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2568 (December 2014), amended LR 40:2545 (December 2014), repromulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1670 (September 2015), amended LR 44:767 (April 2018), LR 47:587 (May 2021).

§2551. Procurement Support Team Involvement

A. ...

B. All data processing consulting service contracts shall be subject to the statutory and regulatory requirements for consulting service contracts in general. The recommendation of a procurement support team member is not to be construed as approval by the agency which that team member represents, in those cases where formal agency approval of the final agreements is required.

C. - D.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 10:460 (June 1984), amended LR 11:1073 (November 1985), repromulgated LR 40:2569 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:767 (April 2018), LR 47:587 (May 2021).

§2554. Emergency and Sole Source Procurements

A. Notwithstanding the guidelines established in Chapters 9 and 11 of this Part, procurements of information technology consulting services in an amount exceeding the maximum value specified in R.S. 39:1621(C) under emergency or sole source conditions shall involve a procurement support team designated by the Office of State Procurement and under the direction of a team leader designated by the Office of State Procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 10:461 (June 1984), amended LR 11:1074 (November 1985), repromulgated LR 40:2569 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:768 (April 2018), LR 47:587 (May 2021).

§2557. Procurement Support Team; Procurement Schedule

A. Each using agency contemplating a contract for information technology consulting services with an estimated value exceeding the maximum value specified in R.S. 39:1621(C) shall notify the Office of State Procurement prior to the drafting of the request for proposals. The Office of State Procurement shall then contact the appropriate agencies and obtain from those agencies the names of the individuals designated to participate on the particular procurement support team (PST). The Office of State Procurement shall then designate a team leader, insure that at least two members of the procurement support team have received formal training in computer contract negotiations, and forward to the team leader the names of the other team members, along with any information received from the using agency.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 10:461 (June 1984), amended LR 11:1074 (November 1985), repromulgated LR 40:2569 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:768 (April 2018), LR 47:587 (May 2021).

§2587. Revised Statutes

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 4:497 (December 1978), amended LR 7:183 (April 1981), LR 8:596 (November 1982), LR 10:461 (June 1984), LR 11:1074 (November 1985), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing,

LR 40:2570 (December 2014), amended LR 40:2546 (December 2014), repromulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1670 (September 2015), amended LR 44:768 (April 2018), repealed LR 47:587 (May 2021).

Chapter 26. Contracts Let Via a Request for Proposals Process

§2601. Application and Competitive Sealed Proposals

A. This Chapter shall be applicable to consulting services contracts governed by R.S. 39:1621(B), social services contracts which are not exempted by R.S. 39:1619(B), and any other competitive sealed proposals governed by R.S. 39:1595.

B. Competitive Sealed Proposals

1. For purposes of this Chapter, *competitive sealed proposals* means proposals protected from inspection prior to the deadline for submission. Proposals may be received in any manner specified in the request for proposals including receipt by mail, by direct delivery, or through any secure electronic interactive environment permitted by rule or regulation.

2. Any competitive sealed proposal which is withdrawn by the proposer prior to the deadline for submission of proposals, or which has been determined to be late relative to the deadline for submission of proposals, shall not be opened and shall instead be subject to the provisions of §319.D of this Part.

3. Except as provided in Paragraph 2 of this Subsection, competitive sealed proposals shall be secured until the proposal submission deadline.

4. Competitive sealed proposals shall not be inspected prior to the proposal submission deadline unless the chief procurement officer determines that doing so is necessary for the sole purpose of identifying the name of the proposer and/or the solicitation to which the proposal is addressed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 47:588 (May 2021).

§2603. Content in Requests for Proposals [Formerly LAC 34:V.2545(A)(1)]

A. All request for proposals (RFP) solicitations should:

1. specifically define the task and desired results of project;

2. identify agency liaison personnel and resources available to the contractor;

3. state approximately when the contractor can begin the work, plus an estimate of the time necessary to accomplish the work, if applicable;

4. specify applicable procedures concerning billing, documentation requirements, progress reports, and final reports, if applicable;

5. specify that a minimum of two copies of the proposal be submitted;

6. inform the potential contractors of the criteria and the selection methodology and the weight which will be applied to each significant evaluation criteria to be used in evaluating the proposals' responsiveness to the RFP;

7. inform the potential contractors that the state reserves the right to use the best and final offer (BAFO) process as a part of the competitive negotiation process to clarify the scope of work and/ or to obtain the most cost

effective pricing available from the proposer along with the proposers most favorable terms in response to the solicitation. When used, inform the potential contractors of the evaluation criteria and associated weights, if different from the initial scoring criteria and weights;

8. require potential contractors to include the following information in their proposals:

a. a description of the firm's qualifications, including a specific list of personnel to be used in the services and their qualifications (at least list the number and the qualifications of each position). However, a résumé should be required on each of the key personnel. Additionally, the contractor should be required to stipulate that these personnel will not be substituted or removed from the contract without prior approval of the using agency;

b. a list of the agencies with names and contact persons, for whom similar work has been done;

c. if applicable, the length of time needed for the services, broken down by phases, if phasing is necessary;

d. the proposed methodology for accomplishing the services with a precise statement of what the state will receive as an end product of the services (this is sometimes referred to as the technical section of the proposal);

e. for consulting services, an itemized cost statement showing various classes of man-hours at appropriate rate, delineated by phases, if phasing is used, and an itemized listing of all other expenses or fees that are expected to be paid by the state and a complete breakdown of consultant overhead rate, if applicable;

f. for social services, a detailed budget or other cost breakdown as may be required by the using agency and/or the federal government.

B. All request for proposals (RFP) solicitations shall:

1. provide for a blackout period in accordance with §341 of this Part;

2. require, and provide prominent notice, that a proposal must attain a minimum technical score equal to 50 percent or more of available technical points to be eligible to proceed to evaluation of cost or other point categories. No proposal which has failed to attain or exceed such a minimum technical score may be evaluated for cost, certified small entrepreneurship initiative participation, or any other category, nor may any prior calculation for cost or certified small entrepreneurship initiative participation be included in any final comparative tabulation if the proposer's technical score falls below 50 percent of available technical points subsequently. The State Chief Procurement Officer, or his designee, may waive the requirement to include this provision in writing if doing so is determined to be in the best interests of the state.

3. require, and provide prominent notice, if the RFP allocates points for Hudson or Veteran initiative points, that any awarded proposer which includes a good faith subcontracting plan for certified small entrepreneurship (e.g. Hudson, Veteran, or Service-Connected Disabled Veteran) initiative participation shall be subject to audit by the Louisiana Department of Economic Development or the Office of State Procurement to determine whether the contractor has complied in good faith with its subcontracting plan. The contractor must be able to provide supporting documentation to demonstrate that the good faith subcontracting plan was followed. If it is determined at any

time by the using agency or the Office of State Procurement that the contractor did not in fact perform in good faith its subcontracting plan relative to certified small entrepreneurship initiative participation, the contract award or contract may be terminated by the Office of State Procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 4:495 (December 1978), amended LR 7:180 (April 1981), LR 8:594 (November 1982), LR 10:459 (June 1984), LR 11:1072 (November 1985), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2567 (December 2014), amended LR 40:2545 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1283 (July 2015), repromulgated LR 41:1670 (September 2015), amended LR 44:767 (April 2018), LR 47:588 (May 2021).

§2605. Procedures

[Formerly LAC 34:V.2545.A.2]

A. The final selection of a contractor shall be made in accordance with the selection criteria established in the RFP. However, no contract may be enforced against the state until approval of the contract has been granted by the Office of State Procurement. When a final selection has been made, but prior to notice of award, the contract file containing the request for proposals, along with a selection memorandum justifying the final selection, shall be sent to the Office of State Procurement for final concurrence. The selection memorandum shall include, but not be limited to:

1. a list of criteria used along with the weight assigned each criteria;

2. scores of each proposal considered in each of the categories listed above along with overall scores of each proposal considered;

3. a narrative justifying selection.

B. After final negotiation and execution, the contract shall be sent to the Office of State Procurement for final review and approval.

C. Right to Protest. Any person who is aggrieved in connection with the request for proposal or award may protest and appeal pursuant to the provisions of R.S. 39:1671, 1681, 1683, 1691, and 1692.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 4:495 (December 1978), amended LR 7:180 (April 1981), LR 8:594 (November 1982), LR 10:459 (June 1984), LR 11:1072 (November 1985), repromulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2567 (December 2014), amended LR 40:2545 (December 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1283 (July 2015), repromulgated LR 41:1670 (September 2015), amended LR 44:767 (April 2018), LR 47:589 (May 2021).

Chapter 27. Intergovernmental Regulations

§2703. Cooperative Purchasing Shall Not Adversely

Affect Employees

[Formerly LAC 34:I.2503]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 8:341 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1364 (July 2014), LR 40:2573 (December 2014), repealed, LR 47:589 (May 2021).

Chapter 29. Education

§2901. Department of Education Procurement

[Formerly LAC 34:I.2901]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1572(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 14:429 (July 1988), repromulgated LR 40:1365 (July 2014), repealed LR 47:589 (May 2021).

Chapter 31. Protests and Appeals, Bidder Responsibility, Suspension and Debarment of Bidders, and Contract Controversies for Boards and Institutions of Higher Education

§3101. Application

[Formerly LAC 34:V.3103]

A. This Chapter shall only apply to boards of higher education and institutions under their jurisdiction in accordance with R.S. 39:1671, 1672, and 1673 of Title 39 of the *Louisiana Revised Statutes*, unless the institution is operating under a pilot procurement code in accordance with R.S. 17:3139.5(5)(c)(i), or R.S. 17:3393(A)(2)(d), which has adopted rules or procedures that supersede these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of the Commissioner, LR 9:210 (April 1983), amended LR 23:67 (January 1997), repromulgated LR 40:1366 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 40:2546 (December 2014), repromulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 41:1671 (September 2015), amended LR 44:769 (April 2018), repromulgated LR 47:589 (May 2021).

§3103. Definitions

[Formerly LAC 34:V.3101]

Aggrieved Person—a person who files a written protest in connection with the solicitation or award or the issuance of a written notice of intent to award a contract under the Louisiana Procurement Code and has or may have a pecuniary or other property interest in the award of the contract.

Candidate for Suspension or Debarment—a candidate for suspension or debarment is a person, who in the opinion of the chief procurement officer has committed an action giving cause for suspension or debarment pursuant to R.S. 39:1672.C.

Commissioner—the commissioner of the Division of Administration.

Contractor—a person who has been awarded a contract.

Hearing Officer—the chief procurement officer or his designee who shall exercise such authority as is granted for the conduct of protests in accordance with the provisions of the Louisiana Procurement Code [title 39:1551 et seq., section 1671(B)].

Interested Person—any person who has submitted a bid in response to an invitation to bid, a request for proposals, or

other solicitation issued under the Louisiana procurement code who has or may have a pecuniary or other property interest which may be affected by a determination made in a protest hearing.

Party—as used herein, unless the content clearly indicates otherwise, is either a contractor or a candidate for suspension or debarment or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 9:210 (April 1983), repromulgated LR 40:1365 (July 2014), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:769 (April 2018), repromulgated LR 47:589 (May 2021).

Paula Tregre
Director

2105#032

RULE

Department of Health Board of Pharmacy

Labeling and Delivery of Marijuana Products (LAC 46:LIII.2443 and 2451)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended two sections within Chapter 24 of its rules relative to marijuana pharmacy. The changes in Section 2443 repeals certain standards in the labeling of marijuana products by marijuana producers and instead requires compliance with the labeling standards for such products promulgated by the Department of Agriculture and Forestry, and further, permits the use of quick response (QR) codes in the labeling of such products. The changes in Section 2451 repeal the prohibition on the delivery of dispensed marijuana products and sets standards for the delivery of dispensed marijuana products by marijuana pharmacies. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter E. Marijuana Pharmacy

§2443. Marijuana Products

A. - D.1.c.v. ...

2. Labeling

a. Each product shall be labeled by the producer prior to its sale to the marijuana pharmacy.

b. Each label shall be securely affixed to the package and shall comply with labeling standards for marijuana products

promulgated by LDAF.

c. The label for each product shall bear a product identification code registered with the board.

d. The producer may utilize a two-dimensional quick response (QR) code or a package insert which is enclosed or attached to the product container to provide the information required in this Section. If the producer elects to

use such supplementary labeling, the label affixed to the outer surface of the product container shall contain the following information, at a minimum:

i. the batch or lot number;

ii. the potency of any THC or CBD contained therein;

iii. the net weight;

iv. the expiration date; and

v. any caution statements.

E. - E.4.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1540 (August 2017), amended LR 45:1473 (October 2019), LR 46:568 (April 2020), LR 47:590 (May 2021).

§2451. Operation of Marijuana Pharmacy

A. - P. ...

Q. Delivery of Dispensed Marijuana Products. A marijuana pharmacy shall dispense a marijuana product to a patient or his caregiver in the marijuana pharmacy. At the patient's request, the caregiver may deliver a dispensed marijuana product to the patient's location. At the patient or caregiver's request, the marijuana pharmacy may deliver or facilitate the delivery of a dispensed marijuana product to the patient's location. The delivery of a dispensed marijuana product is subject to the following requirements:

1. The marijuana pharmacy shall not deliver or facilitate the delivery of a marijuana product to a location outside the state.

2. The marijuana pharmacy shall ensure the physical integrity and security of the marijuana product while in transit.

3. In the event the delivery of the marijuana product is not completed, the marijuana product shall be returned to the marijuana pharmacy from which it was dispensed.

4. In the event the pharmacist-in-charge of the marijuana pharmacy cannot assure the integrity and security of a returned marijuana product, the pharmacy shall dispose of the marijuana product.

R. - U. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1547 (August 2017), amended LR 47:590 (May 2021).

Malcolm J Broussard
Executive Director

2105#017

RULE

Department of Health Board of Pharmacy

Pharmacy Benefit Managers (LAC 46:LIII.Chapter 30)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), the Pharmacy Benefit Manager Licensing Law (R.S. 40:2861 et seq.), and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has promulgated a new chapter of rules for pharmacy benefit managers (PBMs). The new Rule will implement the provisions of Act 124 of the 2019 Legislature

which requires the Board of Pharmacy to license and regulate PBMs when they engage in one or more of the following activities construed to be within the scope of the practice of pharmacy: (1) adjudication of appeals or grievances related to prescription drug coverage. (2) disease management programs. (3) drug formularies. (4) drug regimen reviews. (5) prescription drug management programs. (6) processing of prior authorization requests. (7) quality care dosing services. (8) step therapy procedures. (9) utilization management and utilization reviews. (10) any other act, service, operation, or transaction incidental to or forming a part of the compounding, filling, dispensing, exchanging, giving, offering for sale, or selling drugs, medicines, poisons, or devices in this state by pharmacists or pharmacies, pursuant to a prescription or an order of physicians, dentists, veterinarians, or other licensed practitioners, requiring, involving, or employing the science or art of any branch of the pharmacy profession, study, or training. Section 3001 provides for definitions of certain terms. Section 3003 requires a PBM engaged in any of the activities enumerated within R.S. 40:2868 to obtain a PBM permit from the board, requires the PBM to register with the secretary of state, and provides that a PBM permit is not transferable from one owner to another. Section 3005 provides the procedures for the board to follow with respect to applications for the initial issuance of the permit, the renewal of the permit, applications for the reinstatement of disciplined permits, as well as the permanent closure of a permit. This Rule is hereby adopted on the day of promulgation. Pharmacy benefit managers engaged in any of the ten aforementioned activities within the state of Louisiana shall submit a complete application for the pharmacy benefit manager permit no later than August 1, 2021.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIII. Pharmacists

Chapter 30. Pharmacy Benefit Managers

§3001. Definitions

A. The following terms shall have the meaning ascribed to them in this Section:

Audited Financial Statement—the financial statement and related disclosures prepared by an independent certified public accountant in accordance with United States Generally Accepted Accounting Principles (GAAP) of the specific entity or licensee intending to operate or operating in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1253.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 47:591 (May 2021).

§3003. Pharmacy Benefit Manager Permit

A. A pharmacy benefit manager, as defined at R.S. 40:2863, shall obtain and maintain a pharmacy benefit manager permit from the board prior to conducting business in Louisiana if it administers, develops, maintains, performs, or provides one or more of the pharmacy services enumerated in R.S. 40:2868 in the state or that affects one or more beneficiaries of a pharmacy benefit management plan, as defined at R.S. 40:2863, administered by the pharmacy benefit manager.

B. A pharmacy benefit manager permit shall authorize the permit holder to administer pharmacy benefit management services.

C. The board shall not issue a pharmacy benefit manager permit to any person or other entity which has not yet registered with the Louisiana Secretary of State to conduct business within the state.

D. A pharmacy benefit manager permit is not transferable from the original owner. The permit shall not be subject to sale, assignment or other transfer, voluntary or involuntary. Moreover, in the event the ownership of the pharmacy benefit manager changes by 50 percent or more after the initial issuance of the permit, the ownership will be deemed sufficiently different as to require a new pharmacy benefit manager permit. The continued operation of a pharmacy benefit manager permit after its ownership has changed by 50 percent or more shall constitute sufficient basis for the board to issue a finding for the operation of a pharmacy benefit manager without a valid permit, in violation of R.S. 40:2865.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1253.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 47:591 (May 2021).

§3005. Permitting Procedures

A. Application for Initial Issuance of Permit

1. The board shall develop an application form suitable for the pharmacy benefit manager permit. The board may revise that application form on its own initiative in order to collect the information it deems necessary to properly evaluate an applicant.

2. The application shall include copies of the following documents:

a. governance documents, including articles of incorporation, articles of association, partnership agreements, trade name certificates, trust agreements, shareholder agreements, and all amendments to such documents;

b. the applicant's standard generic contract template which it uses for contracts entered into by the applicant and pharmacies or pharmacy services administrative organizations in this state in the administration of pharmacy benefits for healthcare insurers, providers, or payors;

c. an audited financial statement for the applicant's previous fiscal year.

3. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fee.

4. Once received by the board, an application for the permit shall expire one year thereafter.

5. In the event any information contained in the application or accompanying documents changes after being submitted to the board and before the issuance of the permit, the applicant shall immediately notify the board in writing and provide corrected information.

6. The applicant may be required to personally appear before the board or any of its committees prior to any decision on the permit application.

7. Upon approval of the application, the board shall issue the pharmacy benefit manager permit to the applicant.

B. Application for Renewal of Permit

RULE

**Department of Health
Board of Pharmacy**

State of Emergency (LAC 46:LIII.521)

1. All pharmacy benefit manager permits shall expire two years after the date of its initial issuance and the renewals shall

expire every two years thereafter on that anniversary date.

2. The board shall not process applications received by facsimile, or that are incomplete.

3. In the event a pharmacy benefit manager does not submit a properly completed renewal application to the board prior to the expiration of the permit, the permit shall be rendered null and void. The continued operation of a pharmacy benefit manager with an expired permit shall constitute sufficient basis for the board to issue a finding for the operation of a pharmacy benefit manager without a valid permit, in violation of R.S. 40:2865.

4. A pharmacy benefit manager permit not renewed by 30 days after the expiration date shall be automatically terminated by the board.

C. Application for Reinstatement of Terminated, Suspended, or Revoked Permit

1. The applicant shall complete the application form for this specific purpose supplied by the board.

2. Upon the receipt of a properly completed application form, the board staff shall refer the application to the board's

reinstatement committee for its consideration and shall notify the applicant of the time and place for the committee meeting.

D. Maintenance of Permit

1. A pharmacy benefit manager permit shall be valid for the entity to whom it is issued and shall not be subject to sale, assignment or other transfer, voluntary or involuntary.

2. Upon receipt of a written request and payment of the fee authorized in R.S. 37:1184, the board shall issue a duplicate or

replacement permit to the applicant; however, such duplicate or replacement permit shall not serve or be used as an additional or second permit.

E. Permanent Closure of Permit

1. In the event the pharmacy benefit manager contemplates permanent closure of the pharmacy benefit manager business, the owner of the permit shall notify the board, in writing, 10 days prior to the anticipated date of closure and surrender its permit.

2. The notice required in this Subsection shall include an acknowledgement of the firm's obligation to maintain copies of all records for all patients and pharmacies in Louisiana for a minimum of two years following the date of closure and surrender of its permit, and further, the point of contact for all inquiries and requests for such records during that two-year period of time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1253.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 47:591 (May 2021).

Malcolm J Broussard
Executive Director

2105#016

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended Section 519 of its rules relative to a state of emergency. The change in Subsection A adds a gubernatorial declaration of a public health emergency to the existing declaration of a disaster emergency as events which activate the special provisions in Section 519. The change in Paragraph A.1 increases the amount of medication which may be dispensed for an emergency prescription from a 30-day supply to a 90-day supply. The change in Paragraph A.2 authorizes a pharmacist licensed elsewhere but not in this state who wishes to participate in a disaster relief effort in this state to obtain a special work permit from the board. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 5. Pharmacists

Subchapter B. Professional Practice Procedures

§519. State of Emergency

A. When the Governor issues, or renews, a state of emergency pursuant to the Emergency Assistance and Disaster Act of 1993, R.S. 29:721 et seq. or a state of public health emergency pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq.:

1. A pharmacist may dispense an emergency prescription of up to a 90-day supply of a prescribed medication if:

a. in the pharmacist's professional opinion the medication is essential to the maintenance of life or to the continuation of therapy; and

b. the pharmacist makes a good faith effort to reduce the information to a written prescription marked "emergency prescription", then file and maintain the prescription as required by law.

2. A pharmacist not licensed in Louisiana, but currently licensed in another state, may dispense prescription medications in the affected parish(es) during the time a state of emergency exists when:

a. the pharmacist has some type of identification to verify current unrestricted licensure in another state;

b. the pharmacist has obtained a special work permit from the board;

c. the pharmacist is engaged in a legitimate relief effort during the emergency period; and

d. the pharmacist and pharmacy notify the board of their presence and approximate location in the affected parish or parishes prior to the engagement of professional practice.

B. The authority provided for in this Section shall cease with the termination of the state of emergency.

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 29:2085 (October 2003), effective January 1, 2004, LR 33:1125 (June 2007), amended by the Department of Health, Board of Pharmacy, LR 47:592 (May 2021).

Malcolm J Broussard
Executive Director

2105#018

RULE

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

Intermediate Care Facilities for Persons with
Intellectual Disabilities
Temporary Reimbursement for Private Facilities
(LAC 50:VII.32904)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:I.32904 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

**Subpart 3. Intermediate Care Facilities for Persons with
Intellectual Disabilities**

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

**§32904. Temporary Reimbursement for Private
Facilities**

A. The department shall establish temporary Medicaid reimbursement rates of \$352.08 per day per individual for a 15-bed private ICF/IID community home and \$327.08 for an 8-bed private ICF/IID community home that meet the following criteria. The community home:

1. shall have a fully executed cooperative endeavor agreement (CEA) with the Office for Citizens with Developmental Disabilities for the private operation of the facility;

a. the provider shall be subject to the direct care floor as outlined in the executed CEA;

2. shall have a high concentration of people who have intellectual/developmental disabilities, significant behavioral health needs, high risk behavior, i.e. criminal-like resulting in previous interface with the judicial system, use of restraint, and elopement. These shall be people for whom no other private ICF/IID provider is able to support as confirmed by the Office for Citizens with Developmental Disabilities;

3. incurs or will incur higher existing costs not currently captured in the private ICF/IID rate methodology; and

4. shall have no more than 15 beds in one facility and 8 beds the second facility.

B. The temporary Medicaid reimbursement rate shall only be for the period of four years.

C. The temporary Medicaid reimbursement rate is all-inclusive and incorporates the following cost components:

1. direct care staffing;
2. medical/nursing staff;
3. medical supplies;
4. transportation
5. administrative; and
6. the provider fee.

D. The temporary rate and supplement shall not be subject to the following:

1. inflationary factors or adjustments;
2. rebasing;
3. budgetary reductions; or
4. other rate adjustments.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:593 (May 2021).

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.

Dr. Courtney N. Phillips
Secretary

2105#047

RULE

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services**

Personal Care Services
Long Term Care
(LAC 50:XV.Chapter 129)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:XV.Chapter 129 under the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 9. Personal Care Services

Chapter 129. Long Term Care

§12903. Covered Services

A. - A.8. ...

B. IADLs are those activities that are considered essential but may not require performance on a daily basis. IADLs include tasks such as:

B.1. - 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 29:912 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2578 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:2507 (September 2013), LR 42:902 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 42:1931 (November 2016), LR 47:593 (May 2021).

§12913. Service Delivery

A. Personal care services shall be provided in the recipient's home or in another location outside of the recipient's home if the provision of these services allows the recipient to participate in normal life activities pertaining to the IADLs cited in the plan of care. The recipient's home is defined as the place where he/she resides such as a house, an apartment, a boarding house, or the house or apartment of a family member or unpaid primary care-giver. IADLs cannot be performed in the recipient's home when the recipient is absent from the home, unless it is approved by OAAS or its designee on a case-by-case basis.

B. ...

C. Participants are not permitted to live 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 their direct support worker unless the direct support worker is related to, and it is the choice of, the participant.

1. ...

D. Place(s) of service must be documented in the plan of care.

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 29:913 (June 2003), amended LR 30:2833 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Financing and the Office of Aging and Adult Services, LR 39:2509 (September 2013), LR 41:541 (March 2015), LR 42:903 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR:47:594 (May 2021).

§12917. Reimbursement

A. ...

B. The minimum hourly rate paid to personal care workers shall be at least the current federal or state minimum hourly wage.

C. The state has the authority to set and change LT-PCS rates and/or provide lump sum payments to LT-PCS providers based upon funds allocated by the legislature.

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 29:913 (June 2003), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:253 (February 2008), LR 34:2581 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1901 (September 2009), LR 36:1251 (June 2010), LR 37:3267 (November 2011), LR 39:1780 (July 2013), LR 42:904 (June 2016), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR:47:594 (May 2021).

§12919. Cost Reporting Requirements

A. LT-PCS providers must complete annual cost reports.

B. Each LT-PCS provider shall complete the LDH approved cost report and submit the cost report(s) to the department no later than five months after the state fiscal year ends (June 30).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1052 (April 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR:47:594 (May 2021).

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.

Dr. Courtney N. Phillips
Secretary

2105#048

RULE

Department of Insurance Office of the Commissioner

Rule 9—Prelicensing Education (LAC 37:XI.Chapter 5)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Rule 9 - Prelicensing Education. The Rule amends Rule 9, originally promulgated in 2011, to conform to current statutes pertaining to Prelicensing Education requirements. The Rule implements the provisions of R.S. 22:1545(C), R.S. 22:1546(A), R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2(C), and R.S. 22:1808.3(A)(4) by establishing (1) curricula for programs of instruction required to be completed by applicants seeking an insurance license in the state of Louisiana; (2) criteria for approval of prelicensing program providers of the programs of instruction; and (3) a mechanism of examination and review of the performance and quality of the instruction. The Rule applies to all individuals seeking to be licensed as an insurance producer or insurance consultant who are required by statute to complete a prelicensing program prior to taking

an insurance examination, as well as providers of the preclicensing program and the instructors for said programs. This Rule is hereby adopted on the day of promulgation.

Title 37
INSURANCE
Part XI. Rules

Chapter 5. Rule Number 9—Preclicensing Education

§501. Authority

A. This Rule is promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571 and R.S. 22:1808.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:595 (May 2021).

§503. Purpose

A. The purpose of this Rule is to implement the provisions of R.S. 22:1545(C), R.S. 22:1546(A), R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2(C), and R.S. 22:1808.3(A)(4) by establishing curricula for programs of instruction required to be completed by applicants seeking an insurance license in the state of Louisiana; to establish criteria for approval of preclicensing program providers of the programs of instruction; and to establish a mechanism of examination and review of the performance and quality of the instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:595 (May 2021).

§505. Applicability and Scope

A. This Rule shall apply to all individuals seeking to be licensed as an insurance producer or insurance consultant who are required by statute to complete a preclicensing program prior to taking an insurance examination. Further, this Rule shall apply to the providers of the preclicensing program and the instructors for said programs.

B. The following shall be exempt from any preclicensing education requirements:

1. A person applying for a license as an insurance producer for authorization to write life insurance or an insurance consultant to consult on life insurance and having any of the following designations:

- a. certified employee benefit specialist (CEBS);
- b. chartered financial consultant (ChFC);
- c. certified insurance counselor (CIC);
- d. certified financial planner (CFP);
- e. chartered life underwriter (CLU);
- f. Fellow, Life Management Institute (FLMI); or
- g. the LUTC fellow designation (LUTCF).

2. A person applying for a license as an insurance producer for authorization to write accident and health or sickness insurance or an insurance consultant to consult on the line of health and accident and having any of the following designations:

- a. registered health underwriter (RHU);
- b. certified employee benefit specialist (CEBS);

c. registered employee benefits consultant (REBC);
or

d. health insurance associate (HIA).

3. A person applying for a license as an insurance producer for authorization to write property or casualty insurance or an insurance consultant to consult on property and casualty and having any of the following designations:

- a. accredited advisor in insurance program (AAI);
- b. associate in risk management (ARM);
- c. certified insurance counselor (CIC); or
- d. chartered property and casualty underwriter

(CPCU).

4. A person applying for a license as an insurance producer to write any line of insurance or an insurance consultant to consult on any line of insurance and having a bachelor's degree or higher from an accredited college or university with major course work in insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:595 (May 2021).

§507. Effective Date

A. This Rule shall become effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2168 (July 2011), amended LR 47:595 (May 2021).

§509. Definitions

A. In this Rule, unless the context otherwise requires, the following definitions shall be applicable.

Candidate—either a consultant license candidate or a producer license candidate as defined herein.

Consultant License Candidate—a natural person who is seeking to be licensed as an insurance consultant pursuant to the provisions of R.S. 22:1808.1-1808.13 who is required by statute to complete an approved preclicensing program prior to taking an examination.

Commissioner—the commissioner of insurance of Louisiana.

Department—the Louisiana Department of Insurance.

Producer License Candidate—a natural person who is seeking to be licensed as an insurance producer pursuant to the provisions of R.S. 22:1541-1566 who is required by statute to complete an approved preclicensing program prior to taking an examination.

Provider—the entity presenting a preclicensing program.

Supervised Instruction—instruction that is conducted in a structured setting under direct supervision of an instructor at a facility compliant with the provisions of this Rule during scheduled program presentations.

Verifiable Self-Study—an internet, CD-ROM, DVD, or other computer based presentation that has an interactive electronic component.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2169 (July 2011), amended LR 47:595 (May 2021).

§511. Prelicensing Requirements

A. All producer license candidates seeking licensure for one of the lines of life or accident and health or sickness shall complete a prelicensing program of instruction with a minimum of 20 hours of supervised instruction or verifiable self-study in the line for which licensure is being sought. If the candidate is seeking licensure for both of the lines of life and accident and health or sickness, the candidate shall complete 40 hours of supervised instruction or verifiable self-study in the subjects of life and accident and health or sickness.

B. All producer license candidates and consultant license candidates seeking licensure for one of the lines of property or casualty shall complete a prelicensing program of instruction with a minimum of 20 hours of supervised instruction or verifiable self-study in the line for which licensure is being sought. If the candidate is seeking licensure for both of the lines of property and casualty, the candidate shall complete 40 hours of supervised instruction or verifiable self-study in the subjects of property and casualty.

C. All producer license candidates seeking licensure for the line of personal lines shall complete a prelicensing program of instruction with a minimum of 20 hours of supervised instruction or verifiable self-study in the subject of personal lines.

D. All producer license candidates seeking licensure for the line of bail bond shall complete a prelicensing program of instruction with a minimum of eight hours of supervised instruction in the subject of bail bonds. The candidate may not utilize verifiable self-study to satisfy this requirement.

E. All producer license candidates seeking licensure for the line of title shall complete a prelicensing program of instruction with a minimum of 20 hours of supervised instruction or verifiable self-study in the subject of title.

F. All consultant license candidates seeking licensure for one of the lines of life or health and accident shall complete a prelicensing program of instruction with a minimum of 20 hours of supervised instruction or verifiable self-study in the line for which licensure is being sought. If the candidate is seeking licensure for both of the lines of life and health and accident, the candidate shall complete 40 hours of supervised instruction or verifiable self-study in the subjects of life and health and accident.

G. Upon completion of the prelicensing program, the candidate shall be tested by the provider of the prelicensing program. The candidate shall not be deemed to have successfully completed the prelicensing program unless they have correctly answered a minimum of 70 percent of test questions.

H. When concurrent prelicensing programs for the subjects of life, accident and health or sickness, property and casualty are conducted, the repetition of ethical practices and other topics which are redundant shall be waived. However, this does not reduce the minimum required hours of instructional training set forth by the statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2169 (July 2011), amended LR 47:596 (May 2021).

§513. Program Certification Requirements

A. An application for certification of a prelicensing program shall be submitted to the commissioner not less than 30 days prior to the expected use of the prelicensing program. Each application shall be on the form and in the format required by the commissioner and shall include:

1. the full legal name and federal employer identification number (FEIN) of the provider of the prelicensing program;

2. an outline of the prelicensing program including a list of resource material to be used, a copy of the textbook to be used, a description of the training aids to be used, a detailed description of the prelicensing program, a schedule of the prelicensing program which clearly indicates the time spent on each subject, and the cost of the prelicensing program to each participant;

3. a description of the method used to require the candidate to demonstrate mastery of the current section or material before the candidate is allowed to proceed to the next section or material or to complete the prelicensing program;

4. a statement describing how the prelicensing program generates a sufficient number of inquiries to illustrate that the candidate has mastered the information;

5. if the prelicensing program is not a self-study program, a list of locations where the instructional program will be offered and a schedule of times and dates when the program will be offered. Any change in the schedule of times, dates or locations of prelicensing program presentation shall be filed with the commissioner no less than three-days prior to the scheduled beginning date of the prelicensing program presentation;

6. if the prelicensing program is not a self-study program, the physical address, including room or suite number and a description of the facilities where the program will be presented. All facilities shall meet the requirements of §521 of this Rule;

7. if the prelicensing program is a self-study program, a description of the measures used by the provider to verify identity of the participants;

8. if the prelicensing program is a self-study program, a description of the technical support available to participants including the business hours of the support and the proposed length of time for response by the provider to any inquiries;

9. if the prelicensing program is a self-study program, a description of the method used to prevent access to a course exam before review of the course material;

10. if the prelicensing program is a self-study program, a user ID and log-in credentials to permit the commissioner to view the prelicensing program in the same environment and under the same conditions that will be permitted for the participants.

B. A provider may request that any prelicensing program materials deemed proprietary or that contain trade secrets be maintained as confidential by the commissioner. All such requests must be made in strict compliance with the provisions of R.S. 44:3.2.

C. The provider shall not allow credit for hours for any preclicensing program work that is not conducted under the direct supervision of the preclicensing program instructor at the approved facility during scheduled preclicensing program presentation or completed by self-study.

D. Any material changes to information submitted to the commissioner in association with an application for certification of a preclicensing program that has been approved by the commissioner must be submitted to the commissioner no less than 30 days prior to the scheduled beginning date of the preclicensing program presentation. A material change shall include either of the following:

1. changes to the instructors of the preclicensing program;
2. changes to the text books, resource material or training materials to be used in the preclicensing program.

E. Preclicensing programs shall include instruction in applicable insurance principles, state laws and regulations, and ethical practices for each of the lines or authority for which approval is sought. In addition, each preclicensing program shall provide training in all subject areas included in the content outline published in the licensing information handbook.

F. The commissioner shall not certify a preclicensing program unless the preclicensing program meets the following standards:

1. The preclicensing program must include sufficient content to prepare the candidate for the licensing examination.
2. The preclicensing program must be developed by persons who are qualified in the subject matter and instructional design.
3. The preclicensing program must be current and up to date.

G. If a provider utilizes published program materials, including text books, outlines or other similar materials, each attendee must be provided with a complete original text of the material as part of the fee for the program. This text shall be retained by the attendee and shall not be returned or resold to the provider. No substitute texts, outlines, summaries or copyright infringement is permitted.

H. A preclicensing program may be certified for one of the following examination types:

1. life only;
2. accident and health or sickness and health and accident only;
3. life and accident and health or sickness and health and accident;
4. property only;
5. casualty only;
6. property and casualty;
7. personal lines;
8. bail bonds;
9. title.

I. A provider shall not offer any preclicensing program prior to approval by the commissioner.

J. Certification of a preclicensing program shall expire three years from the date of certification. A provider may request renewal of the certification by submitting all information required by this section to the commissioner no less than 30 days prior to the expiration of the certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2170 (July 2011), amended LR 47:596 (May 2021).

§515. Measurement of Credit Hours

A. ...

B. Professional education programs shall be credited for preclicensing purposes in full hours only.

1. The number of credit hours for preclicensing programs other than self-study shall be equivalent to the actual number of hours in classroom instruction or participation. Each hourly period must include at least 50 minutes of continuous instruction or participation. For this purpose, a one-day preclicensing program will be granted eight hours credit if the total lapsed time is approximately eight hours and the total time of instruction is at least 400 minutes.

2. The number of credit hours for self-study programs shall be determined by the commissioner upon consideration of the following:

- a. the complexity of the material covered in the program;
- b. the word count of the total program;
- c. statistical data on the length of time spent by participants in the program;
- d. the run time of any videos, animation, or interactive exercises which are mandatory for completion of the program.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2171 (July 2011), amended LR 47:597 (May 2021).

§517. Provider Requirements

A. Preclicensing providers shall be one of the following:

1. an insurance trade association;
2. an insurance company admitted to do business in Louisiana;
3. an accredited public or private college or university;
4. an organization certified by the commissioner.

B. An organization seeking to be certified by the commissioner shall submit an application to the commissioner on the forms he requires. The application shall include:

1. the full legal name and federal employer identification number (FEIN) of the organization making application;
2. the names and addresses of every officer, director, partner or member of the provider applicant;
3. the names and addresses of every person owning, directly or indirectly, 10 percent or more of the provider applicant;
4. the name, address and a description of the professional qualifications of the supervisory instructor of the provider applicant;

5. the principal place of business of the provider applicant;

6. certification from the provider applicant that all instructors presenting the program shall meet the requirements as set forth in this Rule;

7. a general description of the types of education programs presented by the provider applicant;

8. a description of the qualifications and experience of the persons responsible for the creation of the preclicensing programs;

9. the fee required by R.S. 22:821;

10. such other information as the commissioner may require to confirm compliance with this Rule.

C. Every provider shall maintain a signed statement from each instructor describing the basis for the instructor's qualification and affirmation that the instructor shall comply with the requirements of this Rule.

D. Every provider certified by the commissioner shall notify the commissioner of any material change in the information submitted with the application within 30 days of the effective date of the change. Every such notice shall include information comparable to that required with the initial application. A material change shall include, but not be limited to the following:

1. a change of the name of the provider;
2. a change in the address of the provider;
3. a change of officer, director, partner or member of the provider;
4. the merger of a provider;
5. a change in ownership of 10 percent or more of the provider;
6. a change in the supervisory instructor of the provider.

E. Every certification shall expire three years from the date of issuance and may be renewed by filing a renewal application as required by the commissioner not less than 90 days prior to expiration of the certification.

F. Upon expiration of the provider's certification, the commissioner's approvals of preclicensing programs presented by that provider shall be rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:597 (May 2021).

§519. Instructor Qualifications **[Formerly §517]**

A. Every provider of a preclicensing program shall designate an individual as a supervisory instructor. The supervisory instructor shall be responsible for the conduct of any other instructors or guest instructors and shall be responsible for assuring the quality of the instructional program. Every supervisory instructor shall have a minimum of five years of insurance experience and/or graduate level or professional education satisfactory to the commissioner.

B. Nonsupervisory instructors shall meet at least one of the following criteria:

1. have a minimum of three years experience as an insurance instructor with experience in the subject area being taught;

2. have been licensed for at least five years as a licensee in this state or another;

3. hold a national designation directly related to the subject matter being taught;

4. be in a profession pertinent to the subject matter being taught.

C. Special consideration may be granted by the commissioner where it is determined that the specific background of the instructor warrants such consideration.

D. Every instructor and supervisory instructor shall notify the provider and the commissioner of:

1. any administrative action taken against the supervisory instructor or instructor for insurance related practices by any regulatory or governmental agency;

2. any conviction or entry of a nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge or conviction of any misdemeanor involving moral turpitude or public corruption on the part of the supervisory instructor or instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2171 (July 2011), amended LR 47:598 (May 2021).

§521. Training Facilities Requirements **[Formerly §519]**

A. At a minimum all training facilities shall:

1. provide an atmosphere conducive to educational presentation, including good housekeeping, controlled environment as to heating and cooling, proper lighting, and proper furnishing;

2. be easily accessible and secure for the safety of the attendees;

3. be dedicated for the exclusive use of the preclicensing program presentation while in session;

4. provide ready access to rest rooms and other facilities of human needs to the attendees; and

5. provide a proper layout to ensure that training aids, overhead viewing equipment and other such aids are easily visible by all attendees of the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2171 (July 2011), amended LR 47:598 (May 2021).

§523. Authority of the Commissioner to Conduct On-Site Review of Preclicensing Programs **[Formerly §521]**

A. The commissioner or his designee shall have the authority to visit a training facility and review the provider's program at any time. Said visits may include the review of curriculum records, review of attendance records and observation of instructional sessions in progress.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2172 (July 2011), amended LR 47:598 (May 2021).

§525. Program Completion
[Formerly §523]

A. All candidates shall complete the required instructional preclicensing program prior to taking the insurance licensing examination administered by the department or contracted testing vendor. The candidate shall successfully complete the instructional preclicensing program no more than 12 months prior to taking the examination.

B. Every provider shall maintain a list of all individuals who have successfully completed a preclicensing program presented by that provider for a period of not less than five years from the date of course completion. The list shall contain the identification number assigned to the preclicensing program by the commissioner and the name and such distinct information as necessary to clearly identify all individuals who successfully completed the preclicensing program, including the date of course completion. Every provider shall submit a copy of the list to the commissioner within 15 calendar days of preclicensing program completion. The commissioner may direct that the provider transmit course completion information to the vendor contracted to administer insurance examinations.

C. Every provider shall also maintain electronic records of preclicensing program completion in a format compatible with the commissioner's specifications to facilitate the electronic reporting and transfer of attendance information from the provider to the commissioner.

D. Every provider shall present a certificate of successful completion to each individual who successfully completes the preclicensing program. This certificate shall be on a form acceptable to the commissioner and shall include the name of the individual and the identification number assigned to the preclicensing program by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2172 (July 2011), amended LR 47:599 (May 2021).

§527. Fees
[Formerly §525]

A. All applications submitted to the commissioner seeking certification of a preclicensing program shall be accompanied by the fee set forth in RS 22:821(29).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2172 (July 2011), amended LR 47:599 (May 2021).

§529. Complaints
[Formerly §527]

A. The commissioner shall review all complaints lodged against a provider, supervisory instructor or instructor of a preclicensing program. Every provider shall respond to an inquiry from the commissioner regarding a complaint within 30 days of receipt of such inquiry. Any disciplinary action

required shall be taken by the commissioner in accordance with the Louisiana Insurance Code, specifically R.S. 22:2191-2208.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2172 (July 2011), amended LR 47:599 (May 2021).

§531. Violations
[Formerly §529]

A. The commissioner may deny, suspend, or rescind the certification of a preclicensing program should he find the preclicensing program, the instructors or the provider of the preclicensing program have violated any provision of this Rule or any applicable provisions of the Louisiana Insurance Code or should he find that continued operation of the preclicensing program is not in the best interest of the citizens of this state or the insurance buying public.

B. Any denial, suspension, or rescission of the certification of a preclicensing program shall comply with the provisions of R.S. 49:961.

C. An aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with R.S. 22:2191 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1189, R.S. 22:1545, R.S. 22:1547, R.S. 22:1571, R.S. 22:1808.2, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2172 (July 2011), amended LR 47:599 (May 2021).

James J. Donelon
Commissioner

2105#003

RULE

Department of Insurance
Office of the Commissioner

Rule 10—Continuing Education
(LAC 37:XI.Chapter 7)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Rule 10 - Continuing Education. The Rule amends Rule 10, originally promulgated in 2011, to conform to current statutes pertaining to continuing education guidelines. The Rule prescribes (1) the minimum standards of continuing education in approved subjects that a licensee must periodically complete; (2) procedures and standards for the approval of such education; and (3) a procedure for establishing to the department that continuing education requirements have been met. The Rule applies to all insurance producers, adjusters or insurance consultants licensed by the department and providers of continuing education programs. This Rule is hereby adopted on the day of promulgation.

Title 37
INSURANCE
Part XI. Rules

Chapter 7. Rule Number 10—Continuing Education

§701. Authority

A. This Rule is promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, 22:1708, and R.S. 22:1808.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:600 (May 2021).

§703. Purpose

A. - A.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), repromulgated LR 47:600 (May 2021).

§705. Applicability and Scope

A. This Rule applies to all natural persons who are licensed by the department as producers for the lines of life, accident and health or sickness, property, casualty, bail bonds, personal lines or title and all adjusters and insurance consultants licensed by the department. This Rule shall also apply to the providers of continuing education programs and instructors for such programs.

B. - B.1. ...

2. an individual renewing a resident insurance producer, adjuster or insurance consultant license for the first time after initial issuance. Thereafter the licensee shall be subject to all applicable continuing education requirements;

3. an individual licensed as an insurance producer or insurance consultant who, on the date of renewal submission, is 65 years or older and who has at least 15 years of experience and who either:

a. ...

b. is actively engaged in the insurance business as a producer and who represents or operates through a licensed Louisiana insurer- or insurance agency.

C. Any person seeking an exemption to the continuing education requirements pursuant to the provisions of Paragraph B.3 above shall attest to his eligibility for the exemption on a form provided by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:600 (May 2021).

§707. Effective Date

A. This Rule shall become effective upon final publication in the Louisiana Register.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:600 (May 2021).

§709. Definitions

A. As used in this Rule, unless the context otherwise requires, the following definitions shall be applicable.

Adjuster—an individual who is licensed by the department as a claims adjuster pursuant to the provisions of R.S. 22:1661-1678 or as a public adjuster pursuant to the provisions R.S. 22:1663-1678.

Commissioner—the commissioner of insurance of Louisiana.

Department—the Louisiana Department of Insurance.

Insurance Consultant—an individual licensed as an insurance consultant pursuant to the provisions of R.S. 22:1808.1-1808.13.

Insurance Producer—an individual who is licensed by the department as an insurance producer pursuant to the provisions of R.S. 22:1541-1566.

Licensee—an individual licensed as an insurance producer or insurance consultant for the lines of life, accident and health or sickness, property, casualty, bail bonds, personal lines, title, or as a claims adjuster or a public adjuster by the department.

Producer—repealed.

Provider—an entity presenting a continuing education program.

Renewal Period—the two years immediately preceding expiration of a producer or adjuster license. For the purposes of a newly issued license “renewal period” shall mean the time between the issuance of the license and the next scheduled expiration of the license.

Self-Study—an internet, CD-ROM, DVD, or other computer based presentation or a correspondence course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:600 (May 2021).

§711. Continuing Education Requirements

A. ...

1. Insurance producers licensed for one or more of the lines of life, accident and health or sickness, property, casualty or personal lines—24 hours.

2. Insurance producers licensed for the line of bail bonds—12 hours.

3. Insurance producers licensed for the line of title—12 hours.

4. ...

5. Insurance consultants licensed for one or more lines of life, accident and health or sickness, property or casualty—24 hours.

B. The 24 hours of continuing education required for insurance producers licensed for one or more of the lines of life, accident and health or sickness, property, casualty or personal lines shall include a minimum of three hours dedicated to the subject of ethics.

C. The 24 hours of continuing education required for insurance producers licensed for one or more of the lines of

property, casualty or personal lines shall include a minimum of three hours dedicated to the subject of flood insurance.

D. The 12 hours of continuing education required for insurance producers licensed for the line of title shall include a minimum of two hours related to state and federal consumer finance protection laws.

E. The 12 hours of continuing education required for insurance producers for the line of bail shall include a minimum of six hours dedicated to the subject of bail enforcement as defined in the Code of Criminal Procedure Article 311.

F. The 24 hours of continuing education required for adjusters shall include a minimum of three hours dedicated to the subject of ethics.

G. An individual shall not sell, solicit or negotiate long-term care insurance unless the individual is licensed as an insurance producer for one or more of the lines of life or accident and health or sickness and has completed a one-time training course of no less than eight hours and an ongoing training of no less than four hours every two years.

H. Failure to fulfill the continuing education requirements prior to the filing date for license renewal shall cause the license to lapse.

I. A license which has lapsed may not be reinstated until the licensee has complied with all continuing education requirements which would have applied had the license continued uninterrupted.

J. Each program applied toward satisfaction of the continuing education requirement for a license shall be completed within the renewal period for which the credit is claimed except that an insurance producer licensed for one or more of the lines of life, accident and health or sickness, property, casualty, or personal lines may apply up to 10 hours of approved instruction or self-study accumulated but not used for renewal during one renewal period to the continuing education requirements for the next renewal period. Continuing education credits dedicated to the subject of flood or ethics may be applied toward the next renewal period as general continuing education credit but may not be used to satisfy the minimum requirement for those subjects.

K. No licensee may be granted credit for a program more than once during a 24-month period.

L. Subject to the provisions of Subsection K above, one hour of continuing education credit shall be awarded to a licensee for each hour completed by that licensee as an instructor or discussion leader for any program approved for continuing education credit by the commissioner.

M. Licensees who successfully complete all prerequisites of a qualified graduate level national designation program and receive the designation shall earn 24 continuing education credit hours.

N. Licensees who hold any combination of insurance producer, adjuster or insurance consultant licenses may receive credit applied to all license types for which the course is approved by the commissioner.

O.1. Members of state or national professional associations may be granted up to four continuing education credits each renewal period for actively participating in a state or national insurance association in one of the following methods:

a. attend a formal meeting of a state or national association where a formal business program is presented and attendance is verified in a manner consistent with the provisions of this Rule;

b. serve on the board of directors or a formal committee of a state or national chapter of the association, and actively participate in the activities of the board or committee;

c. participate in industry, regulatory, or legislative meetings held by or on behalf of a state or national chapter of the association; or

d. participate in other formal insurance business activities of a state or national chapter of the association.

2. In order to qualify for continuing education credit under this provision, members must attend at least four hours of qualified activities. Continuing education credit shall be given as one 4 hour increment each year from the association in a manner consistent with the provisions of this Rule. The association shall be responsible for verifying attendance or participation of members for all events where continuing education credit is given under the terms of this provision. Attendance at meetings which are otherwise approved for continuing education credit do not qualify under the terms of this provision. The association shall submit a formal request to the commissioner for approval of continuing education credits issued under the terms of this provision and shall issue a certificate to any licensee to whom such credit is given. This certificate shall meet the requirements of §727.C of this Rule.

3. Continuing education credit for membership in a bail bond association may only be applied towards renewal or reinstatement of an insurance producer license for the line of bail bonds. Continuing education credit for membership in a life, accident and health or sickness, property, or casualty type association may only be applied towards renewal or reinstatement of a similar insurance producer license unless the insurance producer is licensed for one or more of the lines of life or accident and health or sickness and licensed for one or more of the lines of property, casualty, or personal lines.

4. Regardless of the number of state or national insurance associations in which a licensee actively participates, under no circumstances shall an insurance producer or adjuster receive more than four credit hours per renewal period for such participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2173 (July 2011), amended LR 47:600 (May 2021).

§713. Waiver of Continuing Education Requirements

A. A licensee who is unable to comply with continuing education requirements due to military service or some other extenuating circumstance, such as a long-term medical disability, may request a waiver of those requirements. Such request shall be submitted in writing to the commissioner and shall include such documentation to verify the request as the commissioner may reasonably require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2174 (July 2011), amended LR 47:601 (May 2021).

§715. Program Certification Requirements

A. - A.2. ...

3. a statement of the method used to determine whether there has been a positive achievement of education on the part of the insurance producer or adjuster taking the program. Such method may be a written examination, a written report by the licensee, certification by the organization providing the program of the attendance or completion of the program by licensee, or any other method approved by the commissioner as appropriate for the subject;

4. ...

5. if the program is not a self-study program, the physical address, including room or suite number and a description of the facilities where the program will be presented. All facilities shall meet the requirements of §723 of this Rule;

6. if the program is a self-study program, a description of the measures used by the provider to verify identity of the participants;

7. if the program is a self-study program, a description of the technical support available to participants including the business hours of the support and the proposed length of time for response by the provider to any inquiries;

8. if the program is a self-study program, a description of the method used to prevent access to a course exam before review of the course material;

9. if the program is a self-study program, a user ID and log-in credentials to permit the commissioner to view the program in the same environment under the same conditions that will be permitted for the participants.

B. - G.4. ...

5. Repealed.

H. ...

I. A program may be certified for one or more of the following license types and credit shall be granted only to a licensee holding the type or types of license for which the program is approved:

1. insurance producer and consultant—life;
2. insurance producer and consultant—accident and health or sickness;
3. insurance producer and consultant—property;
4. insurance producer and consultant—casualty;
5. insurance producer—personal lines;
6. insurance producer—bail bond;
7. insurance producer—title;
8. adjuster.

J. A provider shall not advertise or represent to any licensee that a continuing education program has been approved for credit prior to the issuance of such approval by the commissioner. No assertion of pending approval may be made unless the program has been submitted to the commissioner.

K. Certification of a continuing education program shall expire three years from the date of certification. A provider may request renewal of the certification by submitting all

information required by this section to the commissioner no less than 30 days prior to the expiration of the certification.

L. No licensee shall receive credit for a program if the program is completed after expiration of the certification. The provider shall be responsible to notify any licensee who has purchased a program of the expiration of the program if it is not completed prior to expiration of the certification.

M. A request for renewal of an internet-based self-study program shall include statistical information related to the length of time spent by all licensees who participated in the course during the previous three years. This information may be used by the commissioner in determining the appropriate number of credit hours to be awarded to the program upon renewal.

N. A licensee may request credit for a seminar, conference or similar program that is not self-study and has not otherwise been submitted for approval to the commissioner by the provider. Such request shall be in writing and shall contain sufficient information for the commissioner to determine compliance of the program with the requirements of this Rule. In determining the eligibility of the program for credit, the commissioner may consider all of the following:

1. Whether the seminar, conference or similar program occurred outside the boundaries of Louisiana.

2. Whether the Department of Insurance of another state has granted approval of the program for continuing education credit for insurance producers, adjusters, or insurance consultants licensed in that state.

3. Whether the information presented by the licensee is sufficient to determine the content of the program.

4. Whether the licensee can provide sufficient evidence of participation in the program. Registration and payment of any fees is not prima facie evidence of participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2175 (July 2011), amended LR 47:602 (May 2021).

§717. Measurement of Credit Hours

A. ...

B. Professional education programs shall be credited for continuing education purposes in full hours only.

1. The number of credit hours for programs other than self-study shall be equivalent to the actual number of hours in the classroom instruction or participation. Each hourly period must include at least 50 minutes of continuous instruction or participation. For this purpose, a one-day program will be granted eight hours credit if the total lapsed time is approximately eight hours and the total time of instruction is at least 400 minutes.

2. The number of credit hours for self-study programs shall be determined by the commissioner upon considering the following:

a. the complexity of the material covered in the program;

b. the word count of the total program;

c. statistical data on the length of time spent by participants in the program;

d. the run time of any videos, animation or interactive exercises which are mandatory for completion of the program.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2176 (July 2011), amended LR 47:602 (May 2021).

§719. Provider Requirements

A. Continuing education providers shall be one of the following:

1. an insurance trade association;
2. an insurance company admitted to do business in Louisiana;
3. an accredited public or private college or university;
4. an organization certified by the commissioner.

B. An organization seeking to be certified by the commissioner shall submit an application to the commissioner on the forms he requires. The application shall include:

1. the full, legal name and Federal Employer Identification number (FEIN) of the organization making application;
2. the names and addresses of every officer, director, partner or member of the provider applicant;
3. the names and addresses of every person owning, directly or indirectly, 10 percent or more of the provider applicant;
4. the name, address and a description of the professional qualifications of the supervisory instructor of the provider applicant;
5. the principal place of business of the provider applicant;
6. certification from the provider applicant that all instructors presenting the program shall meet the requirements as set forth in this Rule;
7. a general description of the types of continuing education programs presented by the provider applicant;
8. a description of the qualifications and experience of the persons responsible for the creation of continuing education programs;
9. the fee required by R.S. 22:821;
10. such other information as the commissioner may require to confirm compliance with this Rule.

C. Every provider shall maintain a signed statement from each instructor describing the basis for the instructor's qualifications and affirmation that the instructor shall comply with the requirements of this Rule.

D. Every provider certified by the commissioner shall notify the commissioner of any material change in the information submitted with the application within 30 days of the effective date of the change. Every such notice shall include information comparable to that required with the initial application. A material change shall include, but not be limited to:

1. a change of the name of the provider;
2. a change in the address of the provider;
3. a change of officer, director, partner or member of the provider;

4. the merger of the provider;
5. a change in ownership of 10 percent or more of the provider;
6. a change in supervisory instructor of the provider.

E. Every certification by the commissioner shall expire three years from the date of issuance and may be renewed by filing a renewal application as required by the commissioner not less than 90 days prior to expiration.

F. Upon expiration of the certification by the commissioner of a provider, the commissioner's approvals of continuing education programs presented by that provider shall be rescinded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:603 (May 2021).

§721. Instructor Qualifications

[Formerly §719]

A. Every provider of a continuing education program shall designate an individual as a supervisory instructor. The supervisory instructor shall be responsible for the conduct of any other instructors or guest instructors and shall be responsible for assuring the quality of the instructional program. Every supervisory instructor shall have a minimum of five years of insurance experience and/or graduate level or professional education satisfactory to the commissioner.

B. Nonsupervisory instructors shall meet at least one of the following criteria:

1. have a minimum of three years experience as an insurance instructor with experience in the subject being taught;
2. have been licensed for at least five years as a licensee of this state or another state;
3. hold a national designation directly related to the subject matter being taught;
4. be in a profession pertinent to the subject matter being taught.

C. Special consideration may be granted by the commissioner where it is determined that the specific background of the instructor warrants consideration.

D. Every instructor and supervisory instructor shall notify the provider and the commissioner of any of the following:

1. any administrative action taken against the supervisory instructor or instructor for insurance related practices by any regulatory or governmental agency;
2. any conviction or entry of a nolo contendere plea to any felony;
3. participation in a pretrial diversion program pursuant to a felony charge;
4. conviction of any misdemeanor involving moral turpitude or public corruption on the part of the supervisory instructor or instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2176 (July 2011), amended LR 47:603 (May 2021).

§723. Training Facilities Requirements
[Formerly §721]

A. At a minimum, all training facilities shall:

1. provide an atmosphere conducive to educational presentation, including good housekeeping, controlled environment as to heating and cooling, proper lighting and proper furnishings;
2. be easily accessible and secure for the safety of the attendees;
3. be dedicated for the exclusive use of the instructional program while in session;
4. provide ready access to rest rooms and other facilities of human needs to the attendees;
5. provide a proper layout to ensure that training aids, overhead viewing equipment and other such aids are easily visible by all attendees of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2176 (July 2011), amended LR 47:604 (May 2021).

§725. Authority of the Commissioner to Conduct On-Site Review of Continuing Education Programs
[Formerly §723]

A. The commissioner or his designee shall have the authority to visit a training facility and review the provider's program at any time. Said visits may include the review of curriculum records, review of attendance records, and observation of instructional sessions in progress.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2176 (July 2011), amended LR 47:604 (May 2021).

§727. Program Completion
[Formerly §725]

A. Every provider shall maintain a list of all individuals who have successfully completed a continuing education program presented by that provider for a period of not less than five years from the date of course completion. The list shall contain the identification number assigned to the program by the commissioner and the name, and such distinct information as necessary to clearly identify all individuals who successfully completed the program and the date of completion of the course. Every provider shall submit a copy of the list to the commissioner within 15 calendar days of program completion.

B. Every provider shall also maintain electronic records of program completion in a format compatible with the commissioner's specifications to facilitate the electronic reporting and transfer of attendance information from the provider to the commissioner.

C. Every provider shall present a certificate of successful completion to each licensee who successfully completes the continuing education program. This certificate shall be on a form acceptable to the commissioner and shall include the name of the licensee and the identification number assigned to the program by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2177 (July 2011), amended LR 47:604 (May 2021).

§729. Fees
[Formerly §729]

A. All applications submitted to the commissioner seeking certification of a continuing education program or provider shall be accompanied by the fee set forth in R.S. 22:821(29).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2177 (July 2011), amended LR 47:604 (May 2021).

§731. Complaints
[Formerly §729]

A. The commissioner shall review all complaints lodged against a provider, supervisory instructor or instructors of a program. Every provider, supervisory instructor or instructor shall respond to an inquiry from the commissioner regarding a complaint within 30 days of receipt of such inquiry. Any disciplinary action required shall be taken by the commissioner in accordance with the Louisiana Insurance Code, specifically R.S. 22: 2191-2208.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37: 2177 (July 2011), amended LR 47:604 (May 2021).

§733. Violations
[Formerly §733]

A. The commissioner may deny, suspend, or rescind the certification of a continuing education program or provider should he find the program, the supervisory instructor, instructor or the provider of the program has violated any provision of this Rule or any applicable provisions of the Louisiana Insurance Code or should he find that continued operation of the continuing education program is not in the best interest of the citizens of this state or the insurance buying public.

B. Any denial, suspension, or rescission of the certification of a continuing education program shall comply with the provisions of R.S. 49:961.

C. An aggrieved party affected by the commissioner's decision, act, or order may demand a hearing in accordance with R.S. 22: 2191 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1547, R.S. 22:1573, R.S. 22:1673, R.S. 22:1678, R.S. 22:1702, R.S. 22:1708, R.S. 22:1808.4 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 37:2177 (July 2011), amended LR 47:604 (May 2021).

James J. Donelon

2105#002

RULE

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

**Deer Management Assistance Program Signage Change
(LAC 76:V.111)**

The Wildlife and Fisheries Commission has amended the Deer Management Assistance Program regulations as they relate to posting of signs.

The Rule change removes a requirement that signs be posted every 1,000 feet along all boundaries of land enrolled in the voluntary Deer Management Assistance Program (DMAP). Instead, the Rule requires that signs identifying the property as DMAP enrolled land to be posted only at the entrance and exit points and all points of ingress and egress used by motorized vehicles as well as at 1,000-foot intervals along public roads. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

**§111. Rules and Regulations for Participation in the
Deer Management Assistance Program**

A. The following rules and regulations shall govern the Deer Management Assistance Program.

1. Application Procedure

1.a. - 1.f. ...

g. Entrances and public road frontage of lands enrolled in DMAP shall be clearly marked and posted with DMAP signs in compliance with R.S. 56:110 and the provisions of R.S. 56:110 are only applicable to property enrolled in DMAP. DMAP signs shall be removed if the land is no longer enrolled in DMAP. Rules and regulations for compliance with R.S. 56:110 are as follows.

i. The color of DMAP signs shall be orange. The words "DMAP" and "posted" shall be printed on the sign in letters no less than four inches in height. Signs may be constructed of any material and minimum size is 11¼ inches x 11¼ inches.

ii. Signs will be placed at 1000-foot intervals along any public road frontage and at all points of ingress and egress used by motorized vehicles to access the property.

1.h. - B.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:110.1 and R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:204 (February 1991), amended LR 25:1656 (September 1999), LR 26:2011 (September 2000), LR 30:2496 (November 2004), LR 34:1427 (July 2008), LR 35:1910 (September 2009), LR 37:2187 (July 2011), repromulgated LR 37:2753 (September 2011), amended LR 39:2292 (August 2013), LR 41:1123 (June 2015), LR 46:704 (May 2020), LR 47:605 (May 2021).

Jack Montoucet
Secretary

2105#009

RULE

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

**Establishment of Recreational Reef Sites and
Restriction of Oyster Harvest (LAC 76:VII.537)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:805, that the Wildlife and Fisheries Commission has amended LAC 76:VII.537 to designate and set aside four new artificial reef sites as recreational reefs in the coastal waters of Plaquemines and St. Bernard Parishes, restricting all harvest of oysters. Oyster resources on public water bottoms in these areas are at historic lows and development of additional reef resources, and restricting the take of oysters, will provide long-term benefits to the ecosystem and oyster community. Oysters that settle or are seeded on the recreational reefs can possibly mature, grow the reef, and increase spawning to naturally re-seed adjacent oyster areas that could be available for oyster harvest. These reefs will enhance habitat for fish and other marine organisms, including oysters. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

**§537. Establishment of Recreational Reef Sites and
Restriction of Oyster Harvest**

A. The Wildlife and Fisheries Commission hereby establishes the following recreational reef sites as that area within the following coordinates (North America Datum 1983):

1. - 33. ...

34. Lake Machias Reef-Plaquemines Parish

a. 29 degrees 42 minutes 33.415 seconds N
89 degrees 29 minutes 01.696 seconds W

b. 29 degrees 42 minutes 33.198 seconds N
89 degrees 28 minutes 53.531 seconds W

c. 29 degrees 42 minutes 27.307 seconds N
89 degrees 28 minutes 53.737 seconds W

d. 29 degrees 42 minutes 27.514 seconds N
89 degrees 29 minutes 01.902 seconds W

35. Mozambique Point Reef-Plaquemines Parish

a. 29 degrees 37 minutes 13.742 seconds N
89 degrees 29 minutes 24.861 seconds W

b. 29 degrees 37 minutes 13.558 seconds N
89 degrees 29 minutes 17.914 seconds W

c. 29 degrees 37 minutes 06.54 seconds N
89 degrees 29 minutes 18.158 seconds W

d. 29 degrees 37 minutes 06.713 seconds N
89 degrees 29 minutes 25.119 seconds W

36. Petit Pass Reef-Saint Bernard Parish

a. 30 degrees 07 minutes 01.066 seconds N
89 degrees 29 minutes 35.34 seconds W

- b. 30 degrees 07 minutes 04.314 seconds N
89 degrees 29 minutes 25.295 seconds W
 - c. 30 degrees 07 minutes 00.11 seconds N
89 degrees 29 minutes 23.50 seconds W
 - d. 30 degrees 06 minutes 56.873 seconds N
89 degrees 29 minutes 33.544 seconds W
37. Karako Bay Reef-Saint Bernard Parish
- a. 30 degrees 01 minutes 29.507 seconds N
89 degrees 19 minutes 09.207 seconds W
 - b. 30 degrees 01 minutes 29.278 seconds N
89 degrees 19 minutes 01.029 seconds W
 - c. 30 degrees 01 minutes 23.388 seconds N
89 degrees 19 minutes 01.235 seconds W
 - d. 30 degrees 01 minutes 23.618 seconds N
89 degrees 19 minutes 09.438 seconds W
- B. Any and all harvest of oysters from these recreational reefs is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:805.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41:1309 (July 2015), amended LR 43:91 (January 2017), LR 46:363 (March 2020), LR 47:605 (May 2021).

Jack Montoucet
Secretary

2105#013

RULE

Workforce Commission Office of Workers' Compensation Administration

Medical Treatment Guidelines (LAC 40:I.5117 and 5157)

The Louisiana Workforce Commission has amended certain portions of the Medical Guidelines contained in the Louisiana Administrative Code, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 51, §§5117 and 5157 regarding medical reimbursement. The purpose of this amendment is to align Workers' Compensation billing codes to the billing codes that were established by the Centers for Medicare and Medicaid Services (CMS) and the American Medical Association (AMA). These codes coincide with chronic pain and low back guidelines promulgated in 2020. The CRNA modifiers are to promulgate payment rules that were issued in 2009. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and R.S. 23:1310.1(C). This Rule is hereby adopted on the day of promulgation.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration Subpart 2. Medical Guidelines

Chapter 51. Medical Reimbursement Schedule

Editor's Note: The following Sections of this Chapter are applicable and shall be used for the Chapters in this Part governing reimbursement. These specific Chapters are: Chapter 25, Hospital Reimbursement; Chapter 29, Pharmacy; Chapter 31, Vision Care Services; Chapter 33, Hearing Aid Equipment and Services; Chapter 35, Nursing/Attendant Care and Home Health Services; Chapter 37, Home and Vehicle Modification; Chapter 39, Medical Transportation; Chapter 41, Durable Medical Equipment and Supplies; Chapter 43, Prosthetic and Orthopedic Equipment; Chapter 45, Respiratory Services; Chapter 47, Miscellaneous Claimant Expenses; Chapter 49, Vocational Rehabilitation Consultant; Chapter 51, Medical Reimbursement Schedule; and Chapter 53, Dental Care Services.

§5117. Anesthesia

A. - B.3.d.v. ...

e. Payment for covered anesthesia services provided by a CRNA will be limited to the lesser of the actual charge or 80 percent of the medical reimbursement guideline total anesthesia value. Use Modifier -QZ.

f. Where a single anesthesia procedure involves both a physician medical direction service and the service of the medically directed CRNA, the payment amount for the service of each is 50 percent of the allowance otherwise recognized had the service been furnished by the anesthesiologist alone.

i. Use Modifier -QX if medical direction by physician.

ii. Use Modifier -QY if medical direction for one CRNA by anesthesiologist.

iii. Reimbursement shall not be made to either the anesthesiologist or the CRNA until the insurer has received and reviewed the bill and the anesthesia report from both providers.

iv. Reimbursement shall never exceed 100 percent of the maximum amount an anesthesiologist would have been allowed under the Medical Fee Schedule Allowance had the anesthesiologist or physician alone performed the services.

v. Medical supervision, as opposed to medical direction, occurs when the anesthesiologist is involved in furnishing more than four procedures concurrently or is performing other services while directing the concurrent procedures. No additional reimbursement shall be made for general supervisory services rendered by the anesthesiologist or other physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 47:606 (May 2021).

§5157. Maximum Reimbursement Allowances

A. Table 1

* * *

B. Table 2

CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
* * *						
20560		Needle Insertion w/o Injection 1 or 2 Muscles			\$36.95	\$24.04
* * *						
20561		Needle Insertion w/o Injection 3 or more Muscles			\$55.06	\$36.40
* * *						

C. Table 3

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), LR 27:314 (March 2001), amended by the Workforce Commission, Office of Workers' Compensation, LR

39:1854 (July 2013), LR 40:379 (February 2014), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 42:1696 (October 2016), LR 46:1401 (October 2020). amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 47:607 (May 2021).

Ava Dejoie
Secretary

2105#010

Notices of Intent

NOTICE OF INTENT

Department of Children and Family Services Division of Child Welfare Child Protective Services

Maintenance and Disclosure of Information on Reports and Investigations on the State Repository (LAC 67:V.1105)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:V.1105 Maintenance and Disclosure of Information on Reports and Investigations on the State Repository.

This Rule is necessary to clarify to the public that information of individuals is maintained on the State Repository within cases of child abuse/neglect and includes all individuals involved in the case when there is a justified/valid finding for at least one individual.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 3. Child Protective Services

Chapter 11. Administration and Authority

§1105. Maintenance and Disclosure of Information on Reports and Investigations on the State Repository

A. - I. ...

J. Case information and findings from investigations that include individuals with justified/valid findings for their involvement as a perpetrator of child abuse or neglect in a case that includes a tier 1 justified/valid finding will be maintained on the state repository indefinitely. Case information and findings from investigations that involve individuals with justified/valid findings for their involvement as a perpetrator of child abuse or neglect in a case that does not include a tier 1 justified/valid finding will be maintained on the state repository for 18 years from the date of the finding.

K. - O. ...

AUTHORITY NOTE: Promulgated in accordance with Louisiana Children's Code Article 616.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 26:96 (January 2000), amended LR 31:1608 (July 2005), LR 36:840 (April 2010), amended by the Department of Children and Family Services, Division of Child Welfare, LR 44:1000 (June 2018), effective July 1, 2018, amended LR 45:218 (February 2019), amended LR 47:

Family Impact Statement

The proposed rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through June 28, 2021 to Rhenda Hodnett, Assistant Secretary of Child Welfare, Department of Children and Family Services, P. O. Box 3318, Baton Rouge, LA 70821.

Public Hearing

A virtual public hearing on the proposed rule will be held at 9 a.m. on June 28, 2021, by the Department of Children and Family Services. All interested persons will be afforded an opportunity to submit data, views, or arguments via PC, Mac, Linux, iOS or Android at <https://stateofladcfs.zoom.us/j/84844007106?pwd=RmJURU9MUE5NbHVtbWhvSFNwUG1TZz09> using password 170791; or via telephone by dialing (713) 353-0212 and entering conference code 430033. To find local AT&T numbers visit <https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=USA7133530212&accessCode=430033>. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Maintenance and Disclosure of Information on Reports and Investigations on the State Repository

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than publication costs, it is not anticipated that any state or local governmental units will incur costs or savings as a result of this rule change. The proposed rule amends LAC 67:V, Section 1105.

The rule updates the current language to clarify that valid records that include a tier 1 child abuse or neglect finding will be maintained in the State Repository indefinitely and valid records that do not contain a tier 1 child abuse and neglect finding will be maintained for 18 years.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Implementation of this proposed rule change is not anticipated to have a cost or direct economic benefit to small businesses or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed rule change is not expected to have an effect on competition and employment.

Rhenda Hodnett
Assistant Secretary
2105#051

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Expungement of Unused Benefits (LAC 67:III.403)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:III.403 Cash Benefits.

Pursuant to the authority granted to the department by the Food and Nutrition Act of 2008 in accordance with federal regulations for the Supplemental Nutrition Assistance Program (SNAP) in 7 CFR and Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, the department considers this amendment necessary to update rules that govern Economic Stability programs.

Section 403 is being amended to update Electronic Benefits Transfer (EBT) expungement timeframes of unused benefits from 12 months to nine months for Family Independence Temporary Assistance Program (FITAP), Kinship Care Subsidy Program (KCSP), and Supplemental Nutrition Assistance Program (SNAP).

These changes are mandated in accordance with the Agriculture Improvement Act of 2018 (2018 Farm Bill), which made additional mandatory changes to the provisions of the Food, Conservation and Energy Act of 2008, PL 110-234 (2008 Farm Bill) governing the expungement of unused benefits. State agencies must expunge unused benefits after nine months (rather than 12 months).

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 1. General Administrative Procedures

Chapter 4. Electronic Benefits Issuance System

§403. Cash Benefits [Formerly §402]

A. Cash benefits and Supplemental Nutrition Assistance Program (SNAP) benefits shall be available through EBT in staggered cycles to on-going households beginning on the first day of each month. The last digit of the Social Security number determines the date that benefits are issued. Cash benefits will be available within the first five days of each month. SNAP benefits will be available within the first 23 days of each month. SNAP cases that contain elderly or disabled persons will have benefits available during the first four days of each month. Other issuance authorizations will

be posted to the EBT account the day after they are authorized except in emergency circumstances in which case benefits will be available on the same day.

B. Benefits are delivered in this manner for households certified on an on-going basis. Benefits can accumulate but are accounted for according to the month of availability and will be withdrawn on a first-in-first-out basis. Each month's benefits with no activity by the client for a period of 274 days from the date of availability will be expunged and will not be available to the household after expungement. FITAP benefits which have been expunged may be reauthorized for availability if the recipient has good cause for not having accessed them during the original availability period.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 272.3(c)(1)(ii) and P.L. 104-193, P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1322 (July 1998) amended LR 33:1878 (September 2007), repromulgated LR 33:2203 (October 2007), LR 35:689 (April 2009), amended by the Department of Children and Family Services, Division of Family Support, LR 44:23 (January 2018), amended by the Department of Children and Family Services, Economic Stability Section, LR 46:1669 (December 2020), effective January 1, 2021, LR 47:

Family Impact Statement

The proposed rule is not anticipated to have a significant adverse impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed rule is not anticipated to have a significant negative impact on poverty as described in R.S. 49:973.

Small Business Impact Statement

The proposed rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through, June 28, 2021, to Shavana Howard, Assistant Secretary of Family Support, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804.

Public Hearing

A virtual public hearing on the proposed Rule will be held at 10:00 a.m. on June 28 2021, by the Department of Children and Family Services. All interested persons will be afforded an opportunity to submit data, views, or arguments via PC, Mac, Linux, iOS or Android at <https://stateofladcfs.zoom.us/j/81987688422>; via telephone by dialing (713) 353-0212 and entering conference code 430033. To find local AT&T numbers visit <https://www.teleconference.att.com/servlet/glbAccess?process=1&accessNumber=USA7133530212&accessCode=430033>. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Expungement of Unused Benefits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

As a result of the rule change, the Department of Children and Family Services (DCFS) anticipates spending \$20,000 (50% Federal and 50% General Fund) to make programming changes to its computer systems. Additionally, DCFS will incur \$852 (50% Federal and 50% General Fund) in the expenses associated with the publication of this proposed rule change.

The proposed rule amends LAC 67:III, Subpart 1 General Administrative Procedures, Chapter 4 Electronic Benefits Issuance System, Section 403 Cash Benefits to update electronic benefits transfer (EBT) expungement timeframes of unused benefits from 12 months to 9 months for Family Independence Temporary Assistance Program (FITAP), Kinship Care Subsidy Program (KCSP), and Supplemental Nutrition Assistance Program (SNAP). This update is being proposed in accordance with the federal mandate provided in the Agriculture Improvement Act of 2018.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed change will impact recipients of electronic benefits from FITAP, KCSP, or SNAP that take longer than 9 months to use their benefits. Under current rule, unused benefits are expunged after 12 months. Proposed rule reduces this period to 9 months.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of this proposed rule is not expected to have an effect on competition and employment.

Shavana Howard
Assistant Secretary
2105#052

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Culture, Recreation and Tourism
Office of Cultural Development**

**State Commercial Tax Credit Program Credit
Reservation Process (LAC 25:I.1301 and 1305)**

The Department of Culture, Recreation and Tourism (DCRT), Office of Cultural Development, Division of Historic Preservation, in accordance with RS. 47:6019 and with the Administrative Procedure Act, R.S. 49:950 et seq., proposes to amend LAC 25:I.1301 and adopt LAC 25:I.1305.

There are two purposes of these regulations. The first purpose is to amend §1301 by replacing the definition of Qualified Rehabilitation Expenses with the definition of Eligible costs and expenses, and to add definitions pertaining to the credit cap reservation system. The second purpose is to add §1305, thereby creating a process for DCRT to administer a credit cap reservation system, as required by Act 25 of the First Extraordinary Legislative Session of 2020. This system includes general provisions, the reservation process, the process whereby reservations may

be forfeited or rescinded, application amendments, and an appeals process.

Title 25

CULTURAL RESOURCES

Part 1. Office of Cultural Development

Chapter 13. State Commercial Tax Credit for Historic Buildings

§1301. Definitions

A. ...

Amendment—any modification to the project, as described in an approved application including, but not limited to, changes in applicant, scope of the project, timeline for completion, changes in financing, the rehabilitation activities or end use.

Annual Credit Reservation Cap—the maximum aggregate total of tax credits that may be reserved in any one calendar year is \$125 million. The reservation cap shall apply to projects with Part 2 applications received by the Department of Culture, Recreation and Tourism on or after January 1, 2021.

Applicant—the owner or qualified lessee of a historic building.

* * *

Eligible Costs and Expenses—the qualified rehabilitation expenditures (QREs) as defined in Section 47c(2)(A) of the *Internal Revenue Code* of 1986, as amended.

Project—the activities to be undertaken and costs identified as part of an application submitted for a historic preservation tax credit. A project may include more than one building, such as an industrial or agricultural complex, provided there is historical evidence that the buildings functioned together to serve an overall purpose, and all are at least 50 years old unless also listed individually in the National Register of Historic Places.

* * *

Qualified Rehabilitation Expenditures (QREs)—repealed.

* * *

SHPO—State Historic Preservation Office, comprised of the Divisions of Archaeology and Historic Preservation, within the Department of Culture, Recreation and Tourism.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6019.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of Cultural Development, Division of Historic Preservation, LR 40:1679 (September 2014), amended by the Office of Cultural Development LR 47:

§1305. Tax Credit Reservations

A. General Provisions

1. For all projects with Part 2 applications received by the SHPO on or after January 1, 2021, the maximum amount of credits available to be reserved shall not exceed one hundred twenty-five million dollars per calendar year. If the amount of tax credit reservations issued in a calendar year is less than one hundred twenty-five million dollars, the excess reservation amount shall be available for issuance in any subsequent calendar year. If a tax credit reservation is forfeited or rescinded, the forfeited or rescinded reservation amount shall be available for issuance.

2. Reservations of credits shall be first-come first-served based upon the date of approval of a completed reservation application.

3. If the total amount of credit reservations applied for in any calendar year exceeds the amount of tax credits available for reservation that year, the excess shall be treated as having been applied for on the first day of the subsequent calendar year.

4. All reservation applications received on the same business day shall be treated as received at the same time, and if the aggregate amount of the requests received on a single business day exceeds the total amount of available tax credit reservations, tax credits shall be reserved on a pro rata basis.

5. Any rescinded tax credit reservation shall be reallocated and made available to other applicants.

6. The SHPO shall track the cumulative amount of approved tax credit reservations. Applicants may review the amount of tax credit reservations available per any given calendar year on the SHPO's website.

7. Applicants must comply with all other program requirements set forth by the Division. Claims for the credit must also comply with any rules and regulations set forth by the Louisiana Department of Revenue within Title 61 of the Louisiana Administrative Code.

B. Reservation Process

1. Tax credit reservation requests will be accepted beginning July 1, 2021 for the 2021 calendar year, and on the second Monday in January each subsequent year for that year's reservations.

2. Tax credit reservation requests will not be approved prior to the state Part 2 application approval.

a. Projects that are going to be completed in phases may file a tax credit reservation application for the entire project in conjunction with a Part 2 application or may file separate tax credit reservation applications, one for each phase, prior to the project or a particular separate phase being placed in service.

3. A tax credit reservation form required by the SHPO shall contain, at minimum the following:

- a. state issued project number;
- b. project address;
- c. part 2 application approval date;
- d. estimated eligible costs and expenses
- e. amount of tax credit reservation requested
- f. affirmation that project will demonstrate reviewable progress within 24 months of the reservation approval
- g. project owner information
- h. project owner's signature and the date the form was signed
- i. project contact information (if different than the owner)

4. Applications for all projects shall include a reasonably substantiated estimate of the amount of eligible costs and expenses the project expects to incur.

a. For projects which expect to incur at least \$500,000 of eligible costs and expenses, such estimate shall be prepared by a Certified Public Accountant.

5.a. The SHPO shall issue reservations of tax credits generally no later than 30 days from the later of:

- i. the date properly completed reservation applications were received, or

- ii. the date the state Part 2 application is approved.

b. The reservation shall include the amount of credits reserved and the applicable deadlines.

6. Tax credit reservation requests that have been approved by the SHPO will be transmitted to the Louisiana Department of Revenue in a manner that is agreed upon by both agencies.

C. Forfeiture or Rescission of Tax Credit Reservation

1. Tax credit reservations issued pursuant to this Subsection shall be rescinded if the applicant fails to provide to the SHPO sufficient evidence that the project is progressing within 24 months of the date the credit reservation is issued. This evidence may include, but is not limited, an executed tax credit investor letter of intent, final construction drawings, approved building permits, or other evidence that construction has commenced; such examples of evidence are illustrative but are not exclusive. Failure to submit evidence that a project is progressing may result in the rescission of the credit reservation.

2. If, at any time, the SHPO has reason to believe that a project has become inactive or that it is not likely to be able to meet the requirements of the program, SHPO shall contact the applicant by registered or certified mail to request a status report that includes evidence showing the project is progressing. Status reports shall not be requested more than twice during a calendar year and SHPO may waive such status reports at its discretion for extenuating circumstance including, but not limited to, force majeure events.

3. Projects that are denied during the application process by the SHPO shall have the credit reservation rescinded after all appeals have been exhausted.

4. Applicants may forfeit a tax credit reservation by submitting to the SHPO a statement that includes the information contained within the reservation form with a request to rescind the tax credit reservation.

5. The SHPO shall notify the applicant in writing that the tax credit reservation has been forfeited or rescinded.

6. Tax credit reservation requests that have been forfeited or rescinded by the SHPO will be transmitted to the Louisiana Department of Revenue in a manner that is agreed upon by both agencies.

7. Nothing in this section prohibits an applicant whose tax credit reservation has been forfeited or rescinded from submitting a new tax credit reservation.

D. Amendments

1. An applicant may amend an existing application, and amendments will be submitted in accordance with the provisions of this Subsection. Any amendment that does not request an increased or decreased reservation amount shall not modify a previous reservation. Any amendment that decreases a reservation amount shall cause the decreased amount of tax credits to be available for issuance to other applicants. Any amendment requesting an additional reservation amount shall be treated as a new application but shall not modify any previous reservation with respect to such historic structure.

2. Any applications filed on or after January 1, 2021, to amend a Part 2 application that was submitted prior to January 1, 2021, is exempt from credit reservation process.

E. Appeals

1. Applicants may appeal any decisions related to the tax credit reservation process contained within this section to the State Historic Preservation Officer.

2. Appeals must be received by the SHPO no later than 30 calendar days from the date of the decision being appealed. Appeals must detail specific reasons the denial should be partially or completely reconsidered or overturned.

3. The State Historic Preservation Officer shall determine if a hearing is necessary, and if so, the appeal will be scheduled within thirty days of the request.

4. The State Historic Preservation Officer, at his discretion, may hold a hearing in connection with the appeal.

5. Upon review of the appeal and consideration of the hearing, if applicable, the State Historic Preservation Officer shall take one of the following actions:

- a. sustain, in full or in part, the denial;
- b. overturn, in full or in part, the denial.

6. The State Historic Preservation Officer's final written decision to any appeal must be issued no later than 90 days after receiving the full appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6019.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of Cultural Development, Division of Historic Preservation, LR 40:1679 (September 2014), amended by the Office of Cultural Development LR 47:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through June 30, 2021, to Alison Saunders, Tax Incentives Director, Division of Historic Preservation, Office of Cultural Development, Department of Culture, Recreation & Tourism, PO Box 44247, Baton Rouge, LA 70804 or via email at asaunders@crt.la.gov.

Public Hearing

A public hearing to receive comments on the Notice of Intent will be held on June 24, 2021, beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. The hearing will be held at the Division of Historic Preservation, 1051 N. Third Street, Baton Rouge, LA 70802.

Kristin P. Sanders
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: State Commercial Tax Credit Program Credit Reservation Process

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The cost of operations is currently absorbed by the Department of Revenue and the Office of Cultural Development within the Department of Culture, Recreation and Tourism. The implementation of the rules will provide no additional cost or savings to the state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of the credit cap reservation system will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The State Commercial Tax Credit program encourages building restoration, commerce, and tourism. The economic benefit to the community is the increased economic stimulus provided by the restoration of historic properties. Owners of revenue-producing historic properties in qualifying districts who choose to rehabilitate their properties could benefit by receiving 20 percent of eligible costs and expenses as income tax or corporate franchise tax credits, currently limited at \$5 million in Credits per owner per district per year. The implementation of a credit reservation system will have no direct economic impact to affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The credit cap reservation system as proposed requires a high level of commitment from an applicant to request a reservation. Projects with approved reservations will have a higher likelihood of moving forward into the construction phase within a two-year time period. This creates a predictable pipeline of construction jobs and jobs produced by consumer spin-off effects.

Kristin P. Sanders
Assistant Secretary
2105#049

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of the Secretary

Angel Investor Tax Credit Program (LAC 13:I.Chapter 33)

Under the authority of R.S.47:6020 through 6020.4 and R.S. 36:104, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development proposes to amend the rules of the Angel Investor Tax Credit Program, to better align the rules with current administrative practices and to clarify eligibility for convertible and other types of subordinate debt.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 33. Angel Investor Tax Credit Program

§3301. General

A - B. ...

C. Effective date of the 2021 Angel Investor Tax Credit Program rule changes.

1. The provisions of the 2021 rule changes shall apply to applications filed after the date of promulgation, detailed in the Louisiana Register published on (Month) 20, 2021, except for the provisions of Section 3303 codifying current administrative practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:228 (February 2006), amended LR 32:1594 (September 2006), amended by Department of Economic Development, Office of the Secretary, LR 37:3495 (December 2011), amended by Department of Economic Development, Office of the Secretary, LR 47:

§3302. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 47:6020 unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meaning provided in this Section, unless the context clearly requires otherwise.

Angel Pool—a group of persons including corporations, partnerships, limited liability partnerships and limited liability corporations composed of persons meeting the qualifications of an accredited investor.

Certification—certification by the department recognizing the company as an eligible Louisiana Entrepreneurial Business.

Department—the Department of Economic Development

LEB—Louisiana Entrepreneurial Business

NAICS—North American Industrial Classification System.

Opportunity Zone—a community development program established by Congress in the Tax Cuts and Jobs Act of 2017 defined as a population census tract that is a low-income community that is designated as a qualified opportunity zone.

Professional Services—occupations requiring specialized education, knowledge, labor, judgment or are

predominantly mental or intellectual in nature; and which may require the holding of a professional license. Professional services firms may engage in activities which include, but are not limited to, architecture, engineering, legal services and accounting.

Qualified Investment—a cash investment into a Louisiana Entrepreneurial Business by an Accredited Investor which may be in the form of equity, convertible debt, or other types of subordinate debt as approved by the department. Only the initial principal amount of any debt investment is eligible for the credit.

Reservation Letter—letter issued by the department provisionally indicating the dollar amount of credits which their investors may be eligible to receive if proof of qualified investment can be shown.

Subordinate Debt—

a. by its terms requires no repayment of principal for the first three years after issuance;

b. is not guaranteed by any other person or secured by any assets of the LEB or any other person; and

c. is subordinated to all indebtedness and obligations of the LEB to its general creditors.

Tax Credit Certification Letter—letter issued by the department certifying the dollar amount of Angel Investor Tax Credits earned by an investor for a particular tax year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 47:

§3303. Accredited Investor

A. An *accredited investor* shall meet the definition established by Rule 501 in Regulation D of the General Rules and Regulations promulgated under the Securities Act of 1933, which may include but not be limited to the following:

1 - 3 ...

4. the qualified investment in the Louisiana Entrepreneurial Business must be maintained for three years unless otherwise approved by the Department of Economic Development;

A.5. - B.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 through 6020.4 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:228 (February 2006), amended LR 32:1594 (September 2006), amended by Department of Economic Development, Office of the Secretary, LR 37:3495 (December 2011), amended by Department of Economic Development, Office of the Secretary, LR 47:37 (January 2021), LR 47:

§3307. The Amount, Allocation and Limitations of the Angel Investor Tax Credits

A. The following rules shall be applicable to qualified investments by accredited investors in Louisiana entrepreneurial businesses.

1. For calendar year 2011, the department will begin accepting applications on September 1, and for all other calendar years, the department will begin accepting applications on January 1. The allocation of credits for all years will be administered on a first come, first serve basis until the annual \$3,600,000 cap has been reached. However, on the day that the cap is reached, all applications received

that day will be treated as received at the same time and the credits remaining for allocation that day will be prorated.

a. Upon receipt of an application for the reservation of credits, the department will send the business a reservation letter indicating the dollar amount of credits which their investors are entitled to receive if proof of qualified investment can be shown.

b. Each business applicant will have to decide on their application if they are willing to accept a prorated credit amount should their application be received on the day the cap is reached. The business will also have to determine what percentage of proration they will accept. If the business does not indicate in their application a willingness to accept a prorated credit amount at the percentage of proration available on the day the cap is reached, their application will be deemed to have been received the day following the day in which the cap was reached.

c. Proof of a qualified investment must be provided to the department within 120 days from the date of the reservation letter. The department will accept the subscription agreement as required by the Securities and Exchange Commission as proof of investment.

d. If proof of a qualified investment is made within the requisite 120-day period, the department will issue a tax credit certification letter to the investor.

i. The tax credit certification letter will include the investor's name, address, Louisiana taxpayer identification number and the amount of the credit. The tax credit certification letter will include a breakdown of which years and in what amounts per year the credit will be claimed.

ii. The Louisiana Department of Revenue will receive a copy of the tax credit certification letter for purposes of verification of the credits.

e. If proof of qualified investment is not provided to the Department within the requisite 120-day period, the angel investor tax credits which had been reserved for that company's investors will be added to the remaining available annual credit cap.

f. Any returned reservation credits whose businesses could not provide proof of qualified investment within 120 days, will be allocated when available on a first come, first serve basis until the annual cap has been reached. However, on the day that the cap is reached, all applications received that day will be treated as received at the same time and the credits remaining for allocation that day will be prorated. Returned reservation credits will be made available the sooner of:

i. the day returned reservation credits exceed the amount of credits requested in applications in line to receive credits the next day; or

ii. the day all 120-day proof of qualified investment periods have expired.

iii. the timeline for proof of qualified investment will be the same 120-day period as mentioned above.

g. A business that fails to provide proof of qualified investment on the full reservation amount within 120 days will not be allowed to apply for angel investor credits again for a three-month period. The three-month period will begin on the day following the end of the 120-day period for proof of qualified investment.

B. All applications for the reservation of credits shall be made on a form prescribed by the department. All applications for the reservation of credits shall be submitted to the department electronically to an email address specified by the department on its website. An application fee shall be submitted with all applications for reservation of credits. The application fee shall be equal to 0.5 percent (0.005) times the total anticipated tax incentive for the investors with a minimum application fee of \$500 and a maximum application fee of \$15,000, payable to Louisiana Department of Economic Development.

C. A qualified investment earns tax credits in the calendar year in which the qualified investment is made. The request for the reservation of credits for a qualified investment must be made in the same year in which the qualified investment is made. In order to earn credits under this program, a qualified investment can be made no earlier than 30 days prior to the reservation of credits.

D. The angel investor tax credits should be claimed on the investor's income and corporation franchise tax returns in accordance with the statutory requirements of R.S. 47:6020(D)(3).

E. Transfers of the angel investor tax credits will be allowed in compliance with R.S. 47:6020(F).

F. The Angel Investor Tax Credit Program has a program cap of \$3,600,000 in tax credits granted per calendar year. If the department does not grant the entire \$3,600,000 in tax credits in any calendar year, the amount of residual unused tax credits shall carry forward to subsequent calendar years and may be granted in any year without regard to the \$3,600,000 per year limitation. No tax credit shall be granted to an investor until the qualified investment has been made in the Louisiana Entrepreneurial Business.

G. For purposes of receiving angel investor tax credits, an investor may not invest more than \$720,000 per year per business or more than \$1,440,000 total per business over the life of the program. The credit shall be allowed against the income tax for the taxable period in which the credit is earned and the franchise tax for the taxable period following the period in which the credit is earned. The credits approved by the department shall be granted at the rate of 25 percent of the amount of the qualified investment with the credit divided in equal portions for two years.

1. Except as provided in Paragraph 4 of this Subsection, applications received on or after July 1, 2020, for qualified investments that meet the requirements of Subsection C of this Section and the requirements of 26 U.S.C. 1400Z-1, 1400Z-2, and applicable federal regulations shall be entitled to an enhanced credit in accordance with the provisions of this Subsection.

2. The amount of the credit granted by the department shall be 35 percent of the amount of the qualified investment with the credit divided in equal portions for two years,

3. In addition to the credit cap provided for in Subsection A, the total amount of credits granted under this Subsection shall not exceed \$3,600,000 per year for a total program cap of \$7,200,000 per year. If the department does not grant the entire \$3,600,000 in tax credits in any calendar year authorized pursuant to this Subsection, the amount of unused tax credits shall carry forward to subsequent calendar

years and may be granted in any year without regard to the \$3,600,000 annual cap provided for in this Subsection.

4. To the extent that federal laws and regulations relative to opportunity zones require that business revenues be derived from within the opportunity zone, otherwise eligible business shall be exempt from the requirement that 50 percent or more of sales shall come from out of state as specified in Subsection A.

H. No credits shall be granted or reserved under this program for reservation applications received by the department on or after July 1, 2025.

I. The department has the authority to change the administration of the Angel Investor Tax Credit Program when it is deemed necessary for the effective administration of the program. Notice of any change in administration will be done with 10-day prior notice published on the department's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6020 and R.S. 36:104.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 32:229 (February 2006), amended LR 32:1595 (September 2006), amended by Department of Economic Development, Office of the Secretary, LR 37:3196 (December 2011), amended by the Department of Economic Development, Office of Business Development, LR 42:35 (January 2016), amended by Department of Economic Development, Office of the Secretary, LR 47:37 (January 2021), amended by Department of Economic Development, Office of the Secretary, LR 47:

Family Impact Statement

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49.972.

Poverty Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCF 170 of the 2014 Regular Legislative Session.

Small Business Statement

The proposed Rule could cause a direct economic impact for investors newly eligible to participate in the program, however, even if the utilization of the credit increases slightly, the program cost is limited to the annual program cap.

Public Comments

Interested persons may submit written comments to Robin Porter, Louisiana Department of Economic Development, P.O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to the LaSalle Building, Office of the Secretary, Eleventh Floor, 617 North Third Street, Baton Rouge, LA 70802. Comments may also be sent by fax to (225) 342-9448, or by email to Robin.Porter@la.gov. All comments must be received no later than close of business day Thursday, June 24, 2021.

Public Hearing

A public hearing to receive comments on the Notice of Intent will be held on Friday, June 25, 2021 at 10 a.m. in the Griffon Conference Room at the Department of Economic Development, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Angel Investor Tax Credit Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to result in any direct material effect on governmental expenditures or savings for state or local governmental units. The Louisiana Department of Economic Development (LED) intends to administer the program with existing resources and personnel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules broaden the definition of investment to include convertible notes and other similar investment instruments as eligible for angel investor tax credits ("AIRC"). Convertible notes are a common investment vehicle for early-stage startups and are currently eligible for the AIRC upon conversion to equity. The rule change would be applicable to new applicants after the effective date of promulgation. As such, this change will not have an impact in the first two years because an investor can not claim any tax credits for 24 months after the investment has been certified by LED. There *may* be a slight decrease in revenue starting in FY25, as adding convertible notes as eligible investments prior to conversion to equity may open the program to more investors. However, because the Angel Credit is dependent on the number and size of deals, it is not possible to predict with precision any change to the program cost. Importantly to note, even if utilization of the credit increases due to the allowance of convertible notes prior to conversion to equity, the program cost is limited by the annual program cap of \$3.6 million.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The modifications to the AIRC could cause a direct economic impact for investors newly eligible to participate in the program, however, even if the utilization of the credit increases slightly, the program cost is limited to the annual program cap.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program's benefits.

Anne G. Villa
Undersecretary
2105#038

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Board of Regents

Academic Program Standards; Student Level Data Collection and Reporting (LAC 28:IX.Chapter 3)

In accordance with the Administrative Procedure Act, R.S. 17:3141 et seq., notice is hereby given that the Board of Regents is amending the rules and regulations to LAC: IX, Regents, by codifying current practices and procedures into administrative law to assist in the oversight of academic degree-granting institutions licensed by the Louisiana Board of Regents. Changes include the streamlining of reporting processes and amending of licensure renewal requirements. Changes allow for reporting processes updates, including the digital submission of materials, expediting student complaint resolutions, and clarifying the types of records to be submitted to the Board of Regents. With regard to licensure renewal processes, ongoing program-level collection will transition to one-time annual reporting of student-level data. Through verification of workforce outcomes at the student level, the Board of Regents will be able to validate the postsecondary education and training contributions made by academic degree-granting institutions licensed by the Louisiana Board of Regents to Louisiana and the attainment goals adopted in the Master Plan.

Title 28

EDUCATION

Part IX. Regents.

Chapter 3. Criteria and Requirements for Licensure

§305 Academic Program Standards

A. - C. ...

D. Currently licensed institutions seeking to implement new academic degree programs must first advise the Board of Regents of the proposed change. New programs will be reviewed as part of the regular license renewal process.

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 36:2840 (December 2010), LR 38:1228 (May 2012), LR 45:529 (April 2019), amended by the Board of Regents, LR 47:

§307. Student Level Data Collection and Reporting

A. Institutions seeking initial licensure shall certify in writing that they have the capabilities to annually submit to the Board of Regents student-level data for each student, in a format prescribed by the Board of Regents.

B. Institutions seeking renewal licensure shall annually collect, and all institutions licensed by the Board of Regents shall annually report, student-level data from the prior year for each student, in a format prescribed by the Board of Regents. At minimum, data from the prior year must include

1. withdrawal data;
2. program completion/graduation data;
3. student demographic information (including full name, date of birth, social security number, sex, race/ethnicity);
4. Type of credential earned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 38:1228 (May 2012), LR 45:529 (April 2019), amended by the Board of Regents, LR 47:

§309. Physical Plant Standards

A. Library

1. Depending on the delivery method of instruction, (online, hybrid, brick and mortar), the institution shall maintain and/or provide student access to an appropriate library collection with adequate support staff, services, and equipment. Any contractual agreements with libraries not directly affiliated with the institution shall be available in writing to the Board of Regents.

B. Facilities and Equipment

1. The institution shall maintain or provide access to appropriate administrative, classroom, and laboratory space, and appropriate equipment and instructional materials to support quality education based on the type, level, and delivery method of program being offered. Facilities must comply with all health and safety laws and ordinances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1552 (December 1993), amended LR 21:169 (February 1995), LR 38:1228 (May 2012), LR 45:529 (April 2019), amended by the Board of Regents, LR 47:

§311. Financial Operations

A. The business and financial management of the institution shall be directed by a qualified and bonded business officer responsible to the institution's chief executive officer.

B. Institutions are required to maintain adequate insurance to protect the operation of the institution and to guard against any personal or public liability.

C. All institutions shall provide the Board of Regents with a financial review prepared in accordance with standards established by the American Institute of Certified Public Accountants. However, an institution accredited by an agency recognized by the United States Department of Education may, at its discretion, submit financial statements prepared in accordance with rules and guidelines established by the accrediting agency.

D. Institutions shall maintain and update a long-range financial development plan for the institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 45:529 (April 2019), amended by the Board of Regents, LR 47:

§313. Maintenance of Records

A. Institutions are required to keep records for a minimum of three years which detail:

1. the composition and background of students, faculty, and administrative staff;
2. the institution's physical plant including land, buildings, library, and research facilities;
3. copies of brochures, catalogs, and advertising which describe student admissions, programs, and scholarships.

B. A student's records must be available for review by that student at the institution's central office.

- C. Individual student records must include:
1. the name and address of the student;
 2. commencement date of the program;
 3. titles of courses within the student's chosen curriculum;
 4. total hours (quarter, trimester, semester);
 5. a payment schedule which includes the total cost to the student.

- D. Student records must also include:
1. grades received;
 2. all obligations incurred and all funds paid by the student to the institution;
 3. counseling records;
 4. a transcript;
 5. financial aid records.

E. Student records shall be available and readily accessible for use and review by authorized officials of the institution and authorized representatives of the Board of Regents.

F. All licensed institutions are required to have a plan for the maintenance, safekeeping and retention of student records in the event of an institutional closure. The plan must contain the arrangements made by the institution and procedures students must follow in order to obtain their records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:169 (February 1995), LR 45:529 (April 2019), amended by the Board of Regents, LR 47:

§315. Student Services¹

A. Institutions shall provide appropriate orientation and counseling services throughout enrollment. Special services including financial aid, employment placement for graduates, and student housing, if appropriate, must be evaluated periodically by the institution to determine effectiveness in meeting student needs and contribution to the educational purpose of the institution.

1. The Board of Regents recommends that prospective students seek independent job/career counseling prior to enrollment in an academic degree-granting postsecondary institution and encourages such institutions to promote this recommendation.

AUTHORITY NOTE: Promulgated in accordance with 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 45:530 (April 2019), amended by the Board of Regents, LR 47:

§317. Organization and Administration

A. An institution shall establish a governing structure which delineates responsibility for institutional operations, policy formation, and the selection of the institution's chief executive officer. If the institution is governed by a board or group of officers, the role and responsibilities of that body must be clearly defined.

B. Administrative personnel must possess qualifications which support the institution's stated purpose and effective operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:169 (February 1995), amended by the Board of Regents, LR 47:

§319. Procedures for Tuition and Fee Refunds

A. Pricing and Refund Policy

1. The institution must fully disclose all charges and fees in writing to prospective students. The parent or guardian of prospective students under legal adult age must be notified in writing of all charges and fees prior to enrollment.

2. Prospective students shall not be required to make a nonrefundable tuition payment until it has been determined that the prospective student has been accepted for enrollment.

3. The institution's refund policy must be disclosed in any contract to be signed by the prospective student or the student's legal adult guardian.

4. Institutions are required to follow the minimum standards for tuition refunds as set forth herein. These guidelines are:

a. students who withdraw prior to the first day of classes are entitled to a full refund of tuition and fees. Institutions may, however, require a nonrefundable application fee;

b. any administrative fees retained by the institution upon the early withdrawal of a student shall not exceed 15 percent of the total cost of tuition and fees paid by the student;

c. institutions which financially obligate students on a quarter, semester, or similar basis will be subject to the following tuition and fee refund policy:

i. students withdrawing during the first 10 days of classes shall receive a minimum refund of 75 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

ii. students withdrawing from day 11 through day 24 of classes shall receive a minimum refund of 50 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

iii. students withdrawing from day 25 through the end of the quarter, semester, or similar time period may be ineligible to receive a refund;

d. institutions which financially obligate students for longer periods of time, i.e., periods exceeding six months, shall be subject to the following tuition and fee refund policy:

i. students completing up to 25 percent of the course of study shall receive a minimum refund of 50 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

ii. students completing more than 25 percent but less than 50 percent of the course of study shall receive a minimum refund of 25 percent of total tuition and fees paid, excluding any nonrefundable application fees, less the maximally-allowable administrative fees retained by the institution;

iii. institutions are not allowed to keep the full amount of tuition and fee charges until at least half the program of study has been completed;

iv. refund policies for programs offering tuition/fee payments on an installment plan or programs offered through distance learning will be examined by the Board of Regents on an individual basis. Refund policies for installment programs are expected to conform generally to refund policies which appear in Subparagraphs A.4.c.i through iii and d.i through iv of this Section;

e. refunds must be paid within 45 days of the date of withdrawal of the student from the institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1553 (December 1993), amended LR 21:169 (February 1995), LR 36:2840 (December 2010), LR 45:530 (April 2019), amended by the Board of Regents, LR 47:

§321. Surety Bonding

A. New Louisiana domiciled unaccredited institutions are required to post a surety bond issued by a surety authorized to do business in the state of Louisiana in the amount of \$10,000 to cover the period of the license. These bonds are intended to protect students in the event of a sudden closure of the institution. Institutions that are also licensed and bonded under provisions set forth by R.S. 17:3141 et seq., need not seek additional bonding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1554 (December 1993), amended LR 36:2840 (December 2010), LR 45:530 (April 2019), amended by the Board of Regents, LR 47:

§323. Rules and Guidelines on Advertising¹

A. Registration with the Board of Regents shall LR 45:530 (April 2019).in no way constitute state approval or accreditation of any institution and shall not be used in any form of advertising by any institution.

B. Licensed institutions may use the state name and licensing agency as follows:

1. (*Name of Institution*) is currently licensed by the Board of Regents of the State of Louisiana. Licenses are renewed by the State Board of Regents every two years. Licensed institutions have met minimal operational standards set forth by the state, but licensure does not constitute accreditation, guarantee the transferability of credit, nor signify that programs are certifiable by any professional agency or organization.

2. Any licensed institution wishing to use the state name and licensing agency in any promotion or advertising is restricted to the language which appears above. The statement must appear in its entirety and any modifications are not permissible under these rules or the law.

3. Advertising shall not include false or misleading statements with respect to the institution, its personnel, courses, or services, or the occupational opportunities of its graduates.

4. Institutions claiming accreditation by agencies not recognized by the United States Department of Education must clearly state in all advertising and promotional literature that the institutions' accreditation is not recognized by either the United States Department of Education or the State of Louisiana.

¹Neither the institution nor its agents shall engage in false advertising or other misleading practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1554 (December 1993), amended by the Board of Regents, LR 47:

§325. Hearings and Appeals

A. Institutional hearings and appeals are handled in accordance with guidelines set forth in R.S. 17:1808, §1(E)(F).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 19:1554 (December 1993), amended by the Board of Regents, LR 47:

§327. Sale of Ownership and Transfer of License

A. In the event that an institution sells all or a majority interest in its ownership, it is required to notify the board of Regents of both expected and final sale. A review of the institution's operations and objectives will be required upon final sale to determine if the institution's operating license should be transferred to the new ownership. Any and all costs associated with the Board of Regents' review will be borne by the new ownership of the institution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 21:170 (February 1995), amended by the Board of Regents, LR 47:

§329. Licensure Denial

A. Any institution denied licensure by the Board of Regents that wishes to seek reconsideration by the board is required to wait a minimum of 24 months before resubmitting its license application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1808.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 21:170 (February 1995), amended LR 45:530 (April 2019), amended by the Board of Regents, LR 47:

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. This proposed rule has a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 by allowing waiver service recipients within active duty military families to return to Louisiana and have preferential assignment to available waiver opportunities.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Hannah Rogers, Licensure Program Coordinator, Louisiana Board of Regents, P.O. Box 3677, Baton Rouge, LA, 70821, or via email to prp@laregents.edu by June 20, 2021. She is responsible for responding to inquiries regarding this proposed Rule.

Susannah F. Craig, PhD
Deputy Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Academic Program Standards; Student Level Data Collection and Reporting

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no estimated implementation costs or savings to state or local governmental units. The proposed rule will require annual reporting of student-level data for each student in a format prescribed by the Board of Regents. This extends the requirement for public institutions to proprietary schools, therefore there is no fiscal impact.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no estimated effect on revenue collections for state and 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 estimated effect on costs to directly affected persons, small businesses, or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule update has no effect on competition and employment.

Susannah F. Craig, PhD
Deputy Commissioner
2105#054

Alan. M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Board of Regents
Proprietary Schools Section**

General Provisions; License Requirements; Affidavits and Bonds; Proprietary Schools Applications; Violations; Student Complaint Procedure; Student Records (LAC 28:III. 101, 105, 501, 503, 505, 507, 509, 511, 513, 701, 703, 901, 903, 1501, 1701, and 1901)

In accordance with the Administrative Procedure Act, R.S. 17:3141 et seq., notice is hereby given that the Board of Regents is amending the rules and regulations to LAC 28:III, Proprietary Schools, by codifying current practices and procedures into administrative law to assist in the oversight of licensed Louisiana proprietary schools. Changes include the streamlining of reporting processes and amending of licensure renewal requirements. Changes allow for reporting processes updates, including the digital submission of materials, expediting student complaint resolutions, and clarifying the types of records to be submitted to the Board of Regents. With regard to licensure renewal processes, ongoing program-level collection will transition to one-time annual reporting of student-level data. Through verification of workforce outcomes at the student level, the Board of Regents and the Proprietary Schools Advisory Commission will be able to validate the postsecondary education and training contributions made by proprietary schools to Louisiana and the attainment goals adopted in the Master Plan.

**Title 28
EDUCATION**

Part III. Proprietary Schools

Chapter 1. General Provisions

§101. Citation and Abbreviation

A. These rules and regulations of the Board of Regents (board) govern the licensing and monitoring of proprietary schools operating in Louisiana upon the recommendation and advice of the Advisory Commission on Proprietary Schools (commission).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2(F).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1857 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:

§105. Proprietary Schools Law and the Administrative Procedure Act Incorporated

A. R.S. 17.3140.1 et seq., inclusive, known as the Proprietary Schools Law, and R.S. 49:951 et seq., known as the Administrative Procedure Act, in their currently existing form and as may be amended, are hereby incorporated herein. All remedies and procedures available to the public under these laws, as they pertain to this commission, are hereby made available herein as rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.1, R.S. 49:954.1(A), R.S. 17:3140.2(F).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1857 (September 200), amended by the Board of Regents, Proprietary Schools Section, LR 47:

Chapter 5. License Requirements

§501. Applications

A. General

1. All applications must comply with the provisions of R.S. 17:3141.4, as well as any applicable provisions of these regulations. All applications concerning licenses are to be submitted to the commission in the manner as directed by commission staff.

2. All applicable fees, as provided below, must be by company, institutional, certified check, or by money order and must be made payable to the "Louisiana Board of Regents", with the exception of the Student Protection Fund which is to be made payable to the "Student Protection Fund." Except for overpayments toward the Student Protection Fund, no portion of any license fee shall be subject to refund.

B. Initial Application and License Fee. The initial license application fee shall be \$2,000. A payment of \$1,000 toward the student protection fund must be paid along with the license fee.

C. Renewal Application and Fee

1. The annual renewal application fee is based on the school's gross tuition revenues for the previous year as follows:

- a. under \$50,000—\$500;
- b. \$50,000 and up—greater of \$1,000 or 0.25 percent of gross tuition income.

2. If a complete license renewal application is not received at least 30 days prior to its expiration date, in addition to the renewal fee, there shall be a delinquent fee of \$500. In addition to the renewal application fee and any delinquent fee, a payment to the Student Protection Fund, if applicable, must be made in accordance with R.S. 17:3140.11.

D. License Fee for Solicitors. The annual license fee for each solicitor/sales representative of a school shall be \$100.

E. Reinstatement Licensure Fee. The reinstatement licensure fee for a suspended school shall be \$500.

F. Change of Ownership Application and License Fee. All changes of ownership are contingent upon approval from the board. Applications for a new license must be requested within 10 days of the change of ownership. No license shall be transferable. The application fee is \$2,000. A payment of \$1,000 toward the student protection fund must be made along with the application fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.1, R.S. 17:3140.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1859 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:

§503. Student Protection Fund

A. First Payment. Initial (new) schools and change-of-ownership schools shall be required to submit their first payment of \$1,000 made payable to the "Student Protection Fund" with their application.

B. Annual Payment. The required annual payments, if applicable, to the Student Protection Fund shall be collected based on the schedule provided in R.S. 17:3140.11.

C. Collection Schedule. Annual payments shall cease when the fund accumulates to \$800,000 but shall resume when the fund drops below \$750,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.11.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1860 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:

§505. Affidavits

A. Applications and renewal applications must be accompanied by affidavits by each owner, and director unless previously approved, and Solicitor Permit Applications (PSC-4 Form) by each solicitor containing the information prescribed by R.S. 17:3140.13 (for solicitor renewal, see §703). In the case of office and clerical personnel, in lieu of the affidavits of such personnel, the owner may submit an affidavit setting forth the information prescribed R.S. 17:3140.13 concerning such personnel. Such information shall be based on the owner's investigation and knowledge. For solicitor renewal, see §703.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2(F).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1860 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:

§507. Surety Bond

A. Each license application must be accompanied by a surety bond in the amount of \$10,000 issued by a surety authorized to do business in Louisiana. The bond must meet the requirements set forth in R.S. 17:3140.5 and the PSC-3 Form. Bond releases and terminations shall be as provided in R.S. 17:3140.5(D) and (E), and suspension of operating license for lack of surety bond coverage is governed by R.S.17:3140.5(F). A school may be exempted from filing a surety bond if it meets all of the following requirements:

1. does not require students to pay tuition for course of study more than one month in advance;
2. has been in continuous operation for at least five years; and
3. has met all the requirements of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2(F).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1860 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:

§509. Other Provisions Concerning License

A. A license shall be valid only for the school and shall not include other schools or branches operated by the owner. Each separate location or branch school shall be licensed and bonded. No new courses shall be offered by any school holding a license until it is approved by the commission staff in accordance with procedures to be established by the commission.

B. Each license must be displayed on the premises. No license shall be transferable. In the event of a change of ownership of the school, the license shall be revoked unless the new owner, within 10 days after the change of ownership, the new owner shall submit a copy of the bill of sale to commission staff, and is required to submit a new application two months prior to the date of the expiration of the license.

C. Any person who contemplates the purchase of a school may apply for a license. If the board grants such a license, it shall become a valid license only upon completion of the proposed sale.

D. All licenses shall be renewed annually, not less than 30 days prior to expiration date thereof. Updated information must contain all changes in staff, school programs, etc., including all additions and deletions.

AUTHORITY NOTE: Promulgated in accordance with R.S. R.S. 17:3140.2(F).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1860 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:

§511. Denial of Recommendation of License and Commission Hearing

A. If the commission or commissioner recommends the denial of a license, the commission shall hold a hearing upon the applicant's request, as provided in R.S. 17:3140.6. The applicant may appear in person or by counsel and may present evidence in support of granting the license. The decision or order resulting from a hearing before the commission is subject to rehearing, reopening, or reconsideration by the commission within 10 days from the date of its entry on the grounds set forth in R.S.49:959 and in accordance with the procedures therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.6.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1860 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:

§513. Revocation of License

A. Licenses may be revoked by the board in accordance with the standards and procedures set forth in R.S.17:3140.7 and statutory and regulatory provisions applicable thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1861 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:

Chapter 7. Personnel Affidavits/Permits

§701. Completion of Affidavits by Non-Instructional Personnel/Instructional Personnel

A. Completion of Affidavit by Non-Instructional Personnel

1. An affidavit (PSC-9 Form) containing the following information must be submitted by the owner of each school (if a corporation, by each officer and by each director) and by each staff person, except solicitors, instructors, and office and clerical personnel:

a. full name and address of said person and the capacity in which he/she serves the school;

b. the city, parish/county, and state of said person's permanent residence and places of residence for the past five years;

c. the names and addresses of said person's employer or employers for the past five years;

d. whether or not said person has ever been convicted of a felony for a crime involving fraud or any misdemeanor other than a traffic violation; and

e. three persons who may be contacted concerning such person's good moral character.

2. Minimum qualifications of an instructor include the following:

a. an instructor in an academically-credentialed area shall have a baccalaureate degree from a bonafide, accredited college or university, and demonstrate appropriate familiarity with the subject matter taught as evidenced by an academic transcript and/or occupational experience;

b. an instructor, in other than an academically-credentialed area, shall have a high school diploma or its equivalent; a license, diploma, certificate, other degree from a recognized institution or organization in the area taught, or documented evidence of on-the-job training in the area taught; and four years of documented occupational experience in the area taught;

c. as used in this Subsection, a "recognized institution or organization" shall mean any bonafide, licensed, chartered or traditionally accredited business or association legally engaged in commerce, education, training, or advocacy. Recognized institutions or organizations shall include, but not be limited to, governmental agencies, labor unions, trade and professional corporations, and retail, financial, and commercial entities. The commission shall reserve the right to use all reasonable means in verifying the validity of credentials;

d. at the board's discretion, the minimum four years experience required for instructors may be waived for those disciplines where teaching credentials are officially certified, licensed, or otherwise approved or granted by a federal agency; and

e. employees employed prior to May 30, 1989 will be exempted from occupational experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1861 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:

§703. Solicitor Application, Bonds, Renewal, Denial, and Revocation

A. All forms are prepared and provided by the commission staff.

1. Permits and Applications. No person shall sell any course of instruction or solicit students therefore in Louisiana for any school unless he has obtained a solicitor's permit from the commission. A separate permit is required for each school the solicitor represents. A separate application (PSC-4 Form) with required fee and bond must be submitted for each permit sought (i.e., for each school to be represented).

2. Bonds. Surety bonds for permits must be in the amount of \$1,000 for each permit issued. The bond must be continuous and must be issued by a solvent surety authorized to do business in Louisiana (see PSC-5 Form). The bond may be supplied as a blanket bond by a school covering each agent, \$1,000 in amount for each agent. This bond is set forth in PSC-6 Form. If a surety cancels a bond (as provided in R.S. 17:3140.13C(3)) then a substitute bond (meeting all conditions for the original) must be furnished and the solicitor's permit shall be in a state of suspension for any period of time not covered by a proper bond.

3. Renewals. Each permit is valid for one year from date of issuance unless revoked and must be renewed not

less than 30 days prior to expiration date. At the time of renewal, the owner/director must submit a PSC-4 Form, (unless the owner/director submits written notification of continued employment of solicitor); a \$100 renewal fee (made payable to the "Louisiana Board of Regents"); and proof of continuous bond coverage.

4. Denial of Permits. The commission may deny recommendations of issuance of a permit when proper grounds exist therefore. The procedures in such cases shall be in accordance with the applicable provision of R.S. 17:3140.6 and R.S. 49:951-966.

5. Revocation of Permits. A permit may be revoked for any of the causes set forth in R.S. 17:3140.7. Notice of contemplated revocation must be given in writing at least 30 days prior to the effective date of revocation. At any time within 30 days prior to the revocation, upon request of the solicitor, the commission shall afford the solicitor an opportunity to be heard in person or by counsel. On or before 30 days prior to the date set for hearing, the commission shall notify the aggrieved solicitor of the date and purpose of the hearing and the grounds for the contemplated revocation of the permit. The procedure for revocation shall be in accordance with those prescribed by R.S. 49:951-966 and by R.S.17:3140.7 as applicable to such action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2 (F), R.S. 17:3140.7. R.S. 17:3140.7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1861 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:

Chapter 9. Proprietary Schools Applications

§901. Initial License or Change of Ownership License Procedures

A. Refer to the PSC-14 Form, Proprietary Schools License Requirements Checklist. Enclose one original application in a binder, with tabs of the applicable items as listed on the PSC-14.

B. Louisiana Minimum Cancellation and Refund Policy

1. Three-Business-Day Cancellation. All monies paid by a student shall be refunded if requested within three business days after signing an enrollment agreement and making an initial payment.

2. Cancellation after the Three-Business-Day Cancellation Period but Before Commencement of Classes by the Student. If tuition or fees are collected in advance of entrance, and if the student does not begin classes, not more than a \$150 registration fee shall be retained by the institution. Appropriate refunds shall be made within 30 days of the start of the quarter, term, or semester.

3. For programs less than 300 clock hours, the withdrawal after commencement of classes refund policy shall be:

a. after a student has completed less than 15 percent of the program, the institution shall refund at least 80 percent of the tuition, less the registration fee, thereafter;

b. after a student has completed less than one fourth of the program, the institution shall refund at least 70 percent of the tuition, less the registration fee, thereafter;

c. after a student has completed one fourth, but less than one half of the program, the institution shall refund at

least 45 percent of the tuition, less the registration fee, thereafter;

d. after a student has completed one half or more of the program, the institution may retain 100 percent of the stated program price.

4. Any unused portion of the book fee will be refunded.

5. For programs 300 clock hours or longer, the withdrawal after commencement of classes refund policy shall be:

a. during the first week of the program, the institution shall refund at least 90 percent of the tuition, less the registration fee, thereafter;

b. during the next three weeks of the program, the institution shall refund at least 75 percent of the tuition, less the registration fee, thereafter;

c. during the first 25 percent of the program, the institution shall refund at least 55 percent of the tuition, less the registration fee, thereafter;

d. during the second 25 percent of the program, the institution shall refund at least 30 percent of the tuition, less the registration fee, thereafter;

e. during the third and fourth 25 percent of the program, the institution shall retain 100 percent of the stated program price. Percentages of the program completion are to be computed on the basis of clock hour. For programs longer than one year (12 calendar months) in length, 100 percent of the stated program price attributable to the period beyond the first year will be refunded when the student withdraws during the prior period.

6. Any unused portion of the book fee will be refunded.

C. Items to be Included in School Catalog

1. A prospective student is entitled to sufficient data to make an informed decision on training opportunities and institutions. A school is therefore obligated to provide sufficiently detailed information in advance of enrollment to enable prospective students to clearly understand their opportunities, limitations, and obligations.

2. Each school shall prepare and make available a typed and bound publication which is readily identifiable as a catalog and each student shall receive a copy. This catalog shall be designed and written to convey accurate information on the school. It shall avoid false, misleading, or exaggerated statements.

3. The following items shall be listed in the catalog:

a. the name, address, phone number, email, and fax of school;

b. the date of publication;

c. a statement of institutional philosophy;

d. licensure statement;

e. the admission requirements and procedures;

f. the educational objectives of each program offering, including the name, nature, and level of occupations for which training is provided;

g. a detailed program outline for each program of study that includes subject abbreviations and numbers, subject titles, the number of clock and/or credit hours of instruction in lecture, lab, and/or clinical/externship, and the length of time in weeks or months normally required for completion;

- h. the subject descriptions for each program of study;
- i. a brief description of the school's physical facilities, equipment to be used in class, and the maximum class size;
- j. the school policies relative to tardiness, absences, make-up work, conduct, termination, re-entry, and other rules and regulations of the school;
- k. the grading system, including a definition of ratings;
- l. the required levels of performance for graduation;
- m. a statement of certificates, diplomas, or degrees awarded upon graduation;
- n. a statement of student charges related to enrollment: registration fee, tuition, book fee, lab fee, and any other charges for which a student will be responsible;
- o. a statement of the cancellation and refund policy of the school;
- p. a detailed and explicit description of the extent and nature of job placement assistance that is available to graduates, if any;
- q. specifics describing the availability of residential housing, vocational counseling services, scholarships, and the extent of other services available to students, if any;
- r. a school calendar including holidays and other dates of importance;
- s. the school's student complaint procedure;
- t. any other facts concerning the school and its programs of instruction.

D. Institutions seeking initial licensure shall certify in writing that they have the capabilities to annually submit to the Board of Regents student-level data for each student, in a format prescribed by the Board of Regents and the capabilities to electronically store student transcript data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.3.

HISTORICAL NOTE: Promulgated by the Board of Regents, LR 33:1862 (September 2007), amended by the Board of Regents, Proprietary School Section, LR 40:1687 (September 2014), amended by the Board of Regents, Proprietary Schools Section, LR 47:

§903. License Renewal

A. Renewal letters are sent to the school owners annually. A license renewal application must be received in this office 30 days prior to the license expiration. If it is not, there shall be a \$500 delinquent fee. Failure to furnish all the renewal information prior to the license expiration date will cause the license to expire. There can be no exceptions or any other extension. The following paperwork must be submitted:

- 1. a completed PSC-1 Form;
- 2. verification from the bonding company that the surety bonds (\$10,000 for school and \$1,000 per solicitor) are still in effect must accompany the renewal application. The premium period must coincide with the school's licensure period.
- 3. a completed PSC-12 form;
- 4. the renewal fee based upon the school's previous year's gross tuition revenues. The check is to be made payable to the "Louisiana Board of Regents." Refer to the PSC-12 form;
- 5. financial statements:

- a. for those schools which participate in Title IV funding, an original set of financial statements that have been audited by an independent certified public accountant licensed in the state of Louisiana, including a current balance sheet and an income statement showing gross tuition receipts for the school's last fiscal year, and in the case of a corporation, signed by an officer of the corporation, sole proprietorship or partnership, signed by the owner(s) or a duly authorized agent acting on behalf of the owner(s), stating that it is true and correct; and

- b. for those schools which do not participate in Title IV funding, an original set of financial statements that have been reviewed by an independent public accountant licensed in the state of Louisiana, including a current balance sheet and an income statement showing gross tuition receipts for the school's last fiscal year, and in the case of a corporation or sole proprietorship or partnership, signed by the owner(s) or a duly authorized agent acting on behalf of the owner(s) stating that it is true and correct;

- 6. an internal compilation reflecting the school's most recent quarter, if the audit/review submitted with the renewal materials, reflects a business year that ended more than 120 days prior to the submission of the renewal materials;

- 7. a completed PSC-18 Form reflecting the application date listed on the PSC-1 Form;

- 8. a completed PSC-4 Form for any new solicitor employed with the school. The initial and/or renewal fee is \$100 per solicitor is to be made payable to the "Louisiana Board of Regents";

- 9. a completed PSC-9 Form on all instructors and staff employed since the last school renewal, unless previously approved during the year;

- 10. a current school catalog;

- 11. a current copy of the enrollment agreement/enrollment contract;

- 12. proof of the ability to electronically store student transcript data;

- 13. Institutions seeking renewal licensure shall annually collect, and all institutions licensed by the Board of Regents shall annually report, student-level data from the prior year for each student, in a format prescribed by the Board of Regents. At minimum, data from the prior year must include

- a. withdrawal data,
- b. program completion/ graduation data,
- c. student demographic information (including full name, date of birth, social security number, sex, race/ethnicity), type of credential earned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.3 and R.S. 17:3140.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1862 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:

Chapter 15. Violations

§1501. Authority, Investigation, and Sanctions

A. Violations. The following is an illustrative, but not exclusive, list of actions constituting a violation:

- 1. failure to provide the commission with an item of information required by R.S. 17:3140.1 et seq.;
- 2. misrepresentation about a school's credentials or accreditation;

3. a false claim or guaranty of employment by a school or solicitor;
4. failure to disclose to a student a necessary requirement for employment;
5. false or misleading advertising;
6. unethical behavior by a solicitor;
7. failure to disclose liability for repayment of a student loan;
8. failure to respond to student complaints as provided in the student complaint rule, R.S. 17:3140.9 and 17:3140.2;
9. employment of an instructor who is unqualified;
10. unsafe or unhealthy condition of a school;
11. unsafe, unhealthy, or inadequate instructional equipment;
12. failure to teach the number of hours claimed;
13. failure to maintain attendance records and to provide them for inspection;
14. failure to comply with a contractual relationship with a student;
15. failure to release the grades of a student;
16. failure to cooperate with an investigator from the commission;
17. attempting to obtain, obtaining, or renewing a license to operate a school by fraudulent misrepresentation or bribery;
18. placement of classified advertisement under "employment" or other similar categories related to employment rather than "education" or "instruction";
19. upon closure, failure to transfer student records to the board; and
20. failure to comply with the provision of R.S. 17:3140.1 et seq., or any written rule or regulation of the board.

B. Authority and Scope. The definition of "school" for the purpose of this rule shall include a licensed school and school owners, employees, operators, agents and solicitors. The commission shall use the following procedures prior to making a recommendation to the board under R.S. 17:3140.7 that a school license should be revoked, canceled, or suspended.

1. Any school found to be in violation of any provision of R.S. 17:3140 et seq., or any other state regulation adopted by the commission pursuant to the Administrative Procedure Act governing the administration or operation of a school may be sanctioned by one or more of the following remedies:

- a. restitution and remedial measures;
- b. civil money penalties (fines); and
- c. revocation, suspension, cancellation, or other restrictions on the license.

2. The commission's assessment of a sanction shall be based on the following considerations:

- a. whether the violation or substantially similar violation has previously occurred;
- b. the duration of the violation;
- c. the severity of the violation;
- d. the school's history of compliance with the regulations;
- e. what sanction is most likely to bring the school into compliance in the shortest time;
- f. the "good faith" exercised by the school in attempting to stay in compliance with the regulations; and

g. such other factors as the commission deems appropriate.

C. Investigation

1. When the commission's staff becomes aware of a violation, it may conduct an onsite investigation of a school. The inspection may or may not be announced at the discretion of the staff.

2. The agent conducting the investigation shall have the authority to:

- a. privately interview administrators, teachers, solicitors, and students;
- b. inspect school records, documents, catalogs, forms, and advertisements; and
- c. inspect the school facilities and equipment.

3. The school shall cooperate fully with the agent.

4. Within five days of the investigation the agent shall prepare a written report which shall be furnished to the commission staff and the school. The report shall contain:

- a. factual findings relevant to the initial violation;
- b. factual findings of any additional violations;
- c. recommendations of remedial measures to be taken by the school; and
- d. recommendations of any sanctions to be taken by the commission including the commission's petition for an injunction to terminate the violation;
- e. the procedure by which an administrative hearing may be requested.

5. Additional or follow-up visits may be made to the school to monitor violations or to monitor remedial measures taken to correct prior violations.

D. Notice of a Violation

1. When a violation of state statutes or regulations governing the administration or operation of a school has occurred, in accordance with R.S. 17:3140.8, the commission staff shall give notice of the violation to the school's director by certified mail, return receipt, and shall afford the school an opportunity to be heard in person or by counsel.

2. The written notice of the violation shall:

- a. specify the violation(s);
- b. cite the legal authority which establishes the violation(s);
- c. cite any sanctions assessed for each violation;
- d. inform the school's director that the determination of the violation and imposition of the sanction are final, and no further administrative or judicial appeals may be had if a timely appeal is not filed; and
- e. inform the school's director if the violation is regarded as a repeat or continuing violation and the manner in which the sanction will be imposed.

3. If the school requests a hearing, the commission staff shall hold a hearing and take evidence. Strict rules of evidence shall not apply. A tape recording of the hearing shall be made. The school may deny the violation, admit the violation in part and deny it in part, or admit the violation but request a reduction or modification of the sanction imposed. The school may present witnesses or documentary evidence in its defense bearing directly on the violation asserted. The school is limited to one witness to attest to its reputation or to remedial measures it has taken. The commission may consider reputation and remedial measures in mitigation of the sanction. For continued or repeat

violations, reputation or remedial measures shall not be considered.

4. The commission staff shall have authority to determine for purposes of making a recommendation to the board, whether a violation is a repeat or continuing violation:

a. a repeat violation is the recurrence of the same or a substantially similar violation within a period of 12 months;

b. a continuing violation is one that may be reasonably expected to continue until corrective action is taken. A continuing violation may be considered as a repeat violation for each day following the day on which the initial violation is established, until such time as there is evidence establishing a date by which the violation is corrected. A continuing violation may be subject to appropriate sanctions for repeat violations up to the number of days of the violation at the discretion of the commission staff.

5. After holding a hearing, the commission shall submit its findings to the board, and may recommend any of the penalties listed in Paragraph 1501.B.1 and Subsection 1501.F, as it deems appropriate. The commission shall also forward a copy of its findings and recommendation to the school, notify the school of the date of the board meeting when the commission's recommendation will be considered, and advise the school of the opportunity to appear at the board's meeting by person or by counsel and be heard. After due consideration of the commission's recommendation and the school's arguments (if the school presents any arguments) and upon a vote of two-thirds of the authorized membership of the board, the board may revoke, cancel, suspend or restrict the school's license, or impose fines or refunds.

6. A sanction which requires monetary payments, either fines or restitution, shall be paid within a timeframe as determined by the board following its notification.

E. Description of Sanctions

1. Restitution and Remedial Measures. The commission may impose sanctions consisting of, but not limited to, the following measures:

a. rebate of all or a portion of the tuition to the students;

b. modification or termination of advertising when unwarranted, false, or misleading claims are made, or placement of corrective ads;

c. counseling of students when they have been misinformed about a material matter;

d. the posting of a sign in a prominent position in a school correcting a false representation made to the students;

e. the distribution of an informational leaflet to the students informing them of their rights;

f. the inclusion or exclusion of information from the student catalog to correct a misrepresentation;

g. repairs or modification to a physical facility when health or safety is jeopardized;

h. repairs or modification to equipment when health or safety or delivery of quality instruction is jeopardized;

i. an order to terminate a gross violation of the statutes or regulations;

j. an order to cease the enrollment of new students or to limit enrollment to those students who meet more restrictive admission standards; and

k. modification of the curricula or methods of instruction.

2. Civil Money Penalties (Fines). The commission has the authority to impose a fine up to \$500 for each violation. Repeat or continuing violations may be assessed separate fines up to \$500 for each day of violation. After a fine is imposed, the commission may allow a specified period of time for the correction of the violation. If the violation is corrected, the commission may waive the payment of the fine. The school may be given the opportunity to demonstrate compliance before the fine becomes final. A violation for which a fine is waived shall still be counted for repeat and continued violations. The right to assess civil fines is not merged in other remedies, and the commission may impose other sanctions in addition to the fines.

3. Revocation of License. The commission may recommend the revocation of a school's license to the board.

F. Appeal Procedure. Any sanction may be administratively appealed as long as the appeal is timely filed in accordance with R.S. 17:3140.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2, R.S. 17:3140.7, R.S. 3140.8, and R.S. 17:3140.9.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1863 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:

Chapter 17. Student Complaint Procedure

§1701. Policies, Conciliation, Conference, Hearing, and Review

A. General Policies

1. The purpose of this complaint procedure is to provide an effective and efficient method by which students may resolve their complaints with the commission staff under the jurisdiction of the board;

2. the commission staff shall prepare and provide a copy of the complaint procedure to each licensed school; and

3. each school shall include in either their catalog or enrollment agreement the following:

a. complaints relative to actions of school officials may be made and must be in writing, addressed to the Louisiana Board of Regents, Proprietary Schools Section, Program Administrator, P.O. Box 3677, Baton Rouge, LA 70821-3677, 225/342-4253. Such complaints may be made only after the student has unsuccessfully attempted to resolve the matter with the school by having first filed a written and signed complaint with that school's officials. Any student who wishes to review the student complaint procedure may make a request for a copy of the procedure, in writing, to the Louisiana Board of Regent,

B. Conciliation

1. Any student who believes he/she has been aggrieved by actions of school officials shall first file a written and signed complaint with school officials. School officials must respond with a decision within 10 calendar days of the date of the complaint.

2. No later than one year from date of the last alleged grievance, the student may appeal the decision of the school officials in writing to the commission staff at Louisiana Board of Regents, Program Administrator, Proprietary Schools Section. The student shall submit a copy of the original grievance with their appeal;

3. copies of this appeal and notice of the complaint will be sent to the school and to the complainant. A copy must also be retained in the commission staff files.

4. Upon receipt of the notice of appeal, commission staff will request that the student and the school meet and discuss the complaint in a conciliation effort or commission staff will independently evaluate the appeal within 10 days after receipt of the notice;

5. If no amicable resolution is achieved via a conciliation effort, either party may request, within seven days, a hearing before the Advisory Commission on Proprietary Schools. Within five working days following a request for a hearing, the commission staff shall send written notice to the parties containing the following:

- a. an explanation of the hearing procedures; and
- b. the date, time and place for the hearing.

C. Hearing

1. A public hearing shall be held before the commission. The parties shall be given 15 days notice in advance of the hearing, including the time, place and nature of the hearing and a statement of the alleged complaints to be the subject of the hearing.

2. The hearing shall be conducted in accordance with the provisions of the Administrative Procedure Act;

D. Judicial Review. Either party may appeal to the Nineteenth Judicial District in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.9.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1865 (September 2007), amended by the Board of Regents, Proprietary School Section, LR 44:1005 (June 2018), amended by the Board of Regents, Proprietary Schools Section, LR 47:

Chapter 19. Student Records

§1901. General Policies

A. All schools shall maintain all student records as required under R.S. 17:3140.15. All student records shall include, but are not limited to student enrollment information, student enrollment agreements, attendance records, financial and academic transcripts, and exit interview.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2 and R.S. 17:3140.15.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1866 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:

§1903. Transfer of Student Records

A. A school must make arrangements to transfer all student academic transcripts to the Commissioner of Higher Education at the commission's address within 10 days of closing. If any of the records have been seized or confiscated by legal authorities, the board shall request the authorities for documentation regarding seizure of the records. However, the school remains responsible for turning over unseized student academic transcripts. Any closed school, that maintains student files and electronic files shall make arrangements to electronically transfer such records to the board. The records shall be prepared in the following manner:

1. they shall be filed in alphabetical order;

2. each container will be clearly marked "official records" and will show the alphabetical order within the container (e.g., aa to bc); and

3. the containers shall be sealed to prevent loss or damage and marked in succession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2 and R.S. 17:3140.15.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1866 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:

§1905. Penalties

A. Failure to maintain and/or turn over student records as provided above will result in the assessment of penalties.

B. If necessary, a claim shall be made against the surety bond posted at the time of submission of the license application to satisfy any penalties for failure to maintain and/or turn over student records pursuant to R.S. 17:3141.5 (D)(1)(b)(iv).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3140.2 and R.S. 17:3140.5.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1866 (September 2007), amended by the Board of Regents, Proprietary Schools Section, LR 47:

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. This proposed rule has a positive impact on family functioning, stability, or autonomy as described in R.S. 49:972 by allowing waiver service recipients within active duty military families to return to Louisiana and have preferential assignment to available waiver opportunities.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Courtney Britton, Proprietary Schools Program Administrator, Louisiana Board of Regents, P.O. Box 3677, Baton Rouge, LA, 70821 by June 20, 2021. She is responsible for responding to inquiries regarding this proposed Rule.

Randall Brumfield
Deputy Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: General Provisions; License Requirements; Affidavits and Bonds; Proprietary Schools Applications; Violations; Student Complaint Procedure; Student Records

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule change will have no estimated implementation costs or savings to state or local governmental units. The proposed changes apply to proprietary schools, and would allow for the digital delivery of application materials, streamline the application and renewal processes for proprietary schools, require the delivery of student-level data for reporting and clarify student complaint procedures.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule change will have no estimated effect on 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 no estimated effect on costs to directly affected persons, small businesses, or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule update has no effect on competition and employment.

Randall Brumfield
Deputy Commissioner
2105#055

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Board of Pardons**

Meeting and Hearing for the Board of Parole;
Inactive Parole Supervision
(LAC 22:V.211 and XI.510, 514, and 1502)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), and pursuant to R.S. 15:573.1, the Board of Pardons hereby gives notice of its intent to

amend LAC 22:V.211 and XI.510, 514 and adopt LAC 22:XI.1502 The amendments to §211 expand the ability of individuals providing testimony to the board to include via phone and teleconferencing. The amendments to §510 align the notification to timeframe for victims with revised statute and expands the ability of individuals providing testimony to the board to include via phone and teleconferencing. The amendments to §514 remove barriers that are not required by law concerning the votes required to grant individuals parole. Section 1502 adopts amendments to R.S. 15:574.7 and adds Inactive Parole Supervision.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part V. Board of Pardons

§211. Hearings before the Pardon Board

- A. - D. ...
- E. The direct victim, the guardian of the victim, or close relative of a deceased victim or a victim's advocacy group, and the district attorney or his representative may also appear before the panel by means of teleconference or telephone communication.
 1. Only three persons in favor, to include the applicant, and three in opposition, to include the victim/victim's family member, will be allowed to speak either in person, via phone or videoconferencing during the clemency hearing.
 2. Any person making an oral presentation to the board will be allowed no more than 5 minutes. All persons making oral presentations in favor of an applicant shall be allowed cumulatively no more than 10 minutes. Any person making oral presentations against an applicant, including victims, shall be allowed cumulatively no more than 10 minutes.
- F. There is no limit on written correspondence in favor of and/or opposition to the applicant's request. a candidate for parole release or an applicant for clemency.
- G. The board shall provide notice to the Department of Public Safety and Corrections, Crime Victims Services Bureau at least 30 days prior to pardon hearing.
- H. If an applicant is requesting commutation of sentence, and is released from custody and/or supervision prior to public hearing date, the case will be closed without notice to the applicant. Applicant may reapply two years from the date of release.
- I. Applicant's failure to attend and/or notify the board of pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise of inability to attend may reapply in five years if it is his/her initial hearing, and every five years thereafter.
- J. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.
 1. If a favorable clemency recommendation is reached during a pardon hearing, any other specific recommendation regarding clemency (i.e., restoration of firearms privileges, commutation of sentence to a specified number of years, commutation of sentence with or without parole eligibility)

shall be based on a majority vote of those members who voted to recommend clemency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12, and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 39:2256 (August 2013), amended LR 42:1088 (July 2016), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:46 (January 2017), LR 44:574 (March 2018), LR 44:2140 (December 2018), LR 47:359 (March 2021), LR 47:

Part XI. Committee on Parole

Chapter 5. Meetings and Hearings of the Committee on Parole

§510. Victims

A. Before a parole panel considers parole release for an offender who is serving a sentence of an offense in which a person was a victim, the direct victim of the offense shall be allowed to present written or oral testimony of the victim's views about the offense, the offender, and the effect of the offense on the victim. The parole panel shall allow one person to appear in person before the panel to present testimony on behalf of the victim. Nothing in this Section is intended to limit the panel's discretion to allow individual victims to make personal appearance or to make contact by phone through the local district attorney's victim advocacy representative. There is no limit on written correspondence in favor of and/or opposition to an offender's consideration for parole.

B. The direct victim, spouse, or next of kin of a deceased victim and any person who has filed a victim notice and registration form shall be advised in writing no less than 60 days prior to the scheduled hearing date.

1. *Victim*—an individual against whom a crime has been perpetrated.

C. The notice shall advise the victim, spouse, or next of kin of a deceased victim that:

1. the hearing is open to the public;
2. he or she may remain in the hearing room during the entire hearing (except during executive session); and
3. the direct victim, the guardian of the victim, or close relative of a deceased victim will be allowed to speak to the panel prior to its making a decision in the case.

D. The Committee on Parole has delegated the responsibility for advance notice of a scheduled hearing to the direct victim to the Department of Public Safety and Corrections, Division of Probation and Parole. This notification is not required when the direct victim cannot be located despite the exercise of due diligence.

E. The written notice is not required when the victim, the spouse, or next of kin of a deceased victim, advises the committee in writing that such notification is not desired.

F. If victim notification is determined to have not met the advance notice time requirements required by this section, a victim may request that a hearing be re-scheduled if the hearing has not yet been conducted. Likewise, a victim may waive the notice requirement; however, such waiver must be received in writing from the victim.

G. Should a hearing be re-scheduled by the board for any reason other than the victim's request, the board shall notify the victim as soon as possible by telephone and shall follow-up with written confirmation of the telephone notification via certified U.S. Mail (with return receipt requested).

H. The direct victim, the guardian of the victim, or close relative of a deceased victim shall have the right to make a written or oral statement as to the impact of the crime.

I. The direct victim, the guardian of the victim, or close relative of a deceased victim or a victim's advocacy group, and the district attorney or his representative may also appear before the panel by means of teleconference or telephone communication.

J. If more than one person is entitled to appear for a parole hearing, the person chosen by all persons entitled to appear may serve as a spokesperson for all those entitled to appear. Any person making an oral presentation to the parole panel will be allowed no more than five minutes. However, at the parole panel chairman's discretion more than one person may present a written or oral statement to the panel.

1. All persons making oral presentations in favor of an applicant shall be allowed cumulatively no more than 10 minutes. All persons making oral presentations against an applicant, including victims, shall be allowed cumulatively no more than 10 minutes.

K. There is no limit on written correspondence in favor of and/or opposition to a candidate for parole release.

L. The Committee on Parole shall notify all persons who have filed a victim notice and registration form with the Department of Public Safety and Corrections of an offender's release from incarceration by parole. Such written notice shall be sent by certified mail (with return receipt requested).

M. Notice to Crime Victim Services Bureau of Parole Hearings. The committee shall provide notice to the Department of Public Safety and Corrections Crime Victims Services Bureau at least 30 days prior to parole hearings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2263 (August 2013), amended by the Office of the Governor, Board of Pardons and Committee on Parole, LR 43:47 (January 2017), LR 44:575 (March 2018), LR 44:2142 (December 2018), LR 47:

§514. Voting/Votes Required

A. Unanimous Vote

1. A unanimous vote of those present is required to grant parole when the number of those present exceeds three.

2. Notwithstanding any other provision of law, no person convicted of a crime of violence against any peace officer as defined in R.S. 14:30(B), shall be granted parole except after a meeting, duly noticed and held on a date to be determined by the chairman, at which at least five of the seven members of the committee are present and all members present vote to grant parole.

3. Notwithstanding any other provision of law, an offender serving a life sentence for second degree murder as defined in R.S. 14:30.1 and pursuant to the subsections, shall be granted parole except after a meeting, duly noticed and held on a date to be determined by the chairman, at which at least five of the seven members of the committee are present and all members present vote to grant parole.

a. The offense was committed after July 2, 1973, and prior to June 29, 1979.

b. The offender has served forty years of the sentence imposed.

4. A unanimous vote is required to consider any action when the offender is not present as described in §511.B.2.b or §513.A.4.a.

B. Majority Vote

1. The committee may grant parole with two votes of a three-member panel if the following conditions are met.

a. The offender has not been convicted of a sex offense as defined in R.S. 15:541, or convicted of an offense which would constitute a sex offense as defined in R.S. 15:541, regardless of the date of conviction.

b. The offender has not committed any major disciplinary (schedule B) offenses in the 12 consecutive months prior to the parole hearing date. If the offender's period of incarceration is less than 12 months, the offender must not have committed any disciplinary offenses during his/her entire period of incarceration.

c. The offender has completed the mandatory minimum of 100 hours of pre-release programming in accordance with R.S. 15:827.1, if such programming is available at the facility where the offender is incarcerated.

d. The offender has completed substance abuse treatment and or anger management as applicable, if such programming is available at the facility where the offender is incarcerated.

e. The offender has obtained a HSE credential, unless the offender has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a HSE credential due to a learning disability. If the offender is deemed incapable of obtaining a HSE credential, the offender must complete at least one of the following:

- i. a literacy program;
- ii. an adult basic education program; or
- iii. a job skills training program.

f. The offender has obtained a low-risk level designation determined by a validated risk assessment instrument approved by the secretary of the Department of Public Safety and Corrections.

2. A majority vote is required to impose all special conditions of release.

3. A majority vote is required to revoke parole.

4. A majority vote is required to continue or recess a meeting or hearing.

5. A majority vote is required to grant an offender's request for a rehearing.

6. A majority vote is required for executive session.

7. A majority vote is required to recommend to the Board of Pardons as to whether an applicant is eligible for a reduction in sentence pursuant to R.S. 15:308 and Chapter 8, "Ameliorative Penalty Consideration."

C. Once the panel votes to grant or deny parole at a particular hearing, the vote may not be rescinded at that hearing.

D. If a member of a panel moves that a particular condition of parole be considered and determined prior to the vote to grant or deny parole, that issue shall be determined prior to the vote on parole. Otherwise, following a vote granting parole, the panel shall consider whether to impose special conditions of release.

E. The ex officio member of the committee is a non-voting member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2264 (August 2013), amended LR 41:45 (January 2015), LR 44:2142 (December 2018), LR 47:362 (March 2021), LR 47:

Chapter 15. Parole Suspension and Termination
§1502. Inactive Parole Supervision

A. During the onset of parole supervision and development of the Supervision Plan, an offender who is free from any conviction for a sex offense as defined in R.S. 15:541, shall be advised of the incentive to be compliant with conditions of supervision in order to be recommended for Inactive Parole Supervision.

1. As determined by the District Manager or during the Annual Review, the officer shall review the offender's case based on the following eligibility requirements:

a. Offender's instant offense is not a crime of violence as defined by R.S. 14:2(B) and the offender has served a minimum of three years without a violation of the terms and conditions of parole.

b. Offender's instant offense is a crime of violence as defined by R.S. 14:2(B) and the offender has served a minimum of seven years without a violation of the terms and conditions of parole.

c. Upon the offender becoming eligible, the officer may shall submit an Activity Report to the Parole Board recommending the offender be placed on Inactive Parole Supervision.

d. Upon the Board's approval, the offender's supervision level will be changed to Administrative-Inactive Parole Supervision. At this effective date, the offender is no longer subject to the conditions of parole as defined in R.S.15:574.4.2(A)(2). Supervision fees will be inactivated in the DOC approved offender management system.

e. Should the parolee have a new arrest, the supervising officer will notify the Parole Board and request the parolee to be returned to active parole supervision where the offender will be subject to the conditions of parole as defined in R.S.15:574.4.2(A)(2). Supervision fees will be reactivated in the DOC approved offender management system. The supervising officer will follow normal procedures for the violation process.

f. Offenders convicted of a new felony conviction while under Inactive Parole supervision are subject to revocation under La. R.S. 15:574.10.

g. If the pending charges against the offender are rejected or dismissed, an Activity Report will be submitted to return the offender to Inactive Parole Supervision.

h. If the offender completes his period of supervision with no new arrests, the case will be closed at their earned compliance date or full term date as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, and 15:574.7.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Pardons, LR 47:

Family Impact Statement

Amendment to the rules has no known impact on family formation, 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 relations to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Written comments may be addressed to Elizabeth Traylor, Executive Management Officer, Board of Pardons and Parole, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on June 10, 2021.

Sheryl M. Ranatza
Board Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Meeting and Hearing for the Board of Parole; Inactive Parole Supervision

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no impact on expenditures of the Department of Public Safety & Corrections (DPS&C) or local governmental units as a result of the proposed rules. The proposed revisions expand the ability of individuals to provide testimony to the Board of Pardons and the Committee on Parole via phone, teleconferencing, and/or videoconferencing. The proposed rules create provisions and guidelines for moving parolees into inactive parole supervision.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be an impact to individuals who choose to participate in hearings with the Board of Pardons and/or the Committee on Parole via phone, teleconference, or videoconference. Those persons will experience a savings in travel expenses by participating in the new manner allowed under the proposed rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule changes.

Sheryl M. Ranatza
Board Chair
2105#019

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

Pick N Procedure (LAC 35:XIII.11609)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to amend LAC 35:XIII.11609. The proposed rule better clarifies for the public what happens to the portion of a Pick N wager in the instance that there is a change of racing surface due to conditions of the course.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 116. Pick N

§11609. Procedure

A. - F. ...

G. If the condition of the course warrants a change of racing surface in any of the legs of the Pick N races, and such change was not known to the public prior to the closing of wagering for the Pick N pool, the stewards shall declare the changed leg(s) an all win for Pick N wagering purposes only.

H. - L.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002), amended LR 34:870 (May 2008), LR 45:1594 (November 2019), LR 47:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8:00 a.m. to 4:30 p.m. Monday - Friday, and interested parties may submit oral or written comments, data, views, or arguments relative to this proposed rule for a period up to 20 days (exclusive of weekends and state holidays) from the date of this

publication to Brett Bonin, Assistant Attorney General, 320 North Carrollton Avenue, Suite 2-B, New Orleans, Louisiana 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Pick N Procedure**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental units as a result of the proposed administrative rule. The proposed amendment to the rule better clarifies for the public what happens to the portion of a Pick N wager in the instance that there is a change of racing surface due to conditions of the course.

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 as a result of the proposed administrative rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs or economic benefits to directly affected persons or non-governmental groups. The proposed amendment is a change of language in the rule for clarification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardner, III
Executive Director
2105#031

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities
and
Office of Aging and Adult Services**

Home and Community-Based Services Waivers
Cost Reporting Requirements
(LAC 50:XXI.Chapters 7 and Chapter 29)

The Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services proposes to amend LAC 50:XXI.Chapter 7 and repeal LAC 50:XXI.Chapter 29 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities, and the Office of Aging and Adult Services

propose to amend the provisions governing home and community-based services (HCBS) waivers in order to: 1) repeal LAC 50:XXI.Chapter 29 of the Adult Day Health Care (ADHC) Waiver Rule in its entirety and incorporate the language into LAC 50:XXI.Chapter 7 of the general provisions for HCBS waivers providers; 2) add provisions stating that personal care service and adult day health care providers may be penalized for failing to submit cost reports timely; and 3) remove outdated language from the administrative Rule.

Title 50

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

Subpart 1. General Provisions

**Chapter 7. Reimbursement Methodology
Subchapter A. Personal Care Services Providers**

§701. General Provisions

A. The Department of Health (LDH) establishes reimbursement methodologies and cost reporting requirements for providers of home and community-based services waiver programs who provide personal care services (including personal care services, personal care attendant services, community living supports services, attendant care services, personal assistance services, in-home respite, and individual and family support services).

B. - C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 39:509 (March 2013), amended LR 42:898 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§703. Cost Reporting Requirements

A. Effective July 1, 2012, the department implemented mandatory cost reporting requirements for providers of home and community-based waiver services listed above in §701.A. The cost reports will be used to verify expenditures and to support rate setting for the services rendered to waiver participants.

1. - 7. Repealed.

B. Providers of services in the following waiver programs shall be required to submit cost reports:

1. Adult Day Health Care Waiver;
2. Children's Choice Waiver;
3. Community Choices Waiver;
4. New Opportunities Waiver;
5. Residential Options Waiver; and
6. Supports Waiver.

C. Each provider shall complete the LDH approved cost report and submit the cost report(s) to the department no later than five months after the state's fiscal year ends (June 30).

1. - 5. Repealed.

D. When a provider fails to submit a cost report by the last day of November, which is five months after the state fiscal year ends (June 30), a penalty of 5 percent of the total monthly payment for the first month and a progressive penalty of 5 percent of the total monthly payment for each succeeding month may be levied and withheld from the

provider's payment for each month that the cost report is due, not extended and not received. The penalty is non-refundable and not subject to an administrative appeal.

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 39:509 (March 2013), amended LR 42:898 (June 2016), amended by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§705. Rate Methodology

EDITOR'S NOTE: This Section was previously numbered LAC 50:XXI.703 and complies with Act 299 of the 2011 Regular Session of the Louisiana Legislature.

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service that is provided to the participant:

1. personal care services;
2. personal care attendant services;
3. community living supports services;
4. attendant care services;
5. personal assistance services;
6. in-home respite; and
7. individual and family support services, collectively

referred to as reimbursable assistance services.

B. One quarter hour (15 minutes) shall be the standard unit of service. Reimbursement shall not be paid for the provision of less than one quarter hour (15 minutes) of service.

C. Effective July 1, 2016, a rate validation process occurred to determine the sufficiency of reimbursement rates. This process will be repeated at a minimum of every two years thereafter. The rate validation process will involve the comparison of current provider reimbursement rates to reimbursement rates established using the department's reimbursement methodology.

1. The department's reimbursement methodology will establish an estimated reimbursement rate through the summation of the following two rate component totals:

- a. adjusted staff cost rate component; and
- b. other operational cost rate component.

2. The adjusted staff cost rate component will be determined in the following manner.

a. Direct service worker wage expense, contract labor expense, and hours worked for reimbursable assistance services will be collected from provider cost reports.

i. Collected wage and contract labor expense will be divided by collected hours worked, on an individual cost report basis, to determine a per hour labor rate for direct service workers.

ii. The individual cost report hourly labor rates will be aggregated for all applicable filed cost reports, outliers will be removed, and a simple average statewide labor rate will be determined.

b. A blended direct service worker labor rate will be calculated by comparing the simple average statewide labor rate to the most recently available, as of the calculation of the department's rate validation process, average personal care aide wage rate from the *Louisiana Occupational Employment and Wages* report for all Louisiana parishes published by the Louisiana Workforce Commission (or its successor).

i. If the simple average statewide labor rate is less than the wage rate from the *Louisiana Occupational Employment and Wages* report, a blended wage rate will be calculated using 50 percent of both wage rates.

ii. If the simple average statewide labor rate is equal to or greater than the wage rate from the *Louisiana Occupational Employment and Wages* report, the simple average statewide labor rate will be utilized.

c. An employee benefit factor will be added to the blended direct service worker wage rate to determine the unadjusted hourly staff cost.

i. Employee benefit expense allocated to reimbursable assistance services will be collected from provider cost reports.

ii. Employee benefit expense, on an individual cost report basis, will be divided by the cost report direct service wage and contract labor expense for reimbursable assistance services to calculate employee benefits as a percentage of labor costs.

iii. The individual cost report employee benefit percentages will be aggregated for all applicable filed cost reports, outliers will be removed, and a simple average statewide employee benefit percentage will be determined.

iv. The simple average statewide employee benefit percentage will be multiplied by the blended direct service worker labor rate to calculate the employee benefit factor.

d. The department will be solely responsible for determining if adjustments to the unadjusted hourly staff cost for items that are underrepresented or not represented in provider cost reports is considered appropriate.

e. The unadjusted hourly staff cost will be multiplied by a productive hours' adjustment to calculate the hourly adjusted staff cost rate component total. The productive hours' adjustment allows the reimbursement rate to reflect the cost associated with direct service worker time spent performing required non-billable activities. The productive hours' adjustment will be calculated as follows.

i. The department will determine estimates for the amount of time a direct service worker spends performing required non-billable activities during an eight-hour period. Examples of non-billable time include, but are not limited to: meetings, substitute staff, training, wait-time, supervising, etc.

ii. The total time associated with direct service worker non-billable activities will be subtracted from eight hours to determine direct service worker total billable time.

iii. Eight hours will be divided by the direct service worker total billable time to calculate the productive hours' adjustment.

3. The other operational cost rate component will be calculated in the following manner.

a. Capital expense, transportation expense, other direct non-labor expense, and other overhead expense allocated to reimbursable assistance services will be collected from provider cost reports.

b. Capital expense, transportation expense, supplies, and other direct non-labor expense, and other overhead expense, on an individual cost report basis, will be divided by the cost report direct service wage and contract labor expense for reimbursable assistance services to calculate other operational costs as a percentage of labor costs.

c. The individual cost report other operational cost percentages will be aggregated for all applicable filed cost reports, outliers will be removed, and a simple average statewide other operational cost percentage will be determined.

d. The simple average other operational cost percentage will be multiplied by the blended direct service worker labor rate to calculate the other operational cost rate component.

4. The calculated department reimbursement rates will be adjusted to a one quarter hour unit of service by dividing the hourly adjusted staff cost rate component and the hourly other operational cost rate component totals by four.

5. The department will be solely responsible for determining the sufficiency of the current reimbursement rates during the rate validation process. Any reimbursement rate change deemed necessary due to rate validation process will be subject to legislative budgetary appropriation restrictions prior to implementation.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

Subchapter B. Adult Day Health Care Providers

§707. General Provisions

A. The Department of Health (LDH) establishes reimbursement methodologies and cost reporting requirements for Adult Day Health Care (ADHC) providers of home and community-based waiver programs.

B. ADHC providers in the following waiver programs shall be required to submit cost reports:

1. Adult Day Health Care (ADHC) Waiver;
2. Community Choices Waiver; and
3. Residential Options Waiver (ROW).

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§709. Rate Methodology

A. Adult day health care providers shall be reimbursed a per quarter hour rate for services provided under a prospective payment system (PPS). The system shall be designed in a manner that recognizes and reflects the cost of direct care services provided. The reimbursement methodology is designed to improve the quality of care for all waiver participants by ensuring that direct care services are provided at an acceptable level while fairly reimbursing the providers.

B. Reimbursement shall not be made for ADHC waiver services provided under the waivers prior to the department's approval of the POC.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§711. Cost Reporting

A. Cost Centers Components

1. Direct Care Costs. This component reimburses for in-house and contractual direct care staffing, social services, and activities (excluding the activities director) and fringe benefits and direct care supplies.

2. Care Related Costs. This component reimburses for in-house and contractual salaries and fringe benefits for supervisory and dietary staff, raw food costs, and care related supplies.

3. Administrative and Operating Costs. This component reimburses for in-house or contractual salaries and related benefits for administrative, housekeeping, laundry, and maintenance staff. Also included are:

- a. utilities;
- b. accounting;
- c. dietary supplies;
- d. housekeeping and maintenance supplies; and
- e. all other administrative and operating type expenditures.

4. Property. This component reimburses for depreciation, interest on capital assets, lease expenses, property taxes, and other expenses related to capital assets, excluding property costs related to participant transportation.

5. Transportation. This component reimburses for in-house and contractual driver salaries and related benefits, non-emergency medical transportation, vehicle maintenance, and supply expense, motor vehicle depreciation, interest expense related to vehicles, vehicle insurance, and auto leases.

B. Providers of ADHC services are required to file acceptable annual cost reports of all reasonable and allowable costs. An acceptable cost report is one that is prepared in accordance with the requirements of this Section and for which the provider has supporting documentation necessary for completion of a desk review or audit. The annual cost reports are the basis for determining reimbursement rates. A copy of all reports and statistical data must be retained by the center for no less than five years following the date cost reports are submitted to the bureau. A chart of accounts and an accounting system on the accrual basis or converted to the accrual basis at year end are required in the cost report preparation process. The bureau or its designee will perform desk reviews of the cost reports. In addition to the desk review, a representative number of the centers shall be subject to a full-scope, annual on-site audit. All ADHC cost reports shall be filed with a fiscal year from July 1 through June 30.

1. When a provider ceases to participate as an ADHC provider the provider must file a cost report covering a period under this program up to the effective date of cessation of participation in the program. Depending on the circumstances involved in the preparation of the provider's final cost report, the provider may file the cost report for a period of not less than one month or not more than 13 months.

C. The cost reporting forms and instructions developed by the Bureau must be used by all ADHC centers participating in the Louisiana Medicaid Program. Hospital

based and other provider based ADHC which use Medicare forms for step down in completing their ADHC Medicaid cost reports must submit copies of the applicable Medicare cost report forms also. All amounts must be rounded to the nearest dollar and must foot and cross foot. Only per diem cost amounts will not be rounded. Cost reports submitted that have not been rounded in accordance with this policy will be returned and will not be considered as received until they are resubmitted.

D. Annual Reporting. Cost reports are to be filed on or before the last day of September following the close of the cost reporting period. Should the due date fall on a Saturday, Sunday, or an official state or federal holiday, the due date shall be the following business day. The cost report forms and schedules must be filed with one copy of the following documents:

1. a cost report grouping schedule. This schedule should include all trial balance accounts grouped by cost report line item. All subtotals should agree to a specific line item on the cost report. This grouping schedule should be done for the balance sheet, income statement, and expenses;

2. a depreciation schedule. The depreciation schedule which reconciles to the depreciation expense reported on the cost report must be submitted. If the center files a home office cost report, copies of the home office depreciation schedules must also be submitted with the home office cost report. All hospital based centers must submit a copy of a depreciation schedule that clearly shows and totals assets that are hospital only, ADHC only and shared assets;

3. an amortization schedule(s), if applicable;

4. a schedule of adjustment and reclassification entries;

5. a narrative description of purchased management services and a copy of contracts for managed services, if applicable;

6. for management services provided by a related party or home office, a description of the basis used to allocate the costs to providers in the group and to non-provider activities and copies of the cost allocation worksheet, if applicable. Costs of related management/home offices must be reported on a separate cost report that includes an allocation schedule; and

7. all allocation worksheets must be submitted by hospital-based centers. The Medicare worksheets that must be attached by centers using the Medicare forms for allocation are:

- a. A;
- b. A-6;
- c. A-7 parts I, II and III;
- d. A-8;
- e. A-8-1;
- f. B part 1; and
- g. B-1.

E. Each copy of the cost report must have the original signatures of an officer or center administrator on the certification. The cost report and related documents must be submitted to the address indicated on the cost report instruction form. In order to avoid a penalty for delinquency, cost reports must be postmarked on or before the due date.

F. When it is determined, upon initial review for completeness, that an incomplete or improperly completed cost report has been submitted, the provider will be notified.

The provider will be allowed a specified amount of time to submit the requested information without incurring the penalty for a delinquent cost report. For cost reports that are submitted by the due date, 10 working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. For cost reports that are submitted after the due date, five working days from the date of the provider's receipt of the request for additional information will be allowed for the submission of the additional information. An exception exists in the event that the due date comes after the specified number of days for submission of the requested information. In these cases, the provider will be allowed to submit the additional requested information on or before the due date of the cost report. If requested additional information has not been submitted by the specified date, a second request for the information will be made. Requested information not received after the second request may not be subsequently submitted and shall not be considered for reimbursement purposes. An appeal of the disallowance of the costs associated with the requested information may not be made. Allowable costs will be adjusted to disallow any expenses for which requested information is not submitted.

G. Accounting Basis. The cost report must be prepared on the accrual basis of accounting. If a center is on a cash basis, it will be necessary to convert from a cash basis to an accrual basis for cost reporting purposes. Particular attention must be given to an accurate accrual of all costs at the year-end for appropriate recordation of costs in the applicable cost reporting period. Care must be given to the proper allocation of costs for contracts to the period covered by such contracts. Amounts earned although not actually received and amounts owed to creditors but not paid must be included in the appropriate cost reporting period.

H. Supporting Information. Providers are required to maintain adequate financial records and statistical data for proper determination of reimbursable costs. Financial and statistical records must be maintained by the center for five years from the date the cost report is submitted to the Bureau. Cost information must be current, accurate and in sufficient detail to support amounts reported in the cost report. This includes all ledgers, journals, records, and original evidences of cost (canceled checks, purchase orders, invoices, vouchers, inventories, time cards, payrolls, bases for apportioning costs, etc.) that pertain to the reported costs. Census data reported on the cost report must be supportable by daily census records. Such information must be adequate and available for auditing.

I. Attendance Records

1. Attendance data reported on the cost report must be supportable by daily attendance records. Such information must be adequate and available for auditing.

2. Daily attendance records should include the time of each participant's arrival and departure from the center. The attendance records should document the presence or absence of each participant on each day the center is open. The center's attendance records should document all admissions and discharges on the attendance records. Attendance records should be kept for all participants that attend the adult day center. This includes Medicaid, Veteran's Administration, insurance, private, waiver, and other

participants. The attendance of all participants should be documented regardless of whether a payment is received on behalf of the participant. Supporting documentation such as admission documents, discharge summaries, nurse's progress notes, sign-in/out logs, etc. should be maintained to support services provided to each participant.

J. Employee Record

1. the provider shall retain written verification of hours worked by individual employees:

a. records may be sign-in sheets or time cards, but shall indicate the date and hours worked;

b. records shall include all employees even on a contractual or consultant basis;

2. verification of employee orientation and in-service training; and

3. verification of the employee's communicable disease screening.

K. Billing Records

1. The provider shall maintain billing records in accordance with recognized fiscal and accounting procedures. Individual records shall be maintained for each participant. These records shall meet the following criteria.

a. Records shall clearly detail each charge and each payment made on behalf of the participant.

b. Records shall be current and shall clearly reveal to whom charges were made and for whom payments were received.

c. Records shall itemize each billing entry.

d. Records shall show the amount of each payment received and the date received.

2. The provider shall maintain supporting fiscal documents and other records necessary to ensure that claims are made in accordance with federal and state requirements.

L. Non-Acceptable Descriptions. Miscellaneous, other, and various, without further detailed explanation, are not acceptable descriptions for cost reporting purposes. If any of these are used as descriptions in the cost report, a request for information will not be made and the related line item expense will be automatically disallowed. The provider will not be allowed to submit the proper detail of the expense at a later date, and an appeal of the disallowance of the costs may not be made.

M. Exceptions. Limited exceptions to the cost report filing requirements will be considered on an individual provider basis upon written request from the provider to the Bureau of Health Services Financing, Rate and Audit Review Section. If an exception is allowed, the provider must attach a statement describing fully the nature of the exception for which prior written permission was requested and granted. Exceptions which may be allowed with written approval are as follows.

1. If the center has been purchased or established during the reporting period, a partial year cost report may be filed in lieu of the required 12-month report.

2. If the center experiences unavoidable difficulties in preparing the cost report by the prescribed due date, an extension may be requested prior to the due date. Requests for exception must contain a full statement of the cause of the difficulties that rendered timely preparation of the cost report impossible.

N. Delinquent Cost Report. When an ADHC provider fails to submit a cost report by the last day of September

following the close of the cost reporting period, a penalty of 5 percent of the monthly payment for the first month and a progressive penalty of 5 percent of the monthly payment for each succeeding month may be levied and withheld from the ADHC provider's payment for each month that the cost report is due, not extended and not received. The penalty is non-refundable and not subject to an administrative appeal.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§713. Cost Categories Included in the Cost Report

A. Direct Care (DC) Costs

1. Salaries, Aides—gross salaries of certified nurse aides and nurse aides in training.

2. Salaries, LPNs—gross salaries of nonsupervisory licensed practical nurses and graduate practical nurses.

3. Salaries, RNs—gross salaries of nonsupervisory registered nurses and graduate nurses (excluding director of nursing and participant assessment instrument coordinator).

4. Salaries, Social Services—gross salaries of nonsupervisory licensed social services personnel providing medically needed social services to attain or maintain the highest practicable physical, mental, or psychosocial well-being of the participants.

5. Salaries, Activities—gross salaries of nonsupervisory activities/recreational personnel providing an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interest and the physical, mental, and psychosocial well-being of the participants.

6. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for direct care employees.

7. Group Insurance, DC—cost of employer's contribution to employee health, life, accident and disability insurance for direct care employees.

8. Pensions, DC—cost of employer's contribution to employee pensions for direct care employees.

9. Uniform Allowance, DC—employer's cost of uniform allowance and/or uniforms for direct care employees.

10. Worker's Comp, DC—cost of worker's compensation insurance for direct care employees.

11. Contract, Aides—cost of aides through contract that are not center employees.

12. Contract, LPNs—cost of LPNs and graduate practical nurses hired through contract that are not center employees.

13. Contract, RNs—cost of RNs and graduate nurses hired through contract that are not center employees.

14. Drugs, Over-the-Counter and Non-Legend—cost of over-the-counter and non-legend drugs provided by the center to its participants. This is for drugs not covered by Medicaid.

15. Medical Supplies—cost of participant-specific items of medical supplies such as catheters, syringes and sterile dressings.

16. Medical Waste Disposal—cost of medical waste disposal including storage containers and disposal costs.

17. Recreational Supplies, DC—cost of items used in the recreational activities of the center.

18. Other Supplies, DC—cost of items used in the direct care of participants which are not participant-specific such as prep supplies, alcohol pads, betadine solution in bulk, tongue depressors, cotton balls, thermometers, blood pressure cuffs and under-pads and diapers (reusable and disposable).

19. Allocated Costs, Hospital Based—the amount of costs that have been allocated through the step-down process from a hospital or state institution as direct care costs when those costs include allocated overhead.

20. Miscellaneous, DC—costs incurred in providing direct care services that cannot be assigned to any other direct care line item on the cost report.

21. Total Direct Care Costs—sum of the above line items.

B. Care Related (CR) Costs

1. Salaries—gross salaries for care related supervisory staff including supervisors or directors over nursing, social service, and activities/recreation.

2. Salaries, Dietary—gross salaries of kitchen personnel including dietary supervisors, cooks, helpers, and dishwashers.

3. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for care related employees.

4. Group Insurance, CR—cost of employer's contribution to employee health, life, accident, and disability insurance for care related employees.

5. Pensions, CR—cost of employer's contribution to employee pensions for care related employees.

6. Uniform Allowance, CR—employer's cost of uniform allowance and/or uniforms for care related employees.

7. Worker's Comp, CR—cost of worker's compensation insurance for care related employees.

8. Contract, Dietary—cost of dietary services, and personnel hired through contract that are not employees of the center.

9. Consultant Fees, Activities—fees paid to activities personnel, not on the center's payroll, for providing advisory, and educational services to the center.

10. Consultant Fees, Nursing—fees paid to nursing personnel, not on the center's payroll, for providing advisory, and educational services to the center.

11. Consultant Fees, Pharmacy—fees paid to a registered pharmacist, not on the center's payroll, for providing advisory, and educational services to the center.

12. Consultant Fees, Social Worker—fees paid to a social worker, not on the center's payroll, for providing advisory, and educational services to the center.

13. Consultant Fees, Therapists—fees paid to a licensed therapist, not on the center's payroll, for providing advisory, and educational services to the center.

14. Food, Raw—cost of food products used to provide meals and snacks to participants. Hospital based facilities must allocate food based on the number of meals served.

15. Food, Supplements—cost of food products given in addition to normal meals and snacks under a doctor's orders.

Hospital based facilities must allocate food-supplements based on the number of meals served.

16. Supplies, CR—the costs of supplies used for rendering care related services to the participants of the center. All personal care related items such as shampoo and soap administered by all staff must be included on this line.

17. Allocated Costs, Hospital Based—the amount of costs that have been allocated through the step-down process from a hospital or state institution as care related costs when those costs include allocated overhead.

18. Miscellaneous, CR—costs incurred in providing care related care services that cannot be assigned to any other care related line item on the cost report.

19. Total Care Related Costs—the sum of the care related cost line items.

C. Administrative and Operating Costs (AOC)

1. Salaries, Administrator—gross salary of administrators excluding owners. Hospital based centers must attach a schedule of the administrator's salary before allocation, the allocation method, and the amount allocated to the nursing center.

2. Salaries, Assistant Administrator—gross salary of assistant administrators excluding owners.

3. Salaries, Housekeeping—gross salaries of housekeeping personnel including housekeeping supervisors, maids, and janitors.

4. Salaries, Laundry—gross salaries of laundry personnel.

5. Salaries, Maintenance—gross salaries of personnel involved in operating and maintaining the physical plant, including maintenance personnel or plant engineers.

6. Salaries, Other Administrative—gross salaries of other administrative personnel including bookkeepers, receptionists, administrative assistants, and other office and clerical personnel.

7. Salaries, Owner or Owner/Administrator—gross salaries of all owners of the center that are paid through the center.

8. Payroll Taxes—cost of employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for administrative and operating employees.

9. Group Insurance, AOC—cost of employer's contribution to employee health, life, accident, and disability insurance for administrative, and operating employees.

10. Pensions, AOC—cost of employer's contribution to employee pensions for administration, and operating employees.

11. Uniform Allowance, AOC—employer's cost of uniform allowance and/or uniforms for administration and operating employees.

12. Worker's Compensation, AOC—cost of worker's compensation insurance for administration and operating employees.

13. Contract, Housekeeping—cost of housekeeping services and personnel hired through contract that are not employees of the center.

14. Contract, Laundry—cost of laundry services and personnel hired through contract that are not employees of the center.

15. Contract, Maintenance—cost of maintenance services and persons hired through contract that are not employees of the center.

16. Consultant Fees, Dietician—fees paid to consulting registered dietitians.

17. Accounting Fees—fees incurred for the preparation of the cost report, audits of financial records, bookkeeping, tax return preparation of the adult day health care center and other related services excluding personal tax planning and personal tax return preparation.

18. Amortization Expense, Non-Capital—costs incurred for legal and other expenses when organizing a corporation must be amortized over a period of 60 months. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are non-allowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

19. Bank Service Charges—fees paid to banks for service charges, excluding penalties and insufficient funds charges.

20. Dietary Supplies—costs of consumable items such as soap, detergent, napkins, paper cups, straws, etc., used in the dietary department.

21. Dues—dues to one organization are allowable.

22. Educational Seminars and Training—the registration cost for attending educational seminars and training by employees of the center and costs incurred in the provision of in-house training for center staff, excluding owners or administrative personnel.

23. Housekeeping Supplies—cost of consumable housekeeping items including waxes, cleaners, soap, brooms and lavatory supplies.

24. Insurance, Professional Liability and Other—includes the costs of insuring the center against injury and malpractice claims.

25. Interest expense, non-capital interest paid on short term borrowing for center operations.

26. Laundry Supplies—cost of consumable goods used in the laundry including soap, detergent, starch and bleach.

27. Legal Fees—only actual and reasonable attorney fees incurred for non-litigation legal services related to participant care are allowed.

28. Linen Supplies—cost of sheets, blankets, pillows, and gowns.

29. Management Fees and Home Office Costs—the cost of purchased management services or home office costs incurred that are allocable to the provider. Costs for related management/home office must also be reported on a separate cost report that includes an allocation schedule.

30. Office Supplies and Subscriptions—cost of consumable goods used in the business office such as:

a. pencils, paper and computer supplies;

b. cost of printing forms and stationery including, but not limited to, nursing and medical forms, accounting and census forms, charge tickets, center letterhead and billing forms;

c. cost of subscribing to newspapers, magazines and periodicals.

31. Postage—cost of postage, including stamps, metered postage, freight charges, and courier services.

32. Repairs and Maintenance—supplies and services, including electricians, plumbers, extended service agreements, etc., used to repair and maintain the center building, furniture and equipment except vehicles. This includes computer software maintenance.

33. Taxes and Licenses—the cost of taxes and licenses paid that are not included on any other line of the cost report. This includes tags for vehicles, licenses for center staff (including nurse aide re-certifications) and buildings.

34. Telephone and Communications—cost of telephone services, internet and fax services.

35. Travel—cost of travel (airfare, lodging, meals, etc.) by the administrator and other authorized personnel to attend professional and continuing educational seminars and meetings or to conduct center business. Commuting expenses and travel allowances are not allowable.

36. Utilities—cost of water, sewer, gas, electric, cable TV and garbage collection services.

37. Allocated Costs, Hospital Based—costs that have been allocated through the step-down process from a hospital as administrative and operating costs.

38. Advertising—costs of employment advertising and soliciting bids. Costs related to promotional advertising are not allowable.

39. Maintenance Supplies—supplies used to repair and maintain the center building, furniture and equipment except vehicles.

40. Miscellaneous—costs incurred in providing center services that cannot be assigned to any other line item on the cost report. Examples of miscellaneous expenses are small equipment purchases, all employees' physicals and shots, nominal gifts to all employees, such as a turkey or ham at Christmas, and flowers purchased for the enjoyment of the participants. Items reported on this line must be specifically identified.

41. Total administrative and operating costs.

D. Property and Equipment

1. Amortization Expense, Capital—legal and other costs incurred when financing the center must be amortized over the life of the mortgage. Amortization of goodwill is not an allowable cost. Amortization of costs attributable to the negotiation or settlement of the sale or purchase of any capital asset on or after July 18, 1984, whether by acquisition or merger, for which any payment has previously been made are non-allowable costs. If allowable cost is reported on this line, an amortization schedule must be submitted with the cost report.

2. Depreciation—depreciation on the center's buildings, furniture, equipment, leasehold improvements, and land improvements.

3. Interest Expense, Capital—interest paid or accrued on notes, mortgages, and other loans, the proceeds of which were used to purchase the center's land, buildings and/or furniture, and equipment, excluding vehicles.

4. Property Insurance—cost of fire and casualty insurance on center buildings, and equipment, excluding vehicles. HCBS providers that share owned or leased space with other programs, Medicaid or private, should allocate building costs such as property insurance, property taxes,

depreciation, etc. based on documented square footage used by each program.

5. Property Taxes—taxes levied on the center's buildings and equipment. HCBS providers that share owned or leased space with other programs, Medicaid or private, should allocate building costs such as property insurance, property taxes, depreciation, etc. based on documented square footage used by each program.

6. Rent, Building—cost of leasing the center's real property.

7. Rent, Furniture and Equipment—cost of leasing the center's furniture and equipment, excluding vehicles.

8. Allocated Costs, Hospital Based—costs that have been allocated through the step-down process from a hospital or state institution as property costs when those costs include allocated overhead.

9. Miscellaneous, Property—any capital costs related to the center that cannot be assigned to any other property and equipment line item on the cost report.

10. Total property and equipment.

E. Transportation Costs

1. Salaries, Drivers—gross salaries of personnel involved in transporting participants to and from the center.

2. Payroll Taxes, Transportation—the cost of the employer's portion of Federal Insurance Contribution Act (FICA), Federal Unemployment Tax Act (FUTA), State Unemployment Tax Act (SUTA), and Medicare tax for drivers.

3. Employee Benefits, Transportation—the cost of group insurance, pensions, uniform allowances, and other employee benefits related to drivers.

4. Workers' Compensation, Transportation—the cost of workers' compensation insurance for drivers.

5. Non-Emergency Medical Transportation—the cost of purchased non-emergency medical transportation services including, but not limited to:

- a. payments to employees for use of their personal vehicle(s);
- b. ambulance companies; and
- c. other transportation companies for transporting participants of the center.

6. Interest Expenses, Vehicles—interest paid or accrued on loans used to purchase vehicles.

7. Property Insurance, Vehicles—the cost of vehicle insurance.

8. Vehicle Expenses—vehicle maintenance and supplies, including gas and oil.

9. Lease, Automotive—the cost of leasing vehicles used for participant care. A mileage log must be maintained. If a leased vehicle is used for both participant care and personal purposes, cost must be allocated based on the mileage log.

10. Total Transportation Costs.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§715. Allowable Costs

EDITOR'S NOTE: The provisions of this Section were previously located in LAC 50:XXI.2907.

A. Allowable costs include those costs incurred by providers to conform to state licensure and federal certification standards. General cost principles are applied during the desk review and audit process to determine allowable costs.

1. These general cost principles include determining whether the cost is:

- a. ordinary, necessary, and related to the delivery of care;
- b. what a prudent and cost conscious business person would pay for the specific goods or services in the open market or in an arm's length transaction; and
- c. for goods or services actually provided to the center.

B. Through the desk review and/or audit process, adjustments and/or disallowances may be made to a provider's reported costs. The Medicare Provider Reimbursement Manual is the final authority for allowable costs unless the Department has set a more restrictive policy.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§717. Non-allowable Costs

EDITOR'S NOTE: The provisions of this Section were previously located in LAC 50:XXI.2909.

A. Costs that are not based on the reasonable cost of services covered under Medicare and are not related to the care of participants are considered non-allowable costs.

B. Reasonable cost does not include the following:

1. costs not related to participant care;
2. costs specifically not reimbursed under the program;
3. costs that flow from the provision of luxury items or services (items or services substantially in excess or more expensive than those generally considered necessary for the provision of the care);
4. costs that are found to be substantially out of line with other centers that are similar in size, scope of services, and other relevant factors;
5. costs exceeding what a prudent and cost-conscious buyer would incur to purchase the goods or services.

C. General non-allowable costs:

1. services for which Medicaid participants are charged a fee;
2. depreciation of non-participant care assets;
3. services that are reimbursable by other state or federally funded programs;
4. goods or services unrelated to participant care;
5. unreasonable costs.

D. Specific non-allowable costs (this is not an all-inclusive listing):

1. advertising—costs of advertising to the general public that seeks to increase participant utilization of the ADHC center;

2. bad debts—accounts receivable that are written off as not collectible;
3. contributions—amounts donated to charitable or other organizations;
4. courtesy allowances;
5. director’s fees;
6. educational costs for participants;
7. gifts;
8. goodwill or interest (debt service) on goodwill;
9. costs of income producing items such as fund raising costs, promotional advertising, or public relations costs, and other income producing items;
10. income taxes, state, and federal taxes on net income levied or expected to be levied by the federal or state government;
11. insurance, officers—cost of insurance on officers, and key employees of the center when the insurance is not provided to all employees;
12. judgments or settlements of any kind;
13. lobbying costs or political contributions, either directly or through a trade organization;
14. non-participant entertainment;
15. non-Medicaid related care costs—costs allocated to portions of a center that are not licensed as the reporting ADHC or are not certified to participate in Title XIX;
16. officers’ life insurance with the center or owner as beneficiary;
17. payments to the parent organization or other related party;
18. penalties and sanctions—penalties and sanctions assessed by the Centers for Medicare and Medicaid Services, LDH, the Internal Revenue Service or the state Tax Commission;
19. insufficient funds charges;
20. personal comfort items; and
21. personal use of vehicles.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§719. Audits

EDITOR’S NOTE: The provisions of this Section were previously located in LAC 50:XXI.2911.

A. Each provider shall file an annual center cost report and, if applicable, a central office cost report.

B. The provider shall be subject to financial and compliance audits.

C. All providers who elect to participate in the Medicaid program shall be subject to audit by state or federal regulators or their designees. Audit selection shall be at the discretion of the department.

1. The department conducts desk reviews of all of the cost reports received and also conducts on-site audits of provider cost reports.

2. The records necessary to verify information submitted to the department on Medicaid cost reports, including related-party transactions, and other business activities engaged in by the provider, must be accessible to the department’s audit staff.

D. In addition to the adjustments made during desk reviews and on-site audits, the department may exclude or

adjust certain expenses in the cost report data base in order to base rates on the reasonable and necessary costs that an economical and efficient provider must incur.

E. The center shall retain such records or files as required by the department and shall have them available for inspection for five years from the date of service or until all audit exceptions are resolved, whichever period is longer.

F. If a center’s audit results in repeat findings and adjustments, the department may:

1. withhold provider’s payments until the center submits documentation that the non-compliance has been resolved;

2. exclude the provider’s cost from the database used for rate setting purposes; and

3. impose civil monetary penalties until the center submits documentation that the non-compliance has been resolved.

G. If the department’s auditors determine that a center’s financial and/or census records are unauditible, the provider’s payments may be withheld until the center submits auditible records. The provider shall be responsible for costs incurred by the department’s auditors when additional services or procedures are performed to complete the audit.

H. Provider payments may also be withheld under the following conditions:

1. a center fails to submit corrective action plans in response to financial and compliance audit findings within 15 days after receiving the notification letter from the department; or

2. a center fails to respond satisfactorily to the department’s request for information within 15 days after receiving the department’s notification letter.

I. The provider shall cooperate with the audit process by:

1. promptly providing all documents needed for review;

2. providing adequate space for uninterrupted review of records;

3. making persons responsible for center records and cost report preparation available during the audit;

4. arranging for all pertinent personnel to attend the closing conference;

5. insuring that complete information is maintained in participant’s records;

6. developing a plan of correction for areas of noncompliance with state and federal regulations immediately after the exit conference time limit of 30 calendar 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, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§721. Exclusions from the Database

EDITOR’S NOTE: The provisions of this Section were previously located in LAC 50:XXI.2913.

A. The following providers shall be excluded from the database used to calculate the rates:

1. providers with disclaimed audits; and

2. providers with cost reports for periods other than a 12-month 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, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§723. Provider Reimbursement

A. Cost Determination Definitions

Base Rate—calculated in accordance with §723.B.5, plus any base rate adjustments granted in accordance with §723.B.7 which are in effect at the time of calculation of new rates or adjustments.

Index Factor—computed by dividing the value of the index for December of the year preceding the rate year by the value of the index one year earlier (December of the second preceding year).

Indices—

a. *CPI, All Items*—the Consumer Price Index for All Urban Consumers-South Region (all items line) as published by the United States Department of Labor.

b. *CPI, Medical Services*—the Consumer Price Index for All Urban Consumers-South Region (medical services line) as published by the United States Department of Labor.

Rate Component—the rate is the summation of the following:

- a. direct care;
- b. care related costs;
- c. administrative and operating costs;
- d. property costs; and
- e. transportation costs.

B. Rate Determination

1. The base rate is calculated based on the most recent audited or desk reviewed cost for all ADHC providers filing acceptable full year cost reports. The rates are based on cost components appropriate for an economic and efficient ADHC providing quality service. The participant per quarter hour rates represent the best judgment of the state to provide reasonable and adequate reimbursement required to cover the costs of economic and efficient ADHC.

2. For rate periods between rebasing, the rates will be trended forward using the index factor contingent upon appropriation by the legislature.

3. The median costs for each component are multiplied in accordance with §723.B.4 then by the appropriate index factors for each successive year to determine base rate components. For subsequent years, the components thus computed become the base rate components to be multiplied by the appropriate index factors, unless they are adjusted as provided in §723.B.6 below. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the state legislature allocates funds for this purpose. The inflationary adjustment shall be made prorating allocated funds based on the weight of the rate components.

4. The inflated median shall be increased to establish the base rate median component as follows.

a. The inflated direct care median shall be multiplied times 115 percent to establish the direct care base rate component.

b. The inflated care related median shall be multiplied times 105 percent to establish the care related base rate component.

c. The administrative and operating median shall be multiplied times 105 percent to establish the administrative and operating base rate component.

5. At least every three years, audited and desk reviewed cost report items will be compared to the rate components calculated for the cost report year to insure that the rates remain reasonably related to costs.

6. Formulae. Each median cost component shall be calculated as follows.

a. *Direct Care Cost Component*. Direct care allowable quarter hour costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by dividing the value of the consumer price index-medical services (south region) index for December of the year preceding the rate year by the value of the index for the December of the year preceding the cost report year. The direct care rate component shall be set at 115 percent of the inflated median.

b. *Care Related Cost Component*. Care related allowable quarter hour costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by the value of the consumer price index-all items (south region) index for December of the year preceding the rate year by the value of the index for the December of the year preceding the cost report year. The care related rate component shall be set at 105 percent of the inflated median.

c. *Administrative and Operating Cost Component*. Administrative and operating allowable quarter hour cost from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost of the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by dividing the value of the CPI-all items (south region) index for December of the year preceding the base rate year by the value of the index for the December of the year preceding the cost report year. The administrative and operating rate component shall be set at 105 percent of the inflated median.

d. *Property Cost Component*. The property allowable quarter hour costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. This will be the rate component. Inflation will not be added to property costs.

e. *Transportation Cost Component*. The transportation allowable quarter hour costs from all acceptable full year cost reports, except those for which an audit disclaimer has been issued, will be calculated on a

provider by provider basis. Should a provider not have filed an acceptable full year cost report, the provider's transportation cost will be reimbursed as follows.

i. New provider, as described in §723.E.1, will be reimbursed in an amount equal to the statewide allowable quarter hour median transportation costs.

(a). In order to calculate the statewide allowable quarter hour median transportation costs, all acceptable full year cost reports, except those for which an audit disclaimer has been issued, shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. This will be the rate component. Inflation will not be added to transportation costs.

ii. Providers that have gone through a change of ownership (CHOW), as described in §723.E.2, will be reimbursed for transportation costs based upon the previous owner's specific allowable quarter hour transportation costs for the period of time between the effective date of the CHOW and the first succeeding base year in which the new owner could possibly file an allowable 12-month cost report. Thereafter, the new owner's data will be used to determine the provider's rate following the procedures specified in this Rule.

iii. Providers that have been issued an audit disclaimer, or have a non-filer status, as described in §723.E.3, will be reimbursed for transportation costs at a rate equal to the lowest allowable quarter hour transportation cost (excluding providers with no transportation costs) in the state as of the most recent audited and/or desk reviewed rate database.

iv. For rate periods between rebasing years, if a provider discontinues transportation services and reported no transportation costs on the most recently audited or desk reviewed cost report, no center specific transportation rate will be added to the center's total rate for the rate year.

7. Budgetary Constraint Rate Adjustment. Effective for the rate period July 1, 2011 to July 1, 2012, the allowable quarter hour rate components for direct care, care related, administrative and operating, property, and transportation shall be reduced by 10.8563 percent.

8. Interim Adjustments to Rates. If an unanticipated change in conditions occurs that affects the cost of at least 50 percent of the enrolled ADHC providers by an average of 5 percent or more, the rate may be changed. The department will determine whether or not the rates should be changed when requested to do so by 25 percent or more of the enrolled providers, or an organization representing at least 25 percent of the enrolled providers. The burden of proof as to the extent and cost effect of the unanticipated change will rest with the entities requesting the change. The department may initiate a rate change without a request to do so. Changes to the rates may be temporary adjustments or base rate adjustments as described below.

a. Temporary Adjustments. Temporary adjustments do not affect the base rate used to calculate new rates.

i. Changes Reflected in the Economic Indices. Temporary adjustments may be made when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, a change in FICA or a utility rate change, occur after the end of the period covered by the

indices(i.e., after the December preceding the rate calculation). Temporary adjustments are effective only until the next annual base rate calculation.

ii. Lump Sum Adjustments. Lump sum adjustments may be made when the event causing the adjustment requires a substantial financial outlay, such as a change in certification standards mandating additional equipment or furnishings. Such adjustments shall be subject to the bureau's review and approval of costs prior to reimbursement.

b. Base Rate Adjustment. A base rate adjustment will result in a new base rate component value that will be used to calculate the new rate for the next fiscal year. A base rate adjustment may be made when the event causing the adjustment is not one that would be reflected in the indices.

9. Provider Specific Adjustment. When services required by these provisions are not made available to the participant by the provider, the department may adjust the prospective payment rate of that specific provider by an amount that is proportional to the cost of providing the service. This adjustment to the rate will be retroactive to the date that is determined by the department that the provider last provided the service and shall remain in effect until the department validates, and accepts in writing, an affidavit that the provider is then providing the service and will continue to provide that service.

C. Cost Settlement. The direct care cost component shall be subject to cost settlement. The direct care floor shall be equal to 70 percent of the median direct care rate component trended forward for direct care services (plus 70 percent of any direct care incentive added to the rate). The Medicaid Program will recover the difference between the direct care floor and the actual direct care amount expended. If a provider receives an audit disclaimer, the cost settlement for that year will be based on the difference between the direct care floor and the lowest direct care per diem of all centers in the most recent audited and/or desk reviewed database. If the lowest direct care per diem of all centers in the most recent audited and/or desk reviewed database is lower than 50 percent of the direct care rate paid for that year, 50 percent of the direct care rate paid will be used as the provider's direct care per diem for settlement purposes.

D. Support Coordination Services Reimbursement. Support coordination services previously provided by ADHC providers and included in the rate, including the interRAI Home Care assessment, the social assessment, the nursing assessment, the plan of care (POC) and home visits are no longer the responsibility of the ADHC provider. Support coordination services shall be provided as a separate service covered in the waiver programs. As a result of the change in responsibilities, the rate paid to ADHC providers was adjusted accordingly.

E. New Centers, Changes of Ownership of Existing Centers, and Existing Centers with Disclaimer or Non-Filer Status.

1. New centers are those entities whose beds have not previously been certified to participate, or otherwise have participated, in the Medicaid program. New centers will be reimbursed in accordance with this Rule and receiving the direct care, care related, administrative and operating, property rate components as determined in §723.B.1-6. These new centers will also receive the state-wide average

transportation rate component, as calculated in §723.B.6.e.i.(a), effective the preceding July 1.

2. A change of ownership exists if the beds of the new owner have previously been certified to participate, or otherwise have participated, in the Medicaid program under the previous owner's provider agreement. Rates paid to centers that have undergone a change in ownership will be based upon the rate paid to the previous owner for all rate components. Thereafter, the new owner's data will be used to determine the center's rate following the procedures in this Rule.

3. Existing providers that have been issued an audit disclaimer, or are a provider who has failed to file a complete cost report in accordance with §711, will be reimbursed based upon the statewide allowable quarter hour median costs for the direct care, care related, administrative and operating, and property rate components as determined in §723.B.1-7. No inflation or median adjustment factor will be included in these components. The transportation component will be reimbursed as described in §723.B.6.e.iii.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based Services

Waivers

Subpart 3. Adult Day Health Care

Chapter 29. Reimbursement

§2901. General Provisions

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 Human Resources, Office of Family Security, LR 11:626 (June 1985), amended LR 13:181 (March 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1154 (September 1997), repromulgated LR 30:2041 (September 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Aging and Adult Services, LR 32:2257 (December 2006), LR 34:2164 (October 2008), repromulgated LR 34:2569 (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 39:2497 (September 2013), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§2903. Cost Reporting

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 Aging and Adult Services, LR 34:2164 (October 2008), repromulgated LR 34:2569 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2626 (September 2011), LR 41:379 (February 2015), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§2905. Cost Categories Included in the Cost Report

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 Aging and Adult Services, LR 34:2166 (October 2008), repromulgated LR 34:2571 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2626 (September 2011), amended LR 41:381 (February 2015), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:324 (February 2017), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§2907. Allowable Costs

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, the Office of Aging and Adult Services, LR 34:2168 (October 2008), repromulgated LR 34:2573 (December 2008), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§2909. Non-allowable Costs

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, the Office of Aging and Adult Services, LR 34:2169 (October 2008), repromulgated LR 34:2573 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 41:382 (February 2015), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§2911. Audits

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, the Office of Aging and Adult Services, LR 34:2169 (October 2008), repromulgated LR 34:2574 (December 2008), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§2913. Exclusions from the Database

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, the Office of Aging and Adult Services, LR 34:2170 (October 2008), repromulgated LR 34:2574 (December 2008), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

§2915. Provider Reimbursement

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, the Office of Aging and Adult Services, LR 34:2170 (October 2008), repromulgated LR 34:2575 (December 2008), amended by the Department of Health and Hospitals,

Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:2157 (July 2011), LR 37:2627 (September 2011), repromulgated LR 38:1594 (July 2012), amended LR 39:507 (March 2013), LR 41:382 (February 2015), repealed by the Department of Health, Bureau of Health Services Financing, the Office for Citizens with Developmental Disabilities and the Office of Aging and Adult Services, LR 47:

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.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on June 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on June 9, 2021. If the criteria set forth in R.S.49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on June 24, 2021 in Room 118 of the Bienville Building, which

is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225)342-1342 after June 9, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Home and Community-Based Services Waivers—Cost Reporting Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$6,696 (\$3,348 SGF and \$3,348 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$3,348 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing home and community-based services (HCBS) waivers in order to: 1) repeal LAC 50:XXI.Chapter 29 of the Adult Day Health Care (ADHC) Waiver Rule in its entirety and incorporate the language into LAC 50:XXI.Chapter 7 of the general provisions for HCBS waivers providers; 2) add provisions stating that personal care service and adult day health care providers may be penalized for failing to submit cost reports timely; and 3) remove outdated language from the administrative Rule. It is anticipated that the implementation of this proposed Rule will not result in costs for FY 20-21, FY 21-22, and FY 22-23, but may result in decreased payments ADHC and PCS providers who are assessed a penalty for submitting cost reports after the deadline.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2105#042

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT
Department of Health
Bureau of Health Services Financing

Home Health Program
Durable Medical Equipment

The Department of Health, Bureau of Health Services Financing proposes to repeal the following uncodified Rules in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act:

Register Date	Title	Register Volume, Number	Page Number
October 20, 1984	Kangaroo Pump	Vol. 10, No. 10	802
June 20, 2004	Durable Medical Equipment Program - HIPAA Implementation	Vol. 30, No. 6	1210

This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to repeal the Rules governing Kangaroo Pump (*Louisiana Register*, Volume 10, Number 10) and Durable Medical Equipment Program - HIPAA Implementation (*Louisiana Register*, Volume 30, Number 6) as it has been determined that the provisions of these Rules are procedural requirements that are included in the provider manual.

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on staffing level requirements or

qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to this proposed Rule. The deadline for submitting written comments is at close of business, 4:30 p.m., on June 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on June 9, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on June 24, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after June 9, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Home Health Program
Durable Medical Equipment**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$216 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule repeals the Rules governing "Kangaroo Pump" and "Durable Medical Equipment Program - HIPAA Implementation" that were promulgated prior to

implementation of the Louisiana Administrative Code codification system, as it has been determined that the provisions of these Rules are procedural requirements that are included in the provider manual. It is anticipated that implementation of this proposed Rule will not result in costs to Medicaid providers or small businesses in FY 20-21, FY 21-22 and FY 22-23, but will be beneficial by ensuring that operational procedures are not promulgated in the durable medical equipment administrative Rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2105#043

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for
Persons with Intellectual Disabilities
Reimbursement Methodology
Direct Care Floor Recoupment
(LAC 50:VII.32901)

The Department of Health, Bureau of Health Services Financing proposes to amend the LAC 50:VII.32901 as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing reimbursement for non-state intermediate care facilities for persons with intellectual disabilities in order to establish an effective date for the remittance of funds owed to the department by facilities that fail to meet the required direct care floor and specify that filing an administrative appeal does not suspend or delay the imposition of this recoupment.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 329. Reimbursement Methodology

Subchapter A. Non-State Facilities

§32901. Cost Reports

A. - B.2. ...

C. Direct Care Floor

1. - 4. ...

5. Upon completion of desk reviews or audits, facilities will be notified by the bureau of any changes in amounts due based on audit or desk review adjustments.

a. Direct care floor recoupment as a result of a facility not meeting the required direct care per diem floor is considered effective 30 days from the issuance of the original notice of determination. Should an informal reconsideration be requested, the recoupment will be considered effective 30 days from the issuance of the results of an informal hearing. The filing of a timely and adequate

notice of an administrative appeal does not suspend or delay the imposition of a recoupment(s).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 31:1592 (July 2005), repromulgated LR 31:2252 (September 2005), amended LR 33:461 (March 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 44:1446 (August 2018), LR 46:28 (January 2020), LR 47:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase the direct or indirect cost to provide the same level of service as described in HCR 170 for facilities that fail to meet the required direct care floor.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on June 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on June 9, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on June 24, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To

confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after June 9, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Intermediate Care Facilities for Persons
with Intellectual Disabilities—Reimbursement
Methodology—Direct Care Floor Recoupment**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule may have an indeterminable savings to the state for FY 20-21, FY 21-22, and FY 22-23, since it establishes a timeframe for intermediate care facilities that fail to meet the required direct care floor to remit funds owed to the department. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no impact on revenue collections for FY 20-21, FY 21-22, and FY 22-23, as it will result in a reduction in future payments to recoup monies owed from providers that fail to meet the required direct care floor. It is anticipated that \$270 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule amends the provisions governing reimbursement methodology for intermediate care facilities for persons with intellectual disabilities (ICFs/IID) in order to establish an effective date for the remittance of funds owed to the department by facilities that fail to meet the required direct care floor and specify that filing an administrative appeal does not suspend or delay the imposition of this recoupment. This proposed Rule will impact ICFs/IID since it will implement a 30-day effective date for the direct care floor recoupment. It is anticipated that implementation of this proposed Rule may result in an indeterminable cost to ICFs/IID that have a recoupment imposed in FY 20-21, FY 21-22, and FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2105#044

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities**

Targeted Case Management
(LAC 50:XV.Chapters 101-117)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities proposes to amend LAC 50:XV.Chapters 101-113 and 117, and repeal 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 proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend the provisions governing the Targeted Case Management Program in order to: 1) repeal the provisions limiting the maximum number of recipients and the percentages of the available recipient population that a case management agency may serve in a region; and 2) update language throughout the administrative Rule to reflect current practices.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 101. General Provisions

§10101. Program Description

A. This Subpart 7 governs the provision of case management services to targeted population groups and certain home and community based services waiver groups. The primary objective of case management is the attainment of the personal outcomes identified in the recipient's comprehensive plan of care. All case management agencies shall be required to incorporate personal outcome measures in the development of comprehensive plans of care and to implement procedures for self-evaluation of the agency. All case management agencies shall comply with the policies contained in this Subpart 7. Case management is defined as services provided to individuals to assist them in gaining access to the full range of needed services including:

1. - 4. ...

B. The department utilizes a broker model of case management in which recipients are referred to other agencies for the specific services they need. These services are determined by individualized planning with the recipient's family or legal guardian and other persons/professionals deemed appropriate. Services are provided in accordance with a written comprehensive plan of care which includes measurable person-centered outcomes.

C. Recipient Freedom of Choice. Recipients have the right to select the provider of their case management services from among those available agencies enrolled to participate in the program. If the recipient fails to respond

the department shall automatically assign them to an available provider. Recipients who are auto-assigned may change once, after 30 days but before 45 days of auto assignment, to an available provider.

D. Recipients shall be linked to a case management agency for a six-month period before they can transfer to another agency unless there is good cause for the transfer. Approval of good cause shall be made by the LDH case management administrator. Good cause is determined to exist under the following circumstances:

1. the recipient moves to another LDH region; or
2. ...

E. Recipients who are age 25 and under and require ventilator assisted care may receive their case management services through the Children's Hospital Ventilator Assisted Care Program.

F. Monitoring. The Department of Health and the Department of Health and Human Services have the authority to monitor and audit all case management agencies in order to determine continued compliance with the rules, policies, and procedures governing case management services.

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 Human Resources, Office of Family Security, LR 12:834 (December 1986), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:648 (May 1993), LR 23:732 (June 1997), repealed and promulgated LR 25:1251 (July 1999), repromulgated for inclusion in LAC, LR 30:1036 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

Chapter 103. Core Elements

§10301. Services

A. - A.1. ...

2. Case Management Assessment. Assessment is the process of gathering and integrating formal and informal information regarding a recipient's goals, strengths, and needs to assist in the development of a person centered comprehensive plan of care. The purpose of the assessment is to assess support needs of the recipient for the provision of supports. The assessment shall be performed in the recipient's home or another location that the recipient's family or legal guardian chooses.

3. Comprehensive Plan of Care Development. The comprehensive plan of care (CPOC) is a written plan based upon assessment data (which may be multidisciplinary), observations and other sources of information which reflect the recipient's needs, capacities and priorities. The CPOC attempts to identify the supports required and the resources available to meet these needs.

a. The CPOC shall be developed through a collaborative process involving the recipient, family or legal guardian, case manager, other support systems, appropriate professionals, and service providers. It shall be developed in the presence of the recipient; therefore, it cannot be completed prior to a meeting with the recipient. The recipient, family or legal guardian, case manager, support system and appropriate professional personnel shall be

directly involved and agree to assume specific functions and responsibilities.

b. The CPOC shall be completed and submitted for approval within 60 calendar days of the referral for case management services for initial CPOCs.

4. Case Management Linkage. Linkage is assignment of the case management agency (CMA) to an individual. The CMA is responsible for the arranging of services agreed upon with the recipient and identified in the CPOC. Upon the request of the recipient or responsible party, attempts shall be made to meet service needs with informal resources as much as possible.

5. Case Management Follow-Up/Monitoring. Follow-up/monitoring is the mechanism used by the case manager to assure the appropriateness of the CPOC. Through follow-up/monitoring activity, the case manager not only determines the effectiveness of the CPOC in meeting the recipient's needs, but identifies when changes in the recipient's status necessitate a revision in the CPOC. The purpose of follow-up/monitoring contacts is to determine:

- a. if supports are being delivered as planned;
- b. if supports are effective and adequate to meet the recipient's needs; and
- c. whether the recipient is satisfied with the supports.

6. Case Management Reassessment. Reassessment is the process by which the baseline assessment is reviewed and information is gathered for evaluating and revising the overall CPOC. At least every quarter, a complete review of the CPOC shall be performed to assure that the goals and services are appropriate to the recipient's needs as identified in the assessment/reassessment process. A reassessment is also required when a major change occurs in the status of the recipient and/or his family or legal guardian.

7. Case Management Transition/Closure

a. Provided that the recipient has satisfied the requirements of linkage under §10301.A.4, discharge from a case management agency shall occur when the recipient:

i. - iv. ...

b. The closure process shall ease the transition to other services or care systems. The agency shall not retaliate in any way against the recipient for terminating services or transferring to another agency for case management services.

B. In addition to the provision of the core elements, a minimum of one home visit per quarter is required for all recipients of optional targeted and waiver case management services with the exception of individuals participating in either the Children's Choice Waiver or the Supports Waiver. The Children's Choice Waiver requires an in-home visit within six to nine months of the start of a plan of care. Additionally, an in-home visit is required for the annual planning meeting. For Supports Waiver, the in-home visit is required once a year. The remaining quarterly visit may occur at the vocational agency's location. The agency shall ensure that more frequent home visits are performed if indicated in the recipient's CPOC. The purpose of the home visit, if it is determined necessary, is to:

1. - 3. ...

C. The case management agency shall monitor service providers quarterly through telephone monitoring, on-site observation of service visits and review of the service

providers' records. The agency shall also ensure that the service provider and recipient are given a copy of the recipient's most current CPOC and any subsequent updates.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:834 (December 1986) amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 19:648 (May 1993), LR 23:732 (June 1997), repealed and promulgated LR 25:1251 (July 1999), repromulgated LR 30:1036 (May 2004), amended by the Department of Health, Bureau of Health Services Financing, and the Office for Citizens with Developmental Disabilities, LR 47:

Chapter 105. Provider Participation

§10501. Participation Requirements

A. In order to participate as a case management services provider in the Medicaid Program, an agency shall comply with:

1. ...
2. provider enrollment;
3. ...
4. the specific terms of individual performance agreements.

B. The participation of case management agencies providing service to targeted and waiver populations shall be limited contingent on the approval of a 1915(b)(4) waiver by the Centers for Medicare and Medicaid Service (CMS).

C. The following are enrollment requirements applicable to all case management agencies, regardless of the targeted or waiver group served. Failure to comply with these requirements may result in sanctions and/or recoupment and disenrollment. The agency shall:

1. demonstrate direct experience in successfully serving the target population and shall have demonstrated knowledge of available community services and methods for accessing them including:

- a. the maintenance of a current file containing community resources available to the target population and established linkages with those resources;

- b. demonstrating knowledge of the eligibility requirements and application procedures for federal, state, and local government assistance programs which are applicable to the target population served;

- c. the employ of sufficient number of case manager and supervisory staff to comply with the staff coverage, staffing qualifications and maximum caseload size requirements described in §§10503, Provider Responsibilities and 10701, Reimbursement.

2. demonstrate administrative capacity and financial resources to provide all core elements of case management services and ensure effective service delivery in accordance with LDH licensing and programmatic requirements;

3. submit a yearly audit of case management costs only and have no outstanding or unresolved audit disclaimer(s) with LDH;

4. assure that all agency staff is employed in accordance with Internal Revenue Service (IRS) and Department of Labor regulations. The subcontracting of individual case managers and/or supervisors is prohibited. However, those agencies who have Medicaid contracts/performance agreements for case management services may subcontract with another licensed case

management agency for case manager and/or supervisory staff if prior approval has been obtained from the department;

5. assure that all new staff satisfactorily completes an orientation and training program in the first 90 days of employment. All case managers shall attend all training mandated by the department. Each case manager and supervisor shall satisfactorily complete case management related training annually to meet the minimum training requirements;

6. submit to the local governing entity (LGE) an agency quality assurance plan (QAP) for approval within 90 days of enrollment. Six months following approval of the QAP and annually thereafter, the agency shall submit an agency self-evaluation in accordance with departmental guidelines;

7. document and maintain recipient records in accordance with federal and state regulations governing confidentiality and licensing requirements;

8. assure the recipient's right to elect to receive or terminate case management services (except for recipients in any OCDD waiver). Assure that each recipient is offered freedom of choice in the selection of an available case management agency (per agency policy);

9. assure that the agency and case managers shall not provide case management and Medicaid reimbursed direct services to the same recipient(s) unless by an affiliate agency with a separate board of directors;

10. with the recipient's permission, agree to maintain regular contact, share relevant information and coordinate medical services with the recipient's qualified licensed physician or other licensed health care practitioner who is acting within the scope of practice of his/her respective licensing board(s) and/or certification(s);

11. demonstrate the capacity to participate in the department's electronic data gathering system(s). All requirements for data submittal shall be followed and participation is required for all enrolled case management agencies. The software is the property of the department;

12. complete management reports; and

13. assure that all current and potential employees, contractors and other agents and affiliates have not been excluded from participation in any federal health care program by checking the Department of Health and Human Services' Office of Inspector General website and the LDH Adverse Actions website upon hire and monthly thereafter. Potential employees must also have a satisfactory response to a criminal background check as required by the EarlySteps program.

D. - D.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 Human Resources, Office of Family Security, LR 12:834 (December 1986) amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:732 (June 1997) repealed and promulgated LR 25:1251 (July 1999), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 29:38 (January 2003), repromulgated for inclusion in LAC, LR 30:1037 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office of Citizens with Developmental Disabilities, LR 32:1608

(September 2006), amended LR 34:663 (April 2008), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

§10503. Provider Responsibilities

A. In order to be reimbursed by the Medicaid Program, an enrolled provider of targeted or waiver case management service shall comply with all of the requirements listed in this §10503.

B. Case management agencies shall maintain sufficient staff to serve recipients within the mandated caseload size of 35 with a supervisor to staff ratio of no more than eight case managers per supervisor. Agencies have the option to submit a written request to OCDD if they would like to exceed the 35 recipient maximum caseload per case manager on a time-limited basis. All exceptions to the maximum caseload size or full-time employment of staff requirements shall be prior authorized by the OCDD State Office Waiver Director/designee. All case managers shall be employed by the agency at least 40 hours per week and work at least 50 percent of the time during normal business hours (8 a.m. to 5 p.m., Monday through Friday). Case management supervisors shall be full-time employees and shall be continuously available to case managers. The agency shall have a written policy to ensure service coverage for all recipients during the normal absences of case managers and supervisors or prior to the filling of vacated staff positions.

C. The agency shall maintain a toll-free telephone number to ensure that recipients have access to case management services 24 hours a day, seven days a week. Recipients shall be able to reach an actual person in case of an emergency, not a recording.

D. ...

1. Each case management agency shall have a written job description and consultation plan that describes how the nurse consultant shall participate in the comprehensive plan of care (CPOC) development for medically complex individuals and others as indicated by the high risk indicators.

2. ...

3. The nurse consultant shall be available to the case management agency at least four hours per week.

E. Records. All agency records shall be maintained in an accessible, standardized order and format at the LDH enrolled office site. The agency shall have sufficient space, facilities, and supplies to ensure effective record keeping.

1. Administrative and recipient records shall be maintained in a manner to ensure confidentiality and security against loss, tampering, destruction, or unauthorized use.

2. The case management agency shall retain its records for the longer of the following time frames:

a. six years from the date of the last payment; or

b. until the records are audited and all audit questions are answered.

3. Agency records shall be available for review by the appropriate state and federal personnel at all reasonable times.

F. - F.3. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:834 (December 1986) amended by the Department of Health

and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:732 (June 1997) repealed and promulgated LR 25:1251 (July 1999), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 29:38 (January 2003), repromulgated for inclusion in LAC, LR 30:1038 (May 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

§10505. Staff Education and Experience

A. Each Medicaid-enrolled agency shall ensure that all staff providing case management services meet the qualifications required in this §10701 prior to assuming any full caseload responsibilities.

B. Case managers hired or promoted on or after the effective date of this rule revision shall meet the following criteria for education and experience qualifications:

1. a bachelor's degree or master's degree in social work from a program accredited by the Council on Social Work Education; or

2. a currently licensed registered nurse (RN); or

3. a bachelor's or master's degree in a human service related field which includes psychology education, counseling, social services, sociology, philosophy, family and consumer sciences, criminal justice, rehabilitation services, child development, substance abuse, gerontology, and vocational rehabilitation; or

a. Repealed.

4. a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the fields listed in accordance with §10505.B.3.

C. Case management supervisors hired or promoted on or after the effective date of this rule revision, shall meet the following criteria for education and experience:

1. a bachelor's or master's degree in social work from a program accredited by the Council on Social Work Education and two years of paid post degree experience in providing support coordination services; or

2. a currently licensed registered nurse with at least two years of paid nursing experience; or

3. a bachelor's or master's degree in a human service related field which includes psychology, education, counseling, social services, sociology, philosophy, family and consumer sciences, criminal justice, rehabilitation services, child development, substance abuse, gerontology, and vocational rehabilitation and two years of paid post degree experience in providing support coordination services; or

4. a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the fields listed in §10505.C.3 and two years of paid post degree experience in providing support coordination services.

a. Repealed.

D. Nurse Consultant. The nurse consultant shall meet the following educational qualifications:

1. - 2. ...

E. - E.2.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 Human Resources, Office of Family Security, LR 12:834 (December 1986) amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:732 (June 1997) repealed and promulgated LR 25:1251 (July 1999), amended by the Department of Health and

Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 29:38 (January 2003), repromulgated for inclusion in LAC, LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:663 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1700, 1701 (September 2014), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

§10507. Staff Training

A. Training for case managers and supervisors shall be provided or arranged for by the case management agency. Agencies shall send the appropriate staff to all training mandated by LDH.

B. Training for New Staff. A minimum of 16 hours of orientation shall be provided to all staff, volunteers, and students within one week of employment. A minimum of eight hours of the orientation training shall address the target population including, but not limited to, specific service needs, available resources and other topics. In addition to the required 16 hours of orientation, all new employees who have no documentation of previous training shall receive a minimum of 16 hours of training during the first 90 calendar days of employment related to the target population and the skills and techniques needed to provide case management to that population.

C. Annual Training. Case managers and supervisors shall satisfactorily complete a minimum of 20 hours of case management-related training annually which may include updates on subjects covered in orientation and initial training. The 16 hours of orientation training required for new employees are not included in the annual training requirement of at least 20 hours.

D. Documentation. All training required in Subsections B and C above shall be evidenced by written documentation and provided to the department upon request.

E. - E.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:834 (December 1986) amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:732 (June 1997), repealed and promulgated (LR 25:1251 (July 1999), amended LR 26:2796 (December 2000), LR 26:2797 (December 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 29:39 (January 2003), repromulgated LR 30:1039 (May 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

Chapter 107. Reimbursement

§10701. Reimbursement

A. Reimbursement for case management services for the Infant and Toddler Program (EarlySteps):

1. ...
2. All services shall be prior authorized.

B. - B.2.

C. Effective for dates of service on or after July 1, 2012, the reimbursement rate for case management services provided to the following targeted populations shall be reduced by 1.5 percent of the rates on file as of June 30, 2012:

1. participants in the Early and Periodic Screening, Diagnosis, and Treatment Program; and

2. individuals with developmental disabilities who participate in the New Opportunities Waiver.

D. Effective for dates of service on or after July 1, 2014, case management services provided to participants in the New Opportunities Waiver shall be reimbursed at a flat rate for each approved unit of service.

1. The standard unit of service is equivalent to one month and covers both service provision and administrative (overhead) costs.

- a. Service provision includes the core elements in:
 - i. §10301 of this Chapter;
 - ii. the case management manual; and
 - iii. performance agreements.

2. All services shall be prior authorized.

E. Effective for dates of service on or after April 1, 2018, case management services provided to participants in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program shall be reimbursed at a flat rate for each approved unit of service. The standard of service is equivalent to one month.

E.1. - L. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3302 (December 2013), LR 40:1700, 1701 (September 2014), LR 41:1490 (August 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 44:63 (January 2018), LR 47:

§10703. Cost Reports

A. Case management agencies shall provide annual cost reports based on the state fiscal year, July 1 through June 30. Completed reports are due within 90 calendar days after the end of each state fiscal year or by September 28 of each calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:73 (January 2009), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

Chapter 109. Infants and Toddlers

§10901. Introduction

A. This Chapter authorizes federal financial participation in the funding of optional targeted case management service for title XIX eligible infants and toddlers who are ages birth through 2 inclusive (0-36 months) who have a developmental delay or established medical condition associated with developmental delay according to the definition contained in part C of the Individuals with Disabilities Education Act, Sec.635(a)(1) [20 USC 1435 (a)(1)] and as further defined in Title 34 of the *Code of*

Federal Regulations, Part 303, Section 21 (infant or toddler with a disability).

- B. - B.4. ...
- C. Definitions

* * *

Individualized Family Service Plan (IFSP)—a written plan that is developed jointly by the family and service providers which identifies the necessary services to enhance the development of the child as well as the family’s capacity to meet the needs of their child. The IFSP shall be based on the multidisciplinary evaluation and assessment of the child and the family’s identification of their strengths and needs. The initial IFSP shall be developed within 45 days following the referral to the regional system point of entry office with periodic reviews conducted at least every six months and an annual evaluation to review and revise the IFSP as appropriate.

Multidisciplinary Evaluation (MDE)—the involvement of two or more disciplines or professions in the provision of integrated and coordinated diagnostic procedures to determine a child’s eligibility for early intervention services. The evaluation shall include all major developmental areas including cognitive development, physical development including:

- a. ...
- b. hearing and communication development;
- c. social-emotional development;
- d. - f. ...

Parent—the term parent/legal guardian when used throughout this Subpart specifically in reference to parents or legal guardians of infants and toddlers aged birth through 2 inclusive (0-36 months) and having a developmental delay or an established medical condition associated with developmental delay refers to the definition of parent according to the Individuals with Disabilities Act, Part C and its accompanying regulations for Early Intervention Programs for Infants and Toddlers with Disabilities and therefore means the following:

- a. a biological or adoptive parent of a child;
- b. a foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;
- c. a guardian generally authorized to act as the child’s parent or authorized to make early intervention, educational, health, or developmental decisions for the child (but not the State if the child is a ward of the State);
- d. an individual acting in the place of a biological or adoptive parent (including grandparent, stepparent, or other

relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or

- e. a surrogate parent who has been appointed in accordance with 34 CFR 303.422 or with the Individuals with Disabilities Education Act, Sec. 639(a)(5) [20 USC 1439(a)(5)].

NOTE: When more than one party is qualified under the definition contained in this Subsection to act as the parent, the biological or adoptive parent must be presumed to be the parent for purposes of Part C of the Individuals with Disabilities Education Act, when attempting to act as the parent under this definition, unless the biological or adoptive does not have legal authority to make educational or early intervention services decisions for the child. If a judicial decree or order identifies a specific person or persons under this subsection to act as the parent of a child to make educational or early intervention service decisions on behalf of the child, then the person or persons must be determined to be the parent for purposes of Part C of the Individuals with Disabilities Education Act, except that if an early intervention services (EIS) provider or a public agency provides any services to a child or any family member of that child, that EIS provider or public agency may not act as a parent for that child.

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 18:849 (August 1992), amended LR 20:18 (January 1994), repromulgated for inclusion in LAC, LR 30:1040 (May 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

§10903. Staff Qualifications

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 18:849 (August 1992), amended LR 20:18 (January 1994), repromulgated for inclusion in LAC, LR 30:1040 (May 2004), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

§10905. Staff Training

A. The provider shall ensure that Medicaid-funded family service coordination services for eligible beneficiaries are provided by qualified individuals who meet the following training requirements:

- 1. satisfactory completion of at least 16 hours of orientation prior to performing any family service coordination tasks and an additional 24 hours of related training during the first 90 days of employment. The 16 hours of orientation cover the following subjects:

Agency Specific Training—Eight Hours	
1 hour	Child identification abuse reporting law, emergency and safety procedures
3 hours	Facility personnel policy
4 hours	Orientation to agency policy, including billing and documentation
EarlySteps Specific Training—Eight Hours	
1 hour	Components of the EarlySteps system
1 1/2 hours	Orientation to family needs and participation
2 hours	Interagency agreement/focus and team building
1 hour	Early intervention services (definition and resources)
1 hour	Child search and family service coordinator roles and responsibilities
1 1/2 hours	Multidisciplinary evaluation (MDE) and individualized Family service plan (IFSP) overview.

2. The 24 hours of training to be completed within the first 90 days shall cover the following advanced subjects:

a. state structure for EarlySteps, child search and early intervention service programs;

b. - j. ...

B. In-service training specific to EarlySteps is to be arranged and coordinated by the regional infant and toddler coordinator and specific training content shall be approved by a subcommittee of the state Interagency Coordinating Council, including members from at least the Medicaid agency and the Department of Education. Advanced training in specific subjects (i.e., multidisciplinary evaluations and individualized family service plans) shall be completed by the new family service coordinator prior to assuming those duties.

C. The provider shall ensure that each family service coordinator has completed the required orientation and advanced training during the first 90 days of employment and at least 20 hours of approved in-service education in family service coordination and related areas annually.

D. The provider shall ensure that family service coordinators are supervised by qualified individuals who meet the following licensure, education, experience, training, and other requirements:

1. satisfactorily completion of at least the 20 hours of family service coordination and related orientation required of family service coordinators during the first 90 days of employment before assuming supervision of any family service coordination;

2. supervisors shall also complete 20 hours of in-service training each year on such subjects as:

a. - c. ...

E. The provider shall sign a notarized letter of assurance that the requirements of Louisiana Medicaid are met.

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 18:849 (August 1992), amended LR 19:648 (May 1993), LR 20:18 (January 1994), repromulgated for inclusion in LAC, LR 30:1040 (May 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

Chapter 113. Early and Periodic Screening, Diagnosis and Treatment

§11301. Introduction

A. This Early and Periodic Screening, Diagnosis and Treatment (EPSDT) targeted population shall consist of recipients who are between the ages of 0 and 21 years old, on the Request for Services Registry, and meet the specified eligibility criteria. The point of entry for targeted EPSDT case management services shall be the state Medicaid data contractor for EPSDT case management services. However, for those recipients under 3 years of age, case management services shall continue to be provided through EarlySteps, for eligible children.

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 26:2797 (December 2000), repromulgated for inclusion in LAC, LR 30:1042 (May 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

§11303. Recipient Qualifications

A. In order to be eligible to receive case management services, the EPSDT recipient shall be between the age of 0 and 21 and meet one of the following criteria:

1. placement on the Request for Services Registry and determined to be eligible for OCDD services through the statement of approval process; or

2. for those who do not meet eligibility, or who are not undergoing eligibility determination, may still receive case management services if they meet the definition of a person with special needs.

a. *Special Needs*—a documented, established medical condition, as determined by a licensed physician or other qualified licensed health care practitioner in accordance with §10501.C.10, that has a high probability of resulting in a developmental delay or that gives rise to a need for multiple medical, social, educational, and other services. In the case of a hearing impairment, the determination of special needs must be made by a licensed audiologist or physician or other qualified licensed health care practitioner in accordance with §10501.C.10.

3. Documentation that substantiates that the EPSDT recipient meets the definition of special needs for case management services includes, but is not limited to:

a. ...

b. receipt of regular services from one or more physicians or other qualified licensed health care practitioner in accordance with §10501.C.10; or

c. ...

d. a report by the recipient's physician or other qualified licensed health care practitioner in accordance with §10501.C.10 of multiple health or family issues that impact the recipient's ongoing care; or

e. a determination of developmental delay based upon:

i. ...

ii. the Brigance Screens;

iii. - v. ...

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 26:2797 (December 2000) repromulgated for inclusion in LAC, LR 30:1042 (May 2004), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

Chapter 115. Foster Care and Family Support Worker Services

§11501. Introduction

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 41:1723 (September 2015), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

§11503. Covered Services

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 41:1723 (September 2015), repealed by the Department of Health,

Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

§11505. Reimbursement

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 41:1724 (September 2015), repealed by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

Chapter 117. Individuals with Intellectual Disabilities

§11701. Introduction

A. The targeted population for case management services shall consist of individuals with intellectual disabilities who are participants in the New Opportunities 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, Office of the Secretary, Bureau of Health Services Financing, LR 16:312 (April 1990), amended LR 23:732 (June 1997), repealed and promulgated LR 25:1251 (July 1999), repromulgated for inclusion in LAC, LR 30:1043 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:664 (April 2008), amended by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

§11703. Electronic Visit Verification

A. An electronic visit verification (EVV) system shall be used for verifying in-home or face-to-face visit requirements for case management services.

1. Case management providers identified by the department shall use the (EVV) system designated by the department;

2. Reimbursement for services may be withheld or denied if a provider:

a. fails to use the EVV system; or

b. uses the system not in compliance with Medicaid's policies and procedures for EVV.

3. Requirements for proper use of the EVV system are outlined in the respective program's guidelines.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 47:

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.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on June 29, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on June 9, 2021. If the criteria set forth in R.S.49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on June 24, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225)342-1342 after June 9, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Targeted Case Management

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 20-21. It is anticipated that \$3,996 (\$1,998 SGF and \$1,998 FED) will be expended in FY

20-21 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 20-21. It is anticipated that \$1,998 will be collected in FY 20-21 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The Department of Health, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities propose to amend the provisions governing the Targeted Case Management Program in order to: 1) repeal the provisions limiting the maximum number of recipients and the percentages of the available recipient population that a case management agency may serve in a region; and 2) update language throughout the administrative Rule to reflect current practices. It is anticipated that implementation of this proposed rule will not result in costs to targeted case management providers in FY 20-21, FY 21-22 and FY 22-23, but will be beneficial by removing the limitation on the maximum number of recipients an agency may serve within a region.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Director
2105#045

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Physical Therapy Board

Licensing and Certification (LAC 46:LIV.Chapters 1-3)

The Louisiana Physical Therapy board, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in La R.S. 37:2405, hereby amends Professional and Occupational Standards: Physical Therapy Board, LAC 46:LIV.115, 121, 123, 145, 147, 151, 153, 155, 157, 159, 169, 171, 175, 180, 181, 183, 185, 187, 194, 195, 199, 303, 309, 311, 319, 325, 331, 333, 337, 341, 345, 357, 387, 392, 396 and 397.

The changes that are proposed to the language found in Louisiana Administrative Code (LAC) 46:LIV.115, 121, 123, 145.B, 153, 155.A, 169.A, 180.F, 185, 187.E.6 and 7, 195, 309, 319, 333, 337 341.A.6, 341.D, 345.B, 357, 387C.1, 392, 396 and 397.A do not have substantial changes to any application of these rules.

The board voted to change license application requirements, renewal exemptions and types of license application rules. Most of the changes do not change operations, but the board voted on some licensure application changes that will improve board operations and efficiencies in board processes. First, it is proposed to add a requirement for applicants to complete the physical therapy minimum data set [Louisiana Administrative Code (LAC) 46:LIV.151, 181 and 187.B. and E]. Pursuant to R.S. 37:2405.B.(15), the board shall promulgate rules for the physical therapy minimum data set. The implementation

requires technical changes to the application form to include a survey link and changes to the application form were made prior to the 2021 renewal cycle. Second, the proposed language changes to the application requirement for a signature on application (LAC 46:LIV.151.M) will allow for the board to move toward completely electronic licensing applications. Finally, for reinstatement applications it will no longer be required that applicants submit verification of license from all states where they had previously held a license, the letters of character required must now be from a licensed PT or PTA in good standing, and those who are applying for a license after being out of the profession for four years or more have less restrictive requirements to return to the practice.

Substantial continuing education requirements are proposed. First, it is proposed that the licensure renewal requirements for continuing education can all be completed online. Secondly, the continuing education requirements for dry needling coursework training have been reduced to 25 hours from 50 hours of training. The purpose for this is that most of the training taught in dry needling continuing education is taught in entry-level physical therapy academic coursework. Continuing education course content requirements have been updated to reflect what is acceptable by the board in policy, as well as technical changes to the language of rule. Finally, the board is proposing that the continuing education audit non-compliance rule change to allow licensees a period of 30 days to get in compliance with the requirements in rule, rather than automatically lapsing the licensee's license due to non-compliance.

Other substantial proposed changes to rule include changes to supervision requirements and reducing other practice restrictions on licensees. The board proposes reducing the qualifications for a supervisor to supervise a foreign-trained provisional licensed individual. Furthermore, the board proposes that physical therapist assistants who are licensed by the board do not need to have limitations on supervising PTAs and no longer need one year of work experience before working in home health and the education settings.

These amendments are proposed in response to the decision made by the majority of members at the board meetings held March 10, 2021. The basis and rationale for the proposed Rules are to comply with R.S. 37:2405, as well as, R.S. 37:3651, R.S. 37:2405(B)(15), and R.S. 37:2951.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIV. Physical Therapy Examiners

Subpart 1. Licensing and Certification

Chapter 1. Physical Therapists and Physical Therapists Assistants

Subchapter A. Board Organization

§115. Applicable Laws and Rules

A. Board procedures and operations shall adhere to the Administrative Procedures Act, R.S. 49:950 and following; the Open Meetings Law, R.S. 42:11 and following; the Public Records Act, R.S. 44:1 and following; Code of Governmental Ethics, R.S. 42:1101 and other state and federal laws to which board activities are subject.

B. As an active member of the PT Compact, the Board adopts the PT Compact Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A (4) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3032 (October 2011), amended LR 47:

§121. Declaratory Statements
[Formerly §351]

A. ...

1. A request for a declaratory statement is made in the form of a letter to the board. The letter shall include, at minimum:

- a. the name and address of the requester;
- b. specific reference to the statute or rule and regulation to which the request relates;
- c. a concise statement of the manner in which the requester is aggrieved by the rule or statute or by its potential application to his concern.

2. The letter shall be considered by the board within a reasonable period of time taking into consideration the complexity of the issues raised and the board's meeting schedule.

3. The declaratory statement of the board in response to the letter shall be in writing and shall be made available on the board website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:392 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3033 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2170 (December 2018), LR 47:

Subchapter B. General Provisions

§123. Definitions

[Formerly §§103, 113, 119, 303 and 305]

Editor's Note: This Section was amended utilizing information from the Sections enumerated. The Historical Note reflects prior action for those enumerated Sections. A comprehensive revision of the Louisiana Physical Therapy Board book (LAC 46:LIV) was effective via the board's October 2011 Rule in the *Louisiana Register*.

A. ...

Client—recipient of services, information, advice, education and/or recommendations for activities related to wellness and preventive services including conditioning, injury prevention, reduction of stress, or promotion of fitness.

Clinical Supervisor—a licensed PT or PTA in good standing and selected with approval of the board who directly supervises a CAPTE graduate pending examination holding a provisional license in the clinical environment. A clinical supervisor may directly supervise a foreign-educated physical therapist or foreign-educated physical therapist assistant while completing the period of supervised clinical practice requirements of §331.

Confidentiality—Except for the reporting requirements of R.S. 37:2425, all records of a PT or PTA who has successfully completed or is actively participating in the non-disciplinary alternative program (CRPTP) set forth herein at §357 shall not be subject to public disclosure, and shall not be subject to discovery in legal proceedings except

as required by federal and state confidentiality laws and regulations, or order of a Court. However, the records of those participating in the CRPTP will be addressed with their employer as well as with members of the Board and those serving on committees of the Board, as necessary. The records of a PT or PTA who fails to comply with the program agreement or who leaves the program without enrolling in an alternative program in the state to which the practitioner moves, or who subsequently violates the Louisiana Physical Therapy Act or the board rules, shall not be deemed confidential except for those records protected by federal and state confidentiality laws and regulations.

Dry Needling—a physical intervention which utilizes filiform needles for the treatment of neuromuscular pain and functional movement deficits. Dry Needling is based upon Western medical concepts and does not rely upon the meridians utilized in acupuncture and other Eastern practices. A physical therapy evaluation will indicate the location, intensity and persistence of neuromuscular pain or functional deficiencies in a physical therapy patient and the propriety for utilization of dry needling as a treatment intervention. Dry needling does not include the stimulation of auricular points.

Patient—the recipient of physical therapy services pursuant to a plan of care, treatment plan or program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2407(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:744, 745, 748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:662, 666 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 24:39, 40 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1908 (September 2008), amended by the Physical Therapy Board, LR 37:3033 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2170 (December 2018), LR 45:1206 (September 2019), LR 47:

Subchapter E. Licensure by Reciprocity

§145. Qualifications for Licensure by Reciprocity
[Formerly §121]

A. ...

B. Licensure by endorsement for members of the military, their spouses and dependents

1. Applications for licensure received from members of the military, their spouses, or dependents, as defined by R.S. 37:3651, will be evaluated and processed in accordance with the applicable section of R.S. 37:3651.

C. Graduates of Approved Schools of Physical Therapy or Physical Therapist Assisting

1. An applicant who possesses and meets all of the qualifications and requirements specified by R.S. 37:2409 and R.S. 37:2411, as interpreted by §§129-139 of this Chapter, but who has taken the board approved licensing exam in another jurisdiction, shall nonetheless be eligible for licensure by reciprocity in accordance with R.S. 37:2412 if the following requirements are satisfied:

a. the applicant possesses, as of the time the application is filed and at the time the board passes upon

such application, a current, unrestricted license in good standing or its equivalent issued by another jurisdiction;

b. the applicant has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice physical therapy in this state at the time the act was committed;

c. the jurisdiction from whence the applicant comes accords a similar licensing privilege to individuals licensed as PTs and PTAs in Louisiana; and

d. the requirements for licensure in the other jurisdiction were, at the date of licensing therein, substantially equal to the requirements for licensure in Louisiana, specifically §129, as set forth now or at the time of licensure in the other jurisdiction.

D. Foreign-Educated Physical Therapist (FEPT) or Foreign-Educated Physical Therapist Assistant (FEPTA)

1. An FEPT or FEPTA is eligible for licensure by reciprocity as a PT or PTA in accordance with R.S. 37:2412 if the following requirements are satisfied:

a. the applicant possesses, as of the time the application is filed and at the time the board passes upon such application, a current, unrestricted license in good standing or its equivalent issued by another jurisdiction;

b. the applicant has not been disciplined in any jurisdiction for an act which would have constituted grounds for refusal, suspension, or revocation of a license to practice physical therapy in this state at the time the act was committed;

c. the jurisdiction from whence the applicant comes accords a similar licensing privilege to individuals licensed as PTs and PTAs in Louisiana; and

d. the requirements for licensure in the other jurisdiction were, at the date of licensing therein, substantially equal to the requirements for licensure of foreign-educated PT and PTAs in Louisiana, specifically §137, as set forth now or at the time of licensure in the other jurisdiction.

2. An FEPT or FEPTA who meets the requirements of §145.C.1 and who has engaged in the practice of physical therapy for a minimum of 20 hours per week for at least for at least one year in another jurisdiction, may be eligible for licensure by reciprocity as a PT or PTA without completing the period of supervised clinical practice as set forth in §137.C, at the discretion of the board. Such request shall be made in writing and submitted with license application and acceptable documentation of clinical experience.

3. In accordance with R.S. 37:2410(6) and R.S. 37:2411.1(6), the board may, in its discretion, mandate completion of a board approved self-assessment tool, various education activities, or supervised practice prior to issuance of a license by reciprocity to a foreign-educated PT or PTA.

E. To be eligible for licensure under Subsections C. and D. of this Section, applicants shall have met the continuing education requirements contained in the Practice Act and/or board rules for the 24 months preceding their application for the jurisdiction where they are currently licensed and practicing physical therapy.

F. An applicant for reciprocity who has a current, unrestricted license in good standing or its equivalent issued by another jurisdiction, but has not engaged in the practice

of physical therapy in any jurisdiction or country for a period of four or more years may be subject to these additional requirements:

1. licensee may be subject to a three-month period of supervised clinical practice;

a. if a three-month period of supervised clinical practice is required, a supervision agreement must be approved by the executive director before a provisional license will be issued. The supervision agreement shall be in force for the entire three-month supervisory period. This licensee may only practice in those facilities and under the supervision of the PT named in the approved supervision agreement. Any change in practice site or supervisor must be submitted in a revised supervision agreement prior to the change taking place. At the end of the supervisory period, the supervising PT of record shall report to the board the satisfactory or unsatisfactory completion of the supervision period. If an unsatisfactory supervision period is reported by the supervising PT of record, the board, in its discretion, may require an additional three-month supervisory period; and

2. completion of remedial courses which may be prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2412 and (4) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 19:208 (February 1993), LR 34:1906 (September 2008), amended by the Physical Therapy Board, LR 37:3039 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2175 (December 2018), LR 47:

§147. Temporary Reciprocal Provisional License [Formerly §151]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with La R.S. 37:2410 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), LR 26:1445 (July 2000), amended by the Physical Therapy Board, LR 37:3040 (October 2011), repealed LR 47:

Subchapter F. License Application §151. Requirements [Formerly §125]

A. - B.5. ...

6. completion of the Physical Therapy Minimum Data Set (PT MDS) survey

C. ...

D. An applicant must pass the Louisiana jurisprudence exam.

E. In addition to any other requirements established by regulation, the board may require an applicant, as a condition for eligibility for licensure:

E.1. - L. ...

M. Every applicant shall personally complete, electronically sign, and date his application for licensure and oath.

N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2413 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 19:208 (February 1993), LR 26:1444 (July 2000), amended by the Physical Therapy Board, LR 37:3040 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 42:1299 (August 2016), LR 44:2176 (December 2018), LR 47:

§153. Effect of Application
[Formerly §129]

A. - D. ...

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with La R.S. 37:2413 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:745 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3041 (October 2011), LR 47:

Subchapter G. Examination

§155. Designation of Examination
[Formerly §131]

A. The examination approved by the board pursuant to R.S. 37:2414 shall be standardized and nationally accepted.

AUTHORITY NOTE: Promulgated in accordance with La R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 26:1445 (July 2000) amended by the Physical Therapy Board, LR 37:3041 (October 2011), LR 47:

§157. Eligibility for Examination
[Formerly §133]

A. An applicant must have graduated from a CAPTE accredited program or be enrolled in the final semester of a CAPTE accredited program in order to be eligible to sit for the examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3042 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2176 (December 2018), LR 47:

§159. Dates, Places of Examination
[Formerly §135]

A. The applicant will be notified of his eligibility to schedule the examination with an approved testing service.

AUTHORITY NOTE: Promulgated in accordance with La R.S. 37:2414 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:746 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 23:1445 (July 2000), amended by the Physical Therapy Board, LR 37:3042 (October 2011), LR 47:

§169. Passing Score
[Formerly §145]

A. The board adopts a criterion-referenced passing point of the NPTE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A. (1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387 (May 1989), LR 17:663 (July 1991), LR 21:1243 (November 1995), amended by the Physical Therapy Board, LR 37:3043 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 47:

§171. Restriction, Limitation on Examinations, Additional Requirements
[Formerly §147, 153 and 155]

A. ...

B. An applicant who has failed the examination shall be subject to the testing limits set by the exam vendor selected by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A)(1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:747 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:387, 388 (May 1989), LR 17:664 (July 1991), LR 19:208 (February 1993), LR 26:1446 (July 2000), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:3043 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2177 (December 2018), LR 47:

Subchapter I. License Issuance, Termination, Renewal, Reinstatement

§175. Issuance of License
[Formerly §161]

A. ...

B. Except for applicants seeking licensure pursuant to §139, a license issued pursuant to examination shall be issued within seven days following the satisfaction of all requirements of §§129 and 151. A license issued pursuant to reciprocity under §145 shall be issued within seven days following satisfaction of all requirements of §145.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2415(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), LR 26:1446 (July 2000), amended by the Physical Therapy Board, LR 37:3044 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2178 (December 2018), LR 47:

§180. Inactive License

A. - D.2. ...

a. licensee may be subject to a three-month period of supervised clinical practice;

i. if a three-month period of supervised clinical practice is required, a supervision agreement must be approved by the executive director before a provisional license will be issued. The supervision agreement shall be in force for the entire three-month supervisory period. This licensee may only practice in those facilities and under the

supervision of the PT named in the approved supervision agreement. Any change in practice site or supervisor must be submitted in a revised supervision agreement prior to the change taking place. At the end of the supervisory period, the supervising PT of record shall report to the board the satisfactory or unsatisfactory completion of the supervision period. If an unsatisfactory supervision period is reported by the supervising PT of record, the board, in its discretion, may require an additional three-month supervisory period; and

D.2.b. - E. ...

F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2415(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health, Physical Therapy Board, LR 44:2178 (December 2018), amended LR 47:

§181. Renewal of License [Formerly §165]

A. Licensees shall be notified by the board of license renewal deadlines. Standard procedure for license renewal, completion of the Physical Therapy Minimum Data Set (PT MDS) survey and the payment of required fees is by online application through the board website. Upon written request, a renewal application shall be mailed to the licensee. Failure to receive notification of license renewal deadlines shall not be a defense for failure to timely renew a license.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2417 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 17:664 (July 1991), amended by the Physical Therapy Board, LR 37:3044 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 42:1300 (August 2016), LR 44:2179 (December 2018), LR 47:

§183. Restrictions on License Renewal; Restoration Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2417 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3045 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2179 (December 2018), repealed LR 47:

§185. Reinstatement of Suspended or Revoked License [Formerly §349]

A. The board may, upon favorable vote by a majority of the board members present and voting, reinstate or revoke a suspended license.

B. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3045 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2179 (December 2018), LR 47:

§187. Reinstatement of Lapsed License [Formerly §167]

A. - B.4. ...

5. completion of the Physical Therapy Minimum Data Set (PT MDS) survey.

C. - E.5. ...

6. two letters of character recommendation from currently licensed physical therapists and/or physical therapist assistants in good standing; and

7. completion of the Physical Therapy Minimum Data Set (PT MDS) survey.

F. - G. ...

1. licensee may be subject to a three-month period of supervised clinical practice;

a. if a three-month period of supervised clinical practice is required, a supervision agreement must be approved by the executive director before a provisional license will be issued to complete the three-month period of supervised clinical practice. The supervision agreement shall be in force for the entire three-month supervisory period. The licensee may only practice in those facilities and under the supervision of the PT named in the approved supervision agreement. Any change in practice site or supervisor must be submitted in a revised supervision agreement prior to the change taking place. At the end of the supervisory period, the supervising physical therapist shall report to the board the satisfactory or unsatisfactory completion of the supervision period. If an unsatisfactory supervision period is reported by the supervising physical therapist, the board, in its discretion, may require an additional three-month supervisory period; and

2. completion of remedial courses which may be prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:748 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 28:1979 (September 2002), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:3045 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 42:1300 (August 2016), LR 44:2179 (December 2018), LR 47:

Subchapter J. Continuing Education

§194. Biennial Requirements [Formerly §169]

A. ...

B. The types of approved courses or activities and requirement for each are:

1. jurisprudence—a minimum of two contact hours. Passage of the jurisprudence examination, which may be taken online, or attendance at a traditional board-sponsored Jurisprudence course, either of which fulfills the two-hour Jurisprudence requirement;

2. ...

3. clinical and/or administrative—a minimum of 26 contact hours of continuing education, or activities described in §195.

B.4. - C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208

(February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 16:1446 (July 2000), LR 28:1980 (September 2002), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:3046 (October 2011), LR 47:

§195. Content Criteria
[Formerly §169]

A. Program content must be easily recognizable as pertinent to the physical therapy profession. It shall contain evidence-led information related to the practice of physical therapy or clinical outcomes. Course or activity content shall address physical therapy competence and practice and shall be designed to meet one of the following goals:

1. ...
2. allow the licensee to enhance his knowledge and skills; and/or
3. facilitate personal contribution to the advancement of the profession.

B. The minimum requirement for continuing education contact hours shall be no less than one hour.

C. Continuing education hours may be attained through the following additional activities:

1. teaching an approved clinical/preventive course or activity. A licensee may receive two hours of credit for each contact hour approved for the course or activity, not to exceed 10 hours. This credit will be given only for the first time the course is presented, during the renewal period;

2. ten hours of credit for an initial certification by the American Board of Physical Therapy Specialties;

3. one hour of credit for every two hours spent in an approved post-professional clinical residency or fellowship, not to exceed 10 hours of credit;

4. coursework in a postgraduate physical therapy curriculum, transitional DPT program, or an accredited college or university that meets content criteria may be accepted. Courses will be credited for each satisfactorily completed hour resulting in a grade of B or higher. One semester hour shall be equal to 10 contact hours.

5. teaching in a CAPTE-accredited program. One semester hour shall be equal to 10 contact hours. Credit earned shall not exceed 10 hours.

6. six hours of credit for completing a board-approved self-assessment tool.

7. licensees serving in elected or appointed positions of national or state physical therapy organizations may obtain a maximum of five contact hours for serving in that role.

8. a maximum of five hours of credit for clinical instructors serving as the primary clinical instructor for PT and PTA students or provisional licensees or serving as a mentor to a resident or fellow. One hour of credit may be earned per 120 hours of clinical instruction or residency or fellowship during the renewal period. Proof of clinical instruction or mentorship shall be documented on a form provided by the board and shall be signed by two of the following:

- a. clinical instructor or mentor;
- b. student or mentee;
- c. site coordinator of clinical education;
- d. director of clinical education; or
- e. program coordinator of the residency or fellowship.

9. a maximum of five-hours credit during the renewal period for publication of scientific papers, abstracts,

textbook chapters and poster or platform presentations at conferences relating to PT. Textbook chapter credit will be given only for the year of publication.

D. Board policy regarding submission of materials to demonstrate completion will be available on the board website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(B)(7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:388 (May 1989), amended LR 17:664 (July 1991), LR 19:208 (February 1993), LR 21:394 (April 1995), LR 21:1243 (November 1995), LR 16:1446 (July 2000), LR 28:1980 (September 2002), LR 34:1907 (September 2008), amended by the Physical Therapy Board, LR 37:3047 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 42:1300 (August 2016), LR 44:2179 (December 2018), LR 47:

§199. Noncompliance and Reinstatement
[Formerly §175]

A. ...

B. Notice. The board shall send written notice of noncompliance to a licensee requesting that the licensee furnish to the board within 30 days of receipt of the notice, the following:

B.1. - C. ...

1. satisfactorily explains the non-compliance, his license may be determined to be in compliance with the CE Audit upon payment of an administrative fee; or

2. does not successfully establish compliance or acceptable exemption from compliance with continuing educational requirements, he may be subject to disciplinary action and may be required to take the licensing examination and pay the fees for examination. Passage of the examination fulfills the continuing education requirements for the year the noncompliance occurred, but shall not be applicable for subsequent reporting periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (7) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 17:665 (July 1991), amended by the Physical Therapy Board, LR 37:3048 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 47:

Subpart 2. Practice

Chapter 3. Practice

Subchapter A. General Provisions

§303. Professional Standards

[Formerly §§307 and 315]

Editor's Note: This Section was amended utilizing information from the Sections enumerated. The Historical Note reflects prior action for those enumerated Sections. A comprehensive revision of the Louisiana Physical Therapy Board book (LAC 46:LIV) was effective via the board's October 2011 Rule in the *Louisiana Register*.

A. - C. ...

D. Repealed.

E. A PTA may act as a clinical instructor for a PTA student, a supervisor of a PTA CAPTE provisional licensee pending examination, or a supervisor of a foreign-educated PTA (FEPTA) provisional licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy

Examiners, LR 19:208 (February 1993), LR 21:395 (April 1995), LR 24:40 (January 1998), LR 26:1447 (July 2000), LR 34:1909, 1910 (September 2008), amended by the Physical Therapy Board, LR 37:3048 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2180 (December 2018), LR 47:

§309. Early Childhood Services

A. - B. ...

C. Evaluation and reevaluation will be conducted in accordance with federal mandates under Part C of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1436, or when warranted by a change in the child's condition, and include reexamination of the child.

D. In the provision of services for children ages 3 through 22 in the school setting:

1. the PT conducts appropriate screenings, evaluations, and assessments to determine if the student has a gross motor delay or a medical condition that affects gross motor functioning in the educational setting.

2. Subject to the provisions of this Section, the PT shall implement physical therapy services in accordance with the recommendations accepted by the Individualized Education Program (IEP) Team.

3. Evaluation and reevaluation in the educational setting will be conducted in accordance with federal mandates under Part B of the Individuals with Disabilities Education Act (IDEA), 20 U.S. Code Subchapter II, Rule 1414, or when warranted by a change in the child's condition and include reexamination of the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3049 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 47:

§311. Treatment with Dry Needling

A. ...

B. Dry needling is a physical therapy treatment which requires specialized physical therapy education and training for the utilization of such techniques. Prior to utilizing dry needling techniques in patient treatment, a PT shall have successfully completed a board-approved course of study consisting of no fewer than 25 hours of in-person, hands-on instruction in intramuscular dry needling treatment and safety. Online and other distance learning courses will not satisfy this requirement. Practicing dry needling without compliance with this requirement constitutes unprofessional conduct and subjects a licensee to appropriate discipline by the board.

C. - E. ...

F. PT students who have met the requirements of paragraph B. above may practice dry needling under the continuous supervision of a PT who has successfully completed the dry needling training requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.A (8) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3049 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2180 (December 2018), LR 45:1206 (September 2019), LR 47:

§319. Use of Telehealth in the practice of Physical Therapy

A. ...

B. Individuals who are licensed physical therapists and physical therapist assistants in good standing in Louisiana may provide physical therapy via telehealth to a patient in an originating site as defined in R.S. 40:1223.3 within the jurisdiction of Louisiana and shall follow all requirements for standard of practice and documentation as provided in the Practice Act and board rules. The standard of care for telehealth services shall be substantially equivalent to the standard of care for services delivered in person.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A)(8) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health, Physical Therapy Board, LR 44:2180 (December 2018), LR 47:

Subchapter B. Prohibitions

§325. Exemptions

[Formerly §309]

A. - C. ...

D. A physical therapist or physical therapist assistant licensed in a jurisdiction of the United States or credentialed in another country contracted or employed to provide physical therapy to patients/clients affiliated with or employed by established athletic teams, athletic organizations or performing arts companies temporarily practicing, competing or performing in the jurisdiction for no more than 60 days in a calendar year.

E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Examiners, LR 24:40 (January 1998), LR 34:1909 (September 2008), amended by the Physical Therapy Board, LR 37:3051 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2181 (December 2018), LR 47:

Subchapter C. Supervised Practice

§331. Supervised Clinical Practice of Foreign-Educated Physical Therapist Provisional Licensees and Foreign-Educated Physical Therapist Assistant Provisional Licensees [Formerly §§317 and 319]

Editor's Note: This Section was amended utilizing information from the Sections enumerated. The Historical Note reflects prior action for those enumerated Sections. A comprehensive revision of the Louisiana Physical Therapy Board book (LAC 46:LIV) was effective via the board's October 2011 Rule in the *Louisiana Register*.

A. A clinical supervisor is subject to ratio restrictions pursuant to R.S. 37:2418(F)(2)(a).

B. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2410(A) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:749 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy

Examiners, LR 15:388 (May 1989), LR 17:667 (July 1991), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), amended by the Physical Therapy Board, LR 37:3051 (October 2011), amended by the Department of Health, Physical Therapy, LR 44:2182 (December 2018), LR 47:

§333. Physical Therapist Responsibilities; Supervision of Physical Therapist Assistants
[Formerly §321]

A. - B.2.c. ...

d. be readily accessible by telecommunication device and available to the patient by the next scheduled treatment session upon request of the patient or PTA; and

B.2.e. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418(F) and Act 139 of 2010.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Physical Therapy Board, LR 37:3052 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2183 (December 2018), LR 47:

§337. Clinical Instruction of Student PTs and PTAs
[Formerly §321]

A. A clinical instructor shall provide on-premises supervision to a PT student in all practice settings. A clinical instructor shall provide continuous supervision to a PTA student in all practice settings. A PTA may act as a clinical instructor for a PTA student in all practice settings provided that the PT supervisor of the PTA is available by telecommunication device.

B. A PTA can be a clinical instructor for the PTA student.

C. PT students may perform an initial physical therapy evaluation and create the plan of care on each patient, treat and reassess patients, and write discharge summaries under the supervision of a clinical instructor or Supervising PT of Record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2418(F) and Act 139 of 2010.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:388 (May 1989), LR 19:208 (February 1993), LR 24:41 (January 1998), LR 26:1447 (July 2000), LR 28:1980 (September 2002), LR 34:1910 (September 2008), amended by the Physical Therapy Board, LR 37:3053 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2183 (December 2018), LR 45:1206 (September 2019), LR 47:

§341. Documentation Standards
[Formerly §323]

A. - A.5. ...

6. Patient care conference is the documentation of the meeting held between a PTA who is providing patient care and the PT supervising that care to discuss the status of patients. This conference shall be conducted where the PT and PTA are both physically present at the same time and place, or through live telecommunication conducted in accordance with all standards required by federal and state laws governing privacy and security of a patient's protected health information. The patient care conference shall be signed and dated by the PT and PTA and shall be entered in

the patient treatment record within five days of the conference, documenting treatment recommendations and decisions made.

A.7. - C. ...

D. Forms of electronic signatures, established pursuant to written policies and mechanisms to assure that only the author can authenticate his own entry, are acceptable.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(A)(1) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 13:750 (December 1987), amended by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:389 (May 1989), LR 21:395 (April 1995), LR 26:1447 (July 2000), LR 28:1981 (September 2002), LR 34:1911 (September 2008), amended by the Physical Therapy Board, LR 37:3053 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2183 (December 2018), LR 47:

Subchapter D. Disciplinary Proceedings

§345. Unprofessional Conduct

[Formerly §327]

A. The board shall deem a violation any charge of conduct which fails to conform to the Practice Act, and board rules to carry out the provisions of the Act, and shall take appropriate action where violations are found. The rules of this Chapter complement the board's authority to deny, suspend, revoke or take such other action against a licensee, or Compact Privilege holder as it deems appropriate.

B. - B.1f. ...

g. causing, or permitting another person to cause, physical or emotional injury to the patient, or depriving the patient of his individual dignity;

h. abandoning a patient without documenting the transfer of care or by inappropriately terminating the patient/practitioner relationship; or

i. providing services as a PTA without the knowledge or supervision of a PT.

2. - 8. ...

9. utilizing dry needling techniques in patient treatment without first obtaining appropriate specialized training and education as required by §311.

B.10. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospital, Board of Physical Therapy Examiners, LR 15:389 (May 1989), amended LR 19:208 (February 1993), LR 28:1981 (September 2002), LR 34:1911 (September 2008), amended by the Physical Therapy Board, LR 37:3054 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2184 (December 2018), LR 47:

§357. Admission to the Confidential Recovering Physical Therapy Program (CRPTP)

A. Participation in CRPTP may be voluntary, non-punitive, confidential, as defined by §123, and in place of formal disciplinary proceedings for eligible persons who meet the following admission criteria:

A.1. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2420 and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Physical Therapy Board, LR 37:3056 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2186 (December 2018), LR 47:

§387. Formal Hearings
[Formerly §337]

A. - C. ...

1. The board has received or originated a complaint alleging that a licensee or applicant has acted in violation of the Practice Act or board rules.

2. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:205(B)(10) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3060 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2188 (December 2018), LR 47:

§392. Order of Hearing
[Formerly §337]

A. - A.9. ...

10. motions may be made before, during, or after a hearing. All motions shall be made at an appropriate time, according to the nature of the request. Motions made before a hearing or after the hearing pursuant to §396, shall be in writing. Those made during the course of the hearing may be made orally since they become part of the record of the proceeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405(B)(10) and Act 535 of 2009.

HISTORICAL NOTE: promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3062 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 44:2188 (December 2018), LR 47:

Subchapter E. Post-Adjudication Remedies

§396. Reconsideration of Decisions
[Formerly §337]

A. A petition by a party seeking reconsideration or rehearing must be in proper form and filed within ten days after notification of the board's decision. The petition shall set forth the grounds for the rehearing, which shall include one or more of the following:

1. the board's decision is clearly contrary to the law and evidence;

2. there is newly discovered evidence by the party since the hearing which is important to the issues and which the party could not have discovered with due diligence before or during the hearing;

3. there is a showing that issues not previously considered ought to be examined in order to dispose of the case properly; or

4. it would be in the public interest to review and further consider the issues and the evidence.

B. The board's decision to grant or deny a requested reconsideration of its decision is final and not subject to review or appeal.

C. The board shall reconsider a matter when ordered to do so when the case is remanded for reconsideration or rehearing by a court to which the board's decision has been appealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (10) and Act 535 of 2009.

HISTORICAL NOTE: promulgated by the Department of Health and Hospitals, Board of Physical Therapy Examiners, LR 15:391 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3062 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 47:

§397. Judicial Review of Adjudication
[Formerly §345]

A. Any respondent whose license has been revoked, suspended, denied or otherwise sanctioned by the board has the right to have the proceedings of the board reviewed by the state district court having jurisdiction over the board, provided that such petition for judicial review is filed within 30 days from mailing of the notice of the decision of the board. If judicial review is granted, the board's decision is enforceable in the interim unless the court orders a stay.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2405.B (10) and Act 535 of 2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Physical Therapy Examiners, LR 15:392 (May 1989), LR 19:208 (February 1993), amended by the Physical Therapy Board, LR 37:3063 (October 2011), amended by the Department of Health, Physical Therapy Board, LR 47:

Family Impact Statement

These amendments will have no direct effect on the stability of the family. These amendments will not affect the authority and rights of persons regarding the education and supervision of their children and will not have an effect on the functioning of the family. These amendments will impact the family budget of individuals who obtain a license in Louisiana because they will now be able to save cost on mailing the application and the notary. For those who are reinstating their license, they will also save costs because they will not have to pay for licensure verification in all states where they have been previously licensed. This amendment will not affect the behavior or personal responsibility of children. This amendment will not have an effect on the ability of the family or local government to perform any functions that they currently are performing.

Small Business Analysis

This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6. For more information, refer to the Fiscal and Economic Impact Statement below.

Poverty Impact Statement

The proposed amendments have no foreseeable impact on any child, individual or family as defined by RS 49:973B.B.

Provider Impact Statement

The proposed language changes have a significant impact on providers of physical therapy care and applicants for license who are seeking to begin or continue working in the field of physical therapy in Louisiana. Proposed language streamlines application and renewal processes, reduce undue training burden to be in-line with best practices and lifts previous restrictions on practice in response to repealed law. Proposed language will likely lead to reductions in the cost of practice and small, indeterminate increases in the number PT and PTA providers.

Public Comments

Interested persons may submit written comments until 4 pm, June 10, 2021, to Charlotte F. Martin, Louisiana Physical Therapy Board, 2110 W. Pinhook Road, Suite 202, Lafayette, LA 70508

Public Hearings

Interested persons may present their views until 4 pm, June 30, 2021 at the Louisiana Physical Therapy Board, 2110 W. Pinhook Road, Suite 202, Lafayette, LA 70508.

Charlotte Martin
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Licensing and Certification**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will require the Louisiana Physical Therapy Board (LPTB) to publish the proposed and final rules in the state register, resulting in printing expenses of \$3,515 in FY 21. Additional expenditures for changes to policies and forms will be minimal as both forms and policies are electronic and available on the LPTB website. There is no additional estimated impact on state or local government expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may lead to modest increases in application eligibility and increase revenue collections proportionally. Exact figures are indeterminate, as those previously unqualified to register for owing child support or defaulting on student loans have not been fully-recorded; less than five applicants over seven years were identified as having to provide proof of payment plans when requested to renew their license and all were able to do so and renew their license in those years. Removal of the temporary reciprocal provisional license is not estimated to impact revenue collections as this license has not been issued in, at least, the past seven years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will remove the one-year work experience requirement for licensed PTAs to supervise PTA students, marginally reducing labor demand for PTs and experienced PTAs. The conversion of this labor demand reduction to realized cost savings is indeterminable as these changes only apply to licensed PTAs in their first year of practice. The LPTB recognizes a shortage of PTA supervisors and intends this change to enable provider growth, the extent of which in the short-term is indeterminable, as agencies such as the Louisiana Department of Health (LDH) maintain work experience requirements in certain practice settings such as home health care and early childhood services.

Proposed rule changes reducing education requirements for the practice of dry-needling will lead to a modest reduction in costs for Louisiana licensees seeking to provide dry needling treatment by enabling them to forgo additional coursework prior to practice.

Proposed rule changes removing minimal hours of live coursework from the Continued Education requirements may represent savings and additional convenience for providers. Providers would have no maximum amount of hours for remote learning. The scope of impact for this change in terms of savings for providers and potential loss of revenue for live educators is indeterminable.

Proposed rule changes modernizing the application process to allow electronic signatures or waiving verification of licensure from jurisdictions outside of Louisiana to reinstate expired licenses granted by LPTB will offer a significant increase in convenience for certain applicants. The savings in personal administrative costs and time will vary applicant to applicant and cannot be easily generalized.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Proposed rule changes will expedite PT and PTA training and reduce administrative barriers to be in-line with national best practices. The net impact on provider supply will be marginally positive, though implications for the provider services market are indeterminate and will be more dependent on prevailing standards of care and practice outside the scope of proposed Rule.

Charlotte Martin
Executive Director
2105#012

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Pipeline Safety
(LAC 43:XIII:Chapters 3-61 and LAC 33:V.Chapter 304)

The Department of Natural Resources, Office of Conservation proposes to amend LAC 43:XIII and LAC 33 Part V Subpart 3 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana.

The proposed rule changes are required as a part of the Department of Natural Resources certification agreement with the US Department of Transportation and are intended to adopt existing federal regulations as state regulations.

Title 43

NATURAL RESOURCES

**Part XIII. Office of Conservation—Pipeline Safety
Subpart 2. Transportation of Natural Gas and Other
Gas by Pipeline**

[49 CFR Part 191]

**Chapter 3. Annual Reports, Incident Reports and
Safety Related Condition Reports [49
CFR Part 191]**

§303. Definitions

[49 CFR 191.3]

A. ...

* * *

Incident—any of the following events:

a. an event that involves a release of gas from a pipeline, gas from an underground natural gas storage facility (UNGSF), liquefied natural gas, liquefied petroleum gas, refrigerant gas, or gas from an LNG facility, and that results in one or more of the following consequences:

i. a death, or personal injury necessitating inpatient hospitalization;

ii. estimated property damage of \$122,000 or more, including loss to the operator and others, or both, but excluding the cost of gas lost. For adjustments for inflation observed in calendar year 2021 onwards, changes to the

reporting threshold will be posted on PHMSA's website. These changes will be determined in accordance with the procedures in Chapter 4, Appendix A to Subpart 2.

iii. unintentional estimated gas loss of three million cubic feet or more;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:255 (March 1985), amended LR 18:854 (August 1992), LR 20:442 (April 1994), LR 27:1536 (September 2001), LR 30:1221 (June 2004), LR 33:473 (March 2007), LR 38:110 (January 2012), LR 44:1032 (June 2018), LR 45:66 (January 2019), LR 46:1575 (November 2020), LR. 47:

§311. Distribution System: Annual Report [49 CFR 191.11]

A. ...

B. Not required. The annual report requirement in this Section does not apply to a master meter system, a petroleum gas system that serves fewer than 100 customers from a single source, or an individual service line directly connected to a production pipeline or a gathering line other than a regulated gathering line as determined in § 507. [49 CFR 191.11(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:219 (April 1983), amended LR 10:511 (July 1984), LR 11:255 (March 1985), LR 30:1222 (June 2004), LR 38:111 (January 2012), LR. 47:

§312. Distribution Systems: Mechanical Fitting Failure Reports [49 CFR 191.12]

Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:111 (January 2012), repealed LR. 47:

§322. National and Louisiana Registry of Operators [49 CFR 191.22]

A. OPID Request. Effective January 1, 2012, each operator of a gas pipeline, gas pipeline facility, UNGSF, LNG plant, or LNG facility must obtain from PHMSA an Operator Identification Number (OPID). An OPID is assigned to an operator for the pipeline, pipeline facility, or pipeline system for which the operator has primary responsibility. To obtain an OPID, an operator must submit an OPID Assignment Request DOT Form PHMSA F 1000.1 through the National Registry of Operators in accordance with §307. For intrastate facilities subject to the jurisdiction of the Office of Conservation, the operator must concurrently file an online OR-1 Submission (Operator Registration) for Pipeline Safety with the same name as the OPID request at <http://www.sonris.com>. Each operator must validate the OR-1 annually by January 1 each year. [49 CFR 191.22(a)]

1. Each operator of a Master Meter or Special Class System must file an online OR-1 Submission (Operator Registration) for Pipeline Safety at <http://www.sonris.com>. Each Master Meter and Special Class System operator must validate the OR-1 annually by January 1 each year.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:112 (January 2012), amended LR 44:1032 (June 2018), LR 45:67 (January 2019), LR 46:1575 (November 2020), LR. 47:

Chapter 4. Appendix A [49 CFR Part 191] §401. Appendix A to Subpart 2—Procedure for Determining Reporting Threshold

A. Procedure for Determining Reporting Threshold

I. Property Damage Threshold Formula

A. Each year after calendar year 2021, the Administrator will publish a notice on PHMSA's website announcing the updates to the property damage threshold criterion that will take effect on July 1 of that year and will remain in effect until the June 30 of the next year. The property damage threshold used in the definition of an Incident at §303 shall be determined in accordance with the following formula:

$$T_r = T_p \times \frac{CPI_r}{CPI_p}$$

Where:

Tr is the revised damage threshold, Tp is the previous damage threshold, CPIr is the average Consumer Price Indices for all Urban Consumers (CPI-U) published by the Bureau of Labor Statistics each month during the most recent complete calendar year, and CPIp is the average CPI-U for the calendar year used to establish the previous property damage criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 47:

Subpart 3. Transportation of Natural Gas or Other Gas by Pipeline: Minimum Safety Standards [49 CFR Part 192]

Chapter 5. General [49 CFR Part 192 Subpart A]

§507. What Documents are Incorporated by Reference Partly or Wholly in this Part? [49 CFR 192.7]

A. Certain material is incorporated by reference into this Subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. The materials listed in this Section have the full force of law. All approved material is available for inspection at Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue S.E., Washington, D.C. 20590, 202-366-4046 <https://www.phmsa.dot.gov/pipeline/regs>, and is available from the sources listed in the remaining Subsections of this Section. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email fedreg.legal@nara.gov or go to www.archives.gov/federalregister/cfr/ibr-locations.html. [49 CFR 192.7(a)]

1 - 2. ...

Source and Name of Referenced Material	Approved for Title 43 Reference
B. American Petroleum Institute (API), 200 Massachusetts Ave N.W., Suite 1100, Washington, D.C. 20001, and phone: 202-682-8000, Web site: https://www.api.org/ .	
1. - 8. ..	

Source and Name of Referenced Material	Approved for Title 43 Reference
9. API Standard 1104, "Welding of Pipelines and Related Facilities," 20th edition, October 2005, including errata/addendum (July 2007) and errata 2 (2008), (API Std 1104),	§§1305.A; 1307.A; 1309.C; 1321.C; Item II, 5103.
B.10 - D.2 ...	
E. ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428, phone: (610) 832-9585, Web site: http://astm.org	
1 - 10. ...	
11. (ASTM D2513-12ae1). ASTM D2513-18a, "Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings," approved August 1, 2018, (ASTM D2513),	§5103, Item 1
12 - 19. ...	
20. ASTM F2620-19, "Standard Practice for Heat Fusion Joining of Polyethylene Pipe and Fittings," approved February 1, 2019, (ASTM F2620),	§§1511.C; 1515.B
E.21 - K.2. ...	

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 30:1226 (June 2004), amended LR 31:680 (March 2005), LR 33:474 (March 2007), LR 35:2801 (December 2009), LR 38:113 (January 2012), LR 44:1033 (June 2018), LR 45:68 (January 2019), LR 46:1578 (November 2020), LR 47:

Chapter 9. Pipe Design [49 CFR Part 192 Subpart C] §921. Design of Plastic Pipe [49 CFR 192.121]

A. Design Pressure. The design pressure for plastic pipe is determined in accordance with either of the following formulas.

$$P = 2S \frac{t}{D-t} (DF)$$

$$P = \frac{2S}{(SDR-1)} (DF)$$

where:

P = Design pressure, gauge, psig (kPa)

S = For thermoplastic pipe, the HDB is determined in accordance with the listed specification at a temperature equal to 73 °F (23°C), 100°F (38°C), 120°F (49°C), or 140°F (60°C). In the absence of an HDB established at the specified temperature, the HDB of a higher temperature may be used in determining a design pressure rating at the specified temperature by arithmetic interpolation using the procedure in Part D.2 of PPI TR-3/2012, HDB/PDB/SDB/MRS Policies", (incorporated by reference, see §507). For reinforced thermosetting plastic pipe, 11,000 psig (75,842 kPa).

t = Specified wall thickness, in. (mm)

D = Specified outside diameter, in (mm)

SDR = Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10.

DF = Design Factor, a maximum of 0.32 unless otherwise specified for a particular material in this Section. [49 CFR 192.121(a)]

B. - C.1.c. ...

2. For PE pipe produced on or after January 22, 2019, a DF of 0.40 may be used in the design formula, provided: [49 CFR 192.121(c)(2)]

C.2.a. - C.2.b. ...

c. the pipe has a nominal size (IPS or CTS) of 24 inches or less; and [49 CFR 192.121(c)(2)(iii)]

d. the wall thickness for a given outside diameter is not less than that listed in Table 1 to this Subparagraph C.2.d : [49 CFR 192.121(c)(2)(iv)]

Table 1 to Subparagraph C.2.d PE Pipe: Minimum Wall Thickness and SDR Values		
Pipe Size (inches)	Minimum Wall Thickness	Corresponding SDR (values)
1/2" CTS	0.090	7
1/2" IPS	0.090	9.3
3/4" CTS	0.090	9.7
3/4" IPS	0.095	11
1" CTS	0.119	11
1" IPS	0.119	11
1 1/4" IPS	0.151	11
1 1/2" IPS	0.173	11
2"	0.216	11
3"	0.259	13.5
4"	0.265	17
6"	0.315	21
8"	0.411	21
10"	0.512	21
12"	0.607	21
16	.762	21
18	.857	21
20	.952	21
22	1.048	21
24	1.143	21

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

d. the minimum wall thickness for a given outside diameter is not less than that listed in Table 2 to Subparagraph D.2.d . [49 CFR 192.121(d)(2)(iv)]

Table 2 to Suparagraph D.2.d PE Pipe: Minimum Wall Thickness and SDR Values		
Pipe Size (inches)	Minimum Wall Thickness	Corresponding SDR (values)
1/2" CTS	0.090	7.0
1/2" IPS	0.090	9.3
3/4" CTS	0.090	9.7
3/4" IPS	0.095	11
1" CTS	0.119	11
1" IPS	0.119	11
1 1/4 IPS	0.151	11
1 1/2" IPS	0.173	11
2" IPS	0.216	11
3" IPS	0.259	13.5
4" IPS	0.333	13.5
6" IPS	0.491	13.5

E. - E.1.c. ...

d. the minimum wall thickness for a given outside diameter is not less than that listed in Table 3 to Subparagraph E.1.d [49 CFR 192.121(e)(1)(iv)]

Table 3 to Subparagraph E.1.d PE Pipe: Minimum Wall Thickness and SDR Values		
Pipe Size (inches)	Minimum Wall Thickness	Corresponding SDR (values)
1/2" CTS	0.090	7
1/2" IPS	0.090	9.3
3/4" CTS	0.090	9.7
3/4" IPS	0.095	11
1" CTS	0.119	11
1" IPS	0.119	11
1 1/4" IPS	0.151	11
1 1/2" IPS	0.173	11
2" IPS	0.216	11
3" IPS	0.259	13.5
4" IPS	0.333	13.5
6" IPS	0.491	13.5

F. – F.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:222 (April 1983), amended LR 10:515 (July 1984), LR 24:1308 (July 1998), LR 27:1538 (September 2001), LR 30:1231 (June 2004), LR 31:682 (March 2005), LR 33:478 (March 2007), LR 35:2804 (December 2009), LR 38:115 (January 2012), repromulgated LR 38:828 (March 2012), amended LR 44:1037 (June 2018), LR 46:1582 (November 2020), LR. 47:

**Chapter 11. Design of Pipeline Components
[49 CFR Part 192 Subpart D]**

**§1113. Components Fabricated by Welding
[49 CFR 192.153]**

A. ...

B. Each prefabricated unit that uses plate and longitudinal seams must be designed, constructed, and tested in accordance with section 1 of the ASME BPVC (*Rules for Construction of Pressure Vessels*) as defined in either Section VIII, Division 1 or Section VIII, Division 2; incorporated by reference, see §507), except for the following: [49 CFR 192.153(b)]

B.1. - D. ...

E. The test requirements for a prefabricated unit or pressure vessel, defined for this Subsection as components with a design pressure established in accordance with Subsection A or Subsection B of this Section are as follows. [49 CFR 192.153(e)]

1. prefabricated unit or pressure vessel installed after July 14, 2004 is not subject to the strength testing requirements at §2305.B provided the component has been tested in accordance with Subsection A or Subsection B of this Section and with a test factor of at least 1.3 times MAOP. [49 CFR 192.153(e)(1)]

2. A prefabricated unit or pressure vessel must be tested for a duration specified as follows: [49 CFR 192.153(e)(2)]

a. A prefabricated unit or pressure vessel installed after July 14, 2004, but before October 1, 2021 is exempt from §§2305.C and D and 2307.C provided it has been tested for a duration consistent with the ASME BPVC requirements referenced in Subsection A or B of this Section. [49 CFR 192.153(e)(2)(i)]

b. Consider the information gained from past design, operations, and maintenance. [49 CFR 192.153(e)(2)(ii)]

3. For any prefabricated unit or pressure vessel permanently or temporarily installed on a pipeline facility, an operator must either: [49 CFR 192.153(e)(3)]

a. Test the prefabricated unit or pressure vessel in accordance with this Section and Chapter 23 of this Subpart after it has been placed on its support structure at its final installation location. The test may be performed before or after it has been tied-in to the pipeline. Test records that meet §2317.A must be kept for the operational life of the prefabricated unit or pressure vessel; or [49 CFR 192.153(e)(3)(i)]

b. For a prefabricated unit or pressure vessel that is pressure tested prior to installation or where a manufacturer's pressure test is used in accordance with Subsection E of this Section, inspect the prefabricated unit or pressure vessel after it has been placed on its support structure at its final installation location and confirm that the prefabricated unit or pressure vessel was not damaged during any prior operation, transportation, or installation into the pipeline. The inspection procedure and documented inspection must include visual inspection for vessel damage, including, at a minimum, inlets, outlets, and lifting locations. Injurious defects that are an integrity threat may include dents, gouges, bending, corrosion, and cracking. This inspection must be performed prior to operation but may be performed either before or after it has been tied-in to the pipeline. If injurious defects that are an integrity threat are found, the prefabricated unit or pressure vessel must be either non-destructively tested, re-pressure tested, or remediated in accordance with applicable Subpart 3(Part 192) requirements for a fabricated unit or with the applicable ASME BPVC requirements referenced in Subsections A or B of this Section. Test, inspection, and repair records for the fabricated unit or pressure vessel must be kept for the operational life of the component. Test records must meet the requirements in §2317.A. [49 CFR 192.153(e)(3)(ii)]

4. An initial pressure test from the prefabricated unit or pressure vessel manufacturer may be used to meet the requirements of this Section with the following conditions: [49 CFR 192.153(e)(4)]

a. The prefabricated unit or pressure vessel is newly-manufactured and installed on or after October 1, 2021, except as provided in Subparagraph E.4.b of this Section. [49 CFR 192.153(e)(4)(i)]

b. An initial pressure test from the fabricated unit or pressure vessel manufacturer or other prior test of a new or existing prefabricated unit or pressure vessel may be used for a component that is temporarily installed in a pipeline facility in order to complete a testing, integrity assessment, repair, odorization, or emergency response-related task, including noise or pollution abatement. The temporary component must be promptly removed after that task is completed. If operational and environmental constraints require leaving a temporary prefabricated unit or pressure vessel under this Subsection in place for longer than 30 days, the operator must notify PHMSA and State or local pipeline safety authorities, as applicable, in accordance with § 518. [49 CFR 192.153(e)(4)(ii)]

c. The manufacturer's pressure test must meet the minimum requirements of this Subpart; and [49 CFR 192.153(e)(4)(iii)]

d. The operator inspects and remediates the prefabricated unit or pressure vessel after installation in accordance with Subparagraph E.3.b of this Section. [49 CFR 192.153(e)(4)(iv)]

5. An existing prefabricated unit or pressure vessel that is temporarily removed from a pipeline facility to complete a testing, integrity assessment, repair, odorization, or emergency response-related task, including noise or pollution abatement, and then re-installed at the same location must be inspected in accordance with Subparagraph E.3.b of this Section; however, a new pressure test is not required provided no damage or threats to the operational integrity of the prefabricated unit or pressure vessel were identified during the inspection and the MAOP of the pipeline is not increased. [49 CFR 192.153(e)(5)]

6. Except as provided in Subparagraphs E.4.b and Paragraph E.5 of this Section, on or after October 1, 2021, an existing prefabricated unit or pressure vessel relocated and operated at a different location must meet the requirements of this Subpart and the following: [49 CFR 192.153(e)(6)]

a. The prefabricated unit or pressure vessel must be designed and constructed in accordance with the requirements of this Subpart at the time the vessel is returned to operational service at the new location; and [49 CFR 192.153(e)(6)(i)]

b. The prefabricated unit or pressure vessel must be pressure tested by the operator in accordance with the testing and inspection requirements of this Subpart applicable to newly installed prefabricated units and pressure vessels. [49 CFR 192.153(e)(6)(ii)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:223 (April 1983), amended LR 10:516 (July 1984), LR 20:444 (April 1994), LR 27:1539 (September 2001), LR 30:1234 (June 2004), LR 44:1037 (June 2018), LR. 47:

Chapter 13. Welding of Steel in Pipelines [49 CFR Part 192 Subpart E]

§1309. Limitations on Welders [49 CFR 192.229]

A. ...

B. A welder or welding operator may not weld with a particular welding process unless, within the preceding 6 calendar months, the welder or welding operator was engaged in welding with that process. Alternatively, welders or welding operators may demonstrate they have engaged in a specific welding process if they have performed a weld with that process that was tested and found acceptable under section 6, 9, 12, or Appendix A of API Std 1104 (incorporated by reference, *see* §507) within the preceding 7 1/2 months. [49 CFR 192.229(b)]

C. - D.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:229 (April 1983), amended LR 10:521 (July 1984), LR 24:1309 (July 1998), LR 27:1541 (September 2001), LR 30:1241 (June 2004), LR 31:683

(March 2005), LR 33:479 (March 2007), LR 44:1038 (June 2018), LR. 47:

Chapter 15. Joining of Materials Other Than by Welding [49 CFR Part 192 Subpart F]

§1511. Plastic Pipe

A. - B.3. ...

C. Heat-Fusion Joints. Each heat-fusion joint on a PE pipe or component, except for electrofusion joints, must comply with ASTM F2620-12 (incorporated by reference in §507), or an alternative written procedure that has been demonstrated to provide an equivalent or superior level of safety and has been proven by test or experience to produce strong gastight joints, and the following. [49 CFR 192.281(c)]

C.1 - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:523 (July 1984), LR 20:445 (April 1994), LR 24:1309 (July 1998), LR 30:1243 (June 2004), LR 38:116 (January 2012), LR 44:1039 (June 2018), LR 46:1585 (November 2020), LR. 47:

§1513. Plastic Pipe: Qualifying Joining Procedures [49 CFR 192.283]

A. - A.2. ...

3. for procedures intended for non-lateral pipe connections, perform testing in accordance with a listed specification. If the test specimen elongates no less than 25 percent or failure initiates outside the joint area, the procedure qualifies for use. [49 CFR 192.283(a)(3)].

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:523 (July 1984), LR 20:445 (April 1994), LR 24:1310 (July 1998), LR 27:1541 (September 2001), LR 30:1244 (June 2004), LR 31:683 (March 2005), LR 33:479 (March 2007), LR 38:116 (January 2012), LR 44:1039 (June 2018), LR 46:1585 (November 2020), LR. 47:

§1515. Plastic Pipe: Qualifying Persons to Make Joints [49 CFR 192.285]

A. - B.2. ...

a. tested under any one of the test methods listed under §1513.A, and for PE heat fusion joints (except for electrofusion joints) visually inspected in accordance with ASTM F2620-12 (incorporated by reference, *see* §507) or a written procedure that has been demonstrated to provide an equivalent or superior level of safety, applicable to the type of joint and material being tested; [49 CFR 192.285(b)(2)(i)]

B.2.b. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:231 (April 1983), amended LR 10:524 (July 1984), LR 30:1244 (June 2004), LR 33:480 (March 2007), LR 44:1039 (June 2018), LR 46:1586 (November 2020), LR. 47:

Chapter 17. General Construction Requirements for Transmission Lines and Mains [49 CFR Part 192 Subpart G]

§1725. Underground Clearance [49 CFR 192.325]

A. Each transmission line must be installed with at least 12 inches (305 millimeters) of clearance from any other underground structure not associated with the transmission line. If this clearance cannot be attained, the transmission line must be protected from damage that might result from the proximity of the other structure. [49 CFR 192.325(a)]

B. Each main must be installed with enough clearance from any other underground structure to allow proper maintenance and to protect against damage that might result from proximity to other structures. [49 CFR 192.325(b)]

C. In addition to meeting the requirements of Subsections A or B of this Section, each plastic transmission line or main must be installed with sufficient clearance, or must be insulated, from any source of heat so as to prevent the heat from impairing the serviceability of the pipe. [49 CFR 192.325(c)]

D. Each pipe-type or bottle type holder must be installed with a minimum clearance from any other holder as prescribed in §1135.B. [49 CFR 192.325(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:233 (April 1983), amended LR 10:525 (July 1984), LR 20:446 (April 1994), LR 27:1542 (September 2001), LR 30:1247 (June 2004), LR. 47:

§1729. Installation of Plastic Pipelines By Trenchless Excavation [49 CFR 192.329]

A. Plastic pipelines installed by trenchless excavation must comply with the following. [49 CFR 192.329]

1. Each operator must take practicable steps to provide sufficient clearance for installation and maintenance activities from other underground utilities and/or structures at the time of installation. [49 CFR 192.329(a)]

2. For each pipeline section, plastic pipe and components that are pulled through the ground must use a weak link, as defined by § 503, to ensure the pipeline will not be damaged by any excessive forces during the pulling process. [49 CFR 192.329(b)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR. 47:

Chapter 21. Requirements for Corrosion Control [49 CFR Part 192 Subpart I]

§2117. External Corrosion Control: Monitoring [49 CFR 192.465]

A. ...

B. Cathodic protection rectifiers and impressed current power sources must be periodically inspected as follows: [49 CFR 192.465(b)]

1. Each cathodic protection rectifier or impressed current power source must be inspected six times each calendar year, but with intervals not exceeding 2 1/2 months between inspections, to ensure adequate amperage and voltage levels needed to provide cathodic protection are maintained. This may be done either through remote

measurement or through an onsite inspection of the rectifier. [49 CFR 192.465(b)(1)]

2. After January 1, 2022, each remotely inspected rectifier must be physically inspected for continued safe and reliable operation at least once each calendar year, but with intervals not exceeding 15 months. [49 CFR 192.465(b)(2)]

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:236 (April 1983), amended LR 10:528 (July 1984), LR 27:1545 (September 2001), LR 30:1253 (June 2004), LR 38:116 (January 2012), LR. 47:

§2133. Atmospheric Corrosion Control: Monitoring [49 CFR 192.481]

A. Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows. [49 CFR 192.481(a)]

If the pipeline is located:	Then the frequency of inspection is:
Onshore other than a service line	At least once every 3 calendar years, but with intervals not exceeding 39 months.
Onshore service line	At least once every 5 calendar years, but with intervals not exceeding 63 months, except as provided in Subsection D of this Section.
Offshore	At least once each calendar year, but with intervals not exceeding 15 months.

B. - C. ...

D. If atmospheric corrosion is found on a service line during the most recent inspection, then the next inspection of that pipeline or portion of pipeline must be within 3 calendar years, but with intervals not exceeding 39 months. [49 CFR 192.481(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:237 (April 1983), amended LR 10:529 (July 1984), LR 30:1255 (June 2004), LR 47:

§2143. Corrosion Control Records [49 CFR 192.491]

A. - B. ...

C. Each operator shall maintain a record of each test, survey, or inspection required by this Section in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least five years with the following exceptions: [49 CFR 192.491(c)]

1. Operators must retain records related to §§ 2117.A and E and 2127.B for as long as the pipeline remains in service. [49 CFR 192.491(c)(1)]

2. Operators must retain records of the two most recent atmospheric corrosion inspections for each distribution service line that is being inspected under the interval in §2133.A. [49 CFR 192.491(c)(2)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:237 (April 1983), amended LR 10:530 (July 1984), LR 24:1311 (July 1998), LR 30:1256 (June 2004), LR. 47:

Chapter 23. Test Requirements

[49 CFR Part 192 Subpart J]

§2307. Test Requirements for Pipelines to Operate at a Hoop Stress Less Than 30 Percent of SMYS and At or Above 100 psi (689 kPa) Gauge [49 CFR 192.507]

A. - A.3. ...

4. For fabricated units and short sections of pipe, for which a post installation test is impractical, a pre-installation hydrostatic pressure test must be conducted in accordance with the requirements of this Section. [49 CFR 192.507(d)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:238 (April 1983), amended LR 10:530 (July 1984), LR 27:1545 (September 2001), LR 30:1257 (June 2004), LR. 47:

Chapter 27. Operations

[49 CFR Part 192 Subpart L]

§2719. What is the Maximum Allowable Operating Pressure for Steel or Plastic Pipelines? [49 CFR 192.619]

A. - A.2.a. ...

b. for steel pipe operated at 100 psi (689 kPa) gage or more, the test pressure is divided by a factor determined in accordance with the following table to Subparagraph A.2.b. [49 CFR 192.619(a)(2)(ii)]

Table 1 to Subparagraph A.2.b				
Factors ¹ , Segment				
Class Location	Installed before (Nov. 12, 1970)	Installed after (Nov. 11, 1970) and before July 1, 2020	Installed on or after July 1, 2020	Converted under CFR §192.14
1	1.1	1.1	1.25	1.25
2	1.25	1.25	1.25	1.25
3	1.4	1.5	1.5	1.5
4	1.4	1.5	1.5	1.5

¹For offshore segments installed, uprated or converted after July 31, 1977, that are not located on an offshore platform, the factor is 1.25. For segments installed, uprated or converted after July 31, 1977, that are located on an offshore platform or on a platform in inland navigable waters, including a pipe riser, the factor is 1.5.

²For a component with a design pressure established in accordance with §1113.A or B installed after July 14, 2004, the factor is 1.3.

A.3. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:242 (April 1983), amended LR 10:534 (July 1984), LR 24:1312 (July 1998), LR 27:1547 (September 2001), LR 30:1264 (June 2004), LR 33:481 (March 2007), LR 35:2807 (December 2009), LR 46:1590 (November 2020), LR. 47:

Chapter 29. Maintenance

[49 CFR Part 192 Subpart M]

§2912. Analysis of Predicted Failure Pressure [49 CFR 192.712]

A. - E.2.a.iii. ...

iv. if the pipeline segment has a history of reportable incidents caused by cracking or crack-like defects, maximum Charpy v-notch toughness values of 5.0

ft.-lbs. for body cracks and 1.0 ft.-lbs. for cold weld, lack of fusion, and selective seam weld corrosion; or [49 CFR 192.712(e)(2)(i)(D)]

v. other appropriate values that an operator demonstrates can provide conservative Charpy v-notch toughness values of crack-related conditions of the pipeline segment. Operators using an assumed Charpy v-notch toughness value must notify PHMSA in advance in accordance with § 518 and include in the notification the bases for demonstrating that the Charpy v-notch toughness values proposed are appropriate and conservative for use in analysis of crack-related conditions. [49 CFR 192.712(e)(2)(i)(E)]

E.2.b. - G.19. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 46:1595 (November 2020), LR. 47:

§2940 Pressure Regulating, Limiting, and Overpressure Protection—Individual Service Lines Directly Connected to Regulated Gathering or Transmission Pipelines [49 CFR 192.740]

A. This Section applies, except as provided in Subsection C of this Section, to any service line directly connected to a transmission pipeline or regulated gathering pipeline as determined in § 507 that is not operated as part of a distribution system. [49 CFR 192.740(a)]

B. - B.4. ...

C. This Section does not apply to equipment installed on: [49 CFR 192.740(c)]

1. a service line that only serves engines that power irrigation pumps; [49 CFR 192.740(c)(1)]

2. a service line included in a distribution integrity management plan meeting the requirements of Chapter 35 of this Subpart; or [49 CFR 192.740(c)(2)]

3. a service line directly connected to either a production or gathering pipeline other than a regulated gathering line as determined in §508 of this Subpart. [49 CFR 192.740(c)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 44:1042 (June 2018), LR 46:1597 (November 2020), LR.47:

Chapter 35. Gas Distribution Pipeline Integrity Management (IM) [49 CFR Part 192 Subpart P]

§3503. What do the Regulations in this Chapter Cover? [49 CFR 192.1003]

A. General. Unless exempted in Subsection B of this Section this Chapter prescribes minimum requirements for an IM program for any gas distribution pipeline covered under this Subpart, including liquefied petroleum gas systems. A gas distribution operator must follow the requirements in this Chapter. [49 CFR 192.1003(a)]

B. Exceptions. This subpart does not apply to: [49 CFR 192.1003(b)]

1. Individual service lines directly connected to a production line or a gathering line other than a regulated onshore gathering line as determined in § 507; [49 CFR 192.1003(b)(1)]

2. Individual service lines directly connected to either a transmission or regulated gathering pipeline and maintained in accordance with §2940.A and B; and [49 CFR 192.1003(b)(2)]

3. Master meter systems. [49 CFR 192.1003(b)(3)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:123 (January 2012), amended LR 44:1044 (June 2018), LR. 47:

§3505. What must a Gas Distribution Operator (other than a Small LPG Operator) do to Implement this Chapter? [49 CFR 192.1005]

A. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:123 (January 2012), repromulgated LR 47:

§3507. What are the Required Elements of an Integrity Management Plan? [49 CFR 192.1007]

A. - A.1.e. ...

2. Identify Threats. The operator must consider the following categories of threats to each gas distribution pipeline: corrosion (including atmospheric corrosion), natural forces, excavation damage, other outside force damage, material, or welds, equipment failure, incorrect operations, and other concerns that could threaten the integrity of its pipeline. An operator must consider reasonably available information to identify existing and potential threats. Sources of data may include, but are not limited to, incident and leak history, corrosion control records, continuing surveillance records, patrolling records, maintenance history, and excavation damage experience. [49 CFR 192.1007(b)]

3. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:123 (January 2012), amended LR. 47:

§3509. What must an operator report when compression couplings fail? [49 CFR 192.1009]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:124 (January 2012), repealed LR. 47:

§3515. What must a Small LPGoperator do to Implement this Chapter?[49 CFR 192.1015]

A. General. No later than August 2, 2011 a small LPG operator must develop and implement an IM program that includes a written IM plan as specified in Subsection B of this Section. The IM program for these pipelines should reflect the relative simplicity of these types of pipelines. [49 CFR 192.1015(a)]

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 38:124 (January 2012), LR. 47:

Chapter 51. Appendices

§5103. Appendix B—Qualification of Pipe

I. Listed Pipe Specifications

A. Listed Pipe Specifications

1. API Spec 5L—Steel pipe, “API Specification for Line Pipe” (incorporated by reference, see § 507).

2. ASTM A53/A53M—Steel pipe, “Standard Specification for Pipe, Steel Black and Hot-Dipped, Zinc-Coated, Welded and Seamless” (incorporated by reference, see § 507).

3. ASTM A106/A-106M—Steel pipe, “Standard Specification for Seamless Carbon Steel Pipe for High Temperature Service” (incorporated by reference, see § 507).

4. ASTM A333/A333M—Steel pipe, “Standard Specification for Seamless and Welded Steel Pipe for Low Temperature Service” (incorporated by reference, see § 507).

5. ASTM A381—Steel pipe, “Standard Specification for Metal-Arc-Welded Steel Pipe for Use with High-Pressure Transmission Systems” (incorporated by reference, see § 507).

6. ASTM A671/A671M—Steel pipe, “Standard Specification for Electric-Fusion- Welded Pipe for Atmospheric and Lower Temperatures” (incorporated by reference, see § 507).

7. ASTM A672/A672M-09—Steel pipe, “Standard Specification for Electric-Fusion- Welded Steel Pipe for High-Pressure Service at Moderate Temperatures” (incorporated by reference, see § 507).

8. ASTM A691/A691M-09—Steel pipe, “Standard Specification for Carbon and Alloy Steel Pipe, Electric-Fusion-Welded for High Pressure Service at High Temperatures” (incorporated by reference, see § 507).

9. ASTM D2513“Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings” (incorporated by reference, see § 507).

10. ASTM D 2517-00—Thermosetting plastic pipe and tubing, “Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings” (incorporated by reference, see § 507).

11. ASTM F2785-12 “Standard Specification for Polyamide 12 Gas Pressure Pipe, Tubing, and Fittings” (PA-12) (incorporated by reference, see § 507).

12. ASTM F2817-10 “Standard Specification for Poly (Vinyl Chloride) (PVC) Gas Pressure Pipe and Fittings for Maintenance or Repair” (incorporated by reference, see § 507).

13. ASTM F2945-12a “Standard Specification for Polyamide 11 Gas Pressure Pipe, Tubing, and Fittings” (PA-11) (incorporated by reference, see § 507).

B. Other Listed Specifications for Components

1. ASME B16.40-2008 “Manually Operated Thermoplastic Gas Shutoffs and Valves in Gas Distribution Systems” (incorporated by reference, see § 507).

2. ASTM D2513“Standard Specification for Polyethylene (PE) Gas Pressure Pipe, Tubing, and Fittings” (incorporated by reference, see § 507).

3. ASTM D 2517-00—Thermosetting plastic pipe and tubing, “Standard Specification for Reinforced Epoxy Resin Gas Pressure Pipe and Fittings” (incorporated by reference, see § 507).

4. ASTM F2785-12 “Standard Specification for Polyamide 12 Gas Pressure Pipe, Tubing, and Fittings” (PA-12) (incorporated by reference, see § 507).

5. ASTM F2945-12a “Standard Specification for Polyamide 11 Gas Pressure Pipe, Tubing, and Fittings” (PA-11) (incorporated by reference, see § 507).

6. ASTM F1055-98 (2006) “Standard Specification for Electrofusion Type Polyethylene Fittings for Outside Diameter Controlled Polyethylene Pipe and Tubing” (incorporated by reference, see § 507).

7. ASTM F1924-12 “Standard Specification for Plastic Mechanical Fittings for Use on Outside Diameter Controlled Polyethylene Gas Distribution Pipe and Tubing” (incorporated by reference, see § 507).
8. ASTM F1948-12 “Standard Specification for Metallic Mechanical Fittings for Use on Outside Diameter Controlled Thermoplastic Gas Distribution Pipe and Tubing” (incorporated by reference, see § 507).
9. ASTM F1973-13 “Standard Specification for Factory Assembled Anodeless Risers and Transition Fittings in Polyethylene (PE) and Polyamide 11 (PA 11) and Polyamide 12 (PA 12) Fuel Gas Distribution Systems” (incorporated by reference, see § 507).
10. ASTM F 2600-09 “Standard Specification for Electrofusion Type Polyamide-11 Fittings for Outside Diameter Controlled Polyamide-11 Pipe and Tubing” (incorporated by reference, see § 507).
11. ASTM F2145-13 “Standard Specification for Polyamide 11 (PA 11) and Polyamide 12 (PA12) Mechanical Fittings for Use on Outside Diameter Controlled Polyamide 11 and Polyamide 12 Pipe and Tubing” (incorporated by reference, see § 507).
12. ASTM F2767-12 “Specification for Electrofusion Type Polyamide-12 Fittings for Outside Diameter Controlled Polyamide-12 Pipe and Tubing for Gas Distribution” (incorporated by reference, see §507).
13. ASTM F2817-10 “Standard Specification for Poly (Vinyl Chloride) (PVC) Gas Pressure Pipe and Fittings for Maintenance or Repair” (incorporated by reference, see §507).

II. Steel Pipe of Unknown or Unlisted Specification

A. Bending properties. For pipe 2 inches (51 millimeters) or less in diameter, a length of pipe must be cold bent through at least 90 degrees around a cylindrical mandrel that has a diameter 12 times the diameter of the pipe, without developing cracks at any portion and without opening the longitudinal weld.

For pipe more than 2 inches (51 millimeters) in diameter, the pipe must meet the requirements of the flattening tests set forth in ASTM A53, except that the number of tests must be at least equal to the minimum required in Paragraph II.D of this appendix to determine yield strength.

B. Weldability. A girth weld must be made in the pipe by a welder who is qualified under Chapter 13 of this Subpart. The weld must be made under the most severe conditions under which welding will be allowed in the field and by means of the same procedure that will be used in the field. On pipe more than 4 inches (102 millimeters) in diameter, at least one test weld must be made for each 100 lengths of pipe. On pipe 4 inches (102 millimeters) or less in diameter, at least one test weld must be made for each 400 lengths of pipe. The weld must be tested in accordance with API Standard 1104 (incorporated by reference, see §507). If the requirements of API Standard 1104 cannot be met, weldability may be established by making chemical tests for carbon and manganese, and proceeding in accordance with Section IX of the ASME Boiler and Pressure Vessel Code (IBR, see §507). The same number of chemical tests must be made as are required for testing a girth weld.

C. Inspection. The pipe must be cleaned enough to permit adequate inspection. It must be visually inspected to ensure that it is reasonably round and straight and there are no defects which might impair the strength or tightness of the pipe.

D. Tensile properties. If the tensile properties of the pipe are not known, the minimum yield strength may be taken as 24,000 p.s.i. (165 MPa) or less, or the tensile properties may be established by performing tensile test as set forth in API Specification 5L (incorporated by reference, see §507).

Number of Tensile Tests-All Sizes	
10 lengths or less	1 set of tests for each length.
11 to 100 lengths	1 set of tests for each 5 lengths, but not less than 10 tests.
Over 100 lengths	1 set of tests for each 10 lengths, but not less than 20 tests.

If the yield-tensile ratio, based on the properties determined by those tests, exceeds 0.85, the pipe may be used only as provided in §705.C5(c).

III. - III.C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 10:541 (July 1984), amended LR 18:859 (August 1992), LR 27:1551, 1552 (September 2001), LR 30:1287 (June 2004), LR 31:689 (March 2005), LR 33:487 (March 2007), LR 35:2813 (December 2009), amended by the Department of Natural Resources, Office of Conservation, LR 38:125 (January 2012), LR 44:1045 (June 2018), LR 46:1601 (November 2020), LR. 47:

Subpart 4. Drug and Alcohol Testing
Chapter 61. General [Part 199—Subpart A]
§6103. Definitions [49 CFR 199.3]

* * *

Prohibited Drug—any of the substances specified in 49 CFR part 40.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 18:852 (August 1992), LR 21:826, 829 (August 1995), LR 24:1306 (July 1998), LR 27:1554 (September 2001), LR 30:1292 (June 2004), LR 33:488 (March 2007), LR. 47:

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Wastes and Hazardous Materials

Subpart 3. Natural Resources

Chapter 304. Transportation of Hazardous Liquids by Pipeline—Operation and Maintenance
[49 CFR Part 195 Subpart F]

§30416. Pipeline Assessments
[49 CFR 195.416]

A. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 46:1607 (November 2020), repromulgated LR. 47:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, until 4 p.m., June 21, 2020, at Office of Conservation, Pipeline Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Pipeline Division, 617 North Third Street, Room 931, Baton Rouge, LA 70802. Reference Docket No. PRA 2021-01. All inquiries should be directed to Michael Peikert at the above addresses or by phone to (225) 219-3799. No preamble was prepared.

Richard P. Ieyoub
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pipeline Safety

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes are not anticipated to create any implementation costs to state or local governmental units at this time. The proposed rule changes are required as a part of the Department of Natural Resources (DNR) certification agreement with the US Department of Transportation. The proposed rule changes codify existing federal regulations for: construction, maintenance, and operation of gas transmission, distribution, and gathering pipeline systems, drug testing and minor corrections. The Office of Conservation (OC) anticipates it will be able to enforce these regulations using existing staff and budgetary resources.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are anticipated to have no effect on revenue collections of state and local government units. The proposed rule changes do not impose any new fees or change to existing fees.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes directly affect pipeline operators. The proposed rule changes codify adopted federal regulations that these regulators are currently complying with. Therefore, there should be no economic impact to the regulated community.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Richard P. Ieyoub
Commissioner
2105#036

Alan M. Boxberger
Staff Officer
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Transportation and Development Offshore Terminal Authority

Offshore Terminal Facilities Air Emissions
Recordkeeping and Reporting
(LAC 70:VII.303)

Under the authority of R.S. 34:3101, et seq., the Offshore Terminal Authority gives notice that it intends to issue the following Order regarding Offshore Terminal Facilities Air Emissions Recordkeeping and Reporting, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. This Order requires that offshore terminal facilities within the jurisdiction of the Authority maintain records pertaining to certain air emissions information and annually report such information to the Authority pursuant to the recently amended Superport Environmental Protection Plan.

Pursuant to the authority granted by Louisiana Revised Statutes 34:3101 et seq., and particularly R.S. 34:3109(A)(4), 3113, and 3115(2), I hereby make the following findings and order:

1. The Superport Environmental Protection Plan (Protection Plan) is a rule and regulation of the Offshore Terminal Authority. The Protection Plan establishes the steps to be followed to ensure the protection of the environment throughout all phases of the Authority's development program, and it is applicable to all offshore terminal facilities within the jurisdiction of the Authority.

2. On April 20, 2021, the Authority amended the Protection Plan to establish certain operational and monitoring plans for offshore operations to assure adequate protection of Louisiana's onshore air quality laws. The amendment was developed in consultation with the Department of Environmental Quality and the Department of Transportation and Development.

3. As amended, Section 7 of Chapter 5 of the Protection Plan:

a. requires, in subsection (j)(2), that the Authority ensure that offshore terminal facilities' operations are conducted in a manner that minimizes or prevents any significant adverse environmental effects;

b. requires, in subsection (j)(2)(b)(1), that in considering the effect on air quality of a project or activity, the Authority examine whether the project or activity has a significant effect on onshore air quality in the State of Louisiana through consideration of compliance with applicable National Ambient Air Quality Standards (NAAQS) through air quality modeling based on the project or activity's location, projected operations, and potential emission rates;

c. authorizes, in subsection (m), the Authority to issue orders requiring an owner or operator to submit or make available reports and records that the Authority may reasonably require to assure compliance with the Protection Plan; and

d. requires, in subsection (m)(1), that the owner or operator establish and maintain records of operating parameters necessary to estimate actual air emissions in each calendar year and submit a report to the Authority by March 31 of the following calendar year on those emissions and a comparison to modeled potential emissions, which have been demonstrated to comply with the NAAQS.

4. This Order is issued pursuant to subsection (m) of Section 7 of Chapter 5 of the Protection Plan.

5. This Order is issued as a rule, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., applicable to all offshore terminal facilities within the jurisdiction of the Authority.

6. LOOP, LLC (Louisiana Offshore Oil Port) currently operates the United States' only offshore deepwater oil port. The LOOP facility is an offshore terminal facility located in the Gulf of Mexico off the coast of Louisiana within the jurisdiction of the Authority and is thus subject to the provisions of the Protection Plan and this Order.

Title 70

TRANSPORTATION

Part VII. Offshore Terminal Authority

§303. Air Emissions Recordkeeping and Reporting

A. ...

B. The owner or operator of an offshore terminal facility shall:

1. establish and maintain records of operating parameters necessary to estimate actual air emissions in each calendar year;

2. submit a report to the Authority within 45 calendar days of publication of this Rule, stating the 2020 estimate of actual annual air emissions and a comparison to modeled potential emissions, which have been demonstrated to comply with the NAAQS;

3. submit a report to the Authority no later than March 31, 2022, stating the 2021 estimate of actual annual air emissions and a comparison to modeled potential emissions, which have been demonstrated to comply with the NAAQS; and

4. submit a report no later than March 31 of each year thereafter, stating the estimate of actual annual air emissions of the preceding calendar year and a comparison to modeled potential emissions, which have been demonstrated to comply with the NAAQS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3113.

HISTORICAL NOTE: Promulgated by the Offshore Terminal Authority (January 1974), amended (October 1975), amended (August 1976), LR 47:490 (April 2021), amended LR 47:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule should have no foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This proposed Rule has no known impact on providers as described in HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments or a hearing request relative to the proposed Rule until 4:30 p.m., June, 9, 2021, to Julie Silva, Offshore Terminal Authority, 1201 North Third Street, Suite-7-210, Baton Rouge, LA 70802.

Shawn D. Wilson, Ph.D.

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Offshore Terminal Facilities Air Emissions Recordkeeping and Reporting

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule directs offshore terminal facilities within the jurisdiction of the Louisiana Offshore Terminal Authority (LOTA) to establish and maintain records of operating parameters necessary to estimate actual air emissions in each calendar year and submit annual reports of such emissions as compared to modeled potential emissions, which have been demonstrated to comply with applicable National Ambient Air Quality Standards (NAAQS). The proposed order does not materially impact enforcement or accounting. Thus, promulgation of this proposed order will not result in any costs to state or local government units. Nor is it likely to result in any savings to any such units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no additional fees or new permitting practices included in the proposed rule. Promulgation of this proposed rule will not affect 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 will require offshore terminal facilities within the jurisdiction of LOTA to establish and maintain records of operating parameters necessary to estimate actual air emissions in each calendar year and submit an annual report of such emissions compared to modeled emissions. This provision is not anticipated to create an appreciable workload or expenditure impact on the existing terminal facility, which already collects this information. There are no other estimated costs and/or economic benefits to directly affected persons, small businesses or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule is not anticipated to affect competition and employment.

Shawn D. Wilson, Ph.D.
Secretary
2105#050

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Uniform Local Sales Tax Board

Claims for Refund or Credit (LAC 72:I.111)

Act 274 of the 2017 Regular Legislative Session enacted R.S. 47:337.102 in order to establish the Louisiana Uniform Local Sales Tax Board and define its powers and authority. Under R.S. 47:337.102(C)(2), the board is authorized to promulgate rules and regulations in accordance with Part H of Chapter 2-D of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

Under the authority of the Uniform Local Sales Tax Code, R.S. 47:337.1 et seq., and in accordance with the Uniform Local Sales Tax Administrative Procedure Act, R.S. 47:337.91 et seq., the Louisiana Uniform Local Sales Tax Board proposes to adopt LAC 72:I.111 regarding the filing of claims for refund or credit of local sales and use taxes. R.S. 47:337.77(B) provides that a collector shall make a refund of each overpayment of tax under specific conditions. Proper notification by taxpayers to collectors in the submission of claims is a requirement for issuance of the refund or credit. The purpose of this proposed regulation is to clarify how taxpayers shall provide proper notification.

Title 72

UNIFORM LOCAL SALES TAX

Part I. General Provisions

Chapter 1. Administrative Procedures

§111. Requirements for the Filing of Claims for Refund or Credit of Local Sales and Use Taxes

A. Definitions. For purposes of this Section, the following terms have the meanings ascribed to them.

Board—the Louisiana Uniform Local Sales Tax Board and its duly authorized representatives.

Claim for Refund or Credit—an application form and supporting documents required to confirm the validity of a refund or credit that has been submitted by a Taxpayer to the Board or a Collector.

Collector—the single collector for a parish as defined in Article VII, Section 3 of the Constitution of Louisiana and the Collector's duly authorized representatives.

Local Sales Tax—a tax imposed by a Local Taxing Authority under the provisions of Article VI, Section 29 of the Constitution of Louisiana.

Local Taxing Authority—a political subdivision of the state authorized to impose sales tax under the provisions of Article VI, Section 29 of the Constitution of Louisiana.

Taxpayer—any person defined in R.S. 47:301(8) who qualifies as a dealer under R.S. 47:301(4).

B. Taxpayers who file claims for refund or credit of overpayments of tax, penalty or interest as authorized by R.S. 47:337.77 or R.S. 47:337.102(G) shall comply with the following requirements:

1. Claims for refund or credit shall be written in the English language and be:

a. submitted electronically to the board through a website portal established for multi-parish claims as authorized by R.S. 47:337.102(G);

b. submitted to the collector for the parish where the tax was paid in the manner and form established by the collector; or

c. submitted by timely filing an amended return.

2. Claims for refund or credit shall:

a. be signed and dated by the taxpayer or his authorized representative;

b. contain a clear statement detailing the reason for the claim; and

c. include schedules itemizing the overpayment of tax amounts by filing period.

C. Claims must be submitted to an official or entity authorized to receive the claim on behalf of the collector.

1. Taxpayers may submit claims for refund or credit that involve two or more Louisiana parishes having transactions similar in fact to either the board or the individual collectors for each parish. Claims for refund or credit submitted to the board must be filed electronically through the board's multi-parish refund system.

2. Taxpayers shall submit claims for refund or credit that involve a single parish or have dissimilar transactions directly to the individual collectors for each parish.

D. Filing Date of Claims

1. Claims for refund or credit in properly addressed envelopes with sufficient postage delivered by the United States Postal Service are deemed filed on the date postmarked by the United States Postal Service. If a postmark is illegible, the taxpayer has the burden of proving the date of postmark. The date of registration is treated as the date of postmark for claims for refund or credit sent by United States registered or certified mail. Postage meter dates are valid postmark dates provided they do not conflict with a legible United States Postal Service postmark date. If the dates conflict, the United States Postal Service date shall override the meter date.

2. Claims for refund or credit delivered by courier are deemed filed on the date delivered to the collector's office. The courier's records shall serve as prima facie evidence of the delivery.

3. Claims for refund or credit delivered by the taxpayer or a representative of the taxpayer are deemed filed on the date received by the collector's office. Upon request of the taxpayer, the collector shall provide a receipt acknowledging the date of receipt.

4. Claims for refund or credit submitted electronically are deemed filed when both the application and supporting schedules are received by the board, collector or the collector's agent and available for review by the collector.

5. Supplemental information requested by a collector and timely provided by the applicant shall not alter the filing date of the claim. This paragraph shall not apply to schedules or documents required to be submitted with claims for refund or credit under an ordinance or a collector's written public policy.

E. Approval of Claims

1. Claims for refund or credit shall be approved or denied by the appropriate collector or his designee in accordance with the collector’s written policies and procedures and applicable provisions of the Uniform Local Sales Tax Code.

2. Claims for refund or credit that have not been approved within one year of the date received or that have been denied may be appealed by the taxpayer to the Louisiana Board of Tax Appeals in accordance with R.S. 47:337.81.

F. This Section shall apply only to claims for refund or credit for overpayments of local sales tax imposed by a local taxing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:337.102(C)(2).

HISTORICAL NOTE: Promulgated by the Louisiana Uniform Local Sales Tax Board, LR 47:

Public Comments

Interested persons may submit written data, views, arguments or comments to J. A. Cline, Jr., Sales Tax Analyst, Louisiana Uniform Local Sales Tax Board, P.O. Box 404, Port Allen, LA 70767. Written comments shall be accepted until 4:30 p.m., Monday, June 21, 2021.

Public Hearing

A public hearing shall be held on Friday, June 25, 2021 at 10 a.m. at the offices of the Louisiana Uniform Local Sales Tax Board located in the Municipal Police Employees’ Retirement System Building, 7722 Office Park Boulevard, Baton Rouge, LA 70809. Masks and social distancing are required. Members of the public may view the hearing on Zoom and submit comments and questions via the Zoom chat feature. The login to participate in the hearing is: <https://zoom.us/j/93955109963?pwd=WS9vbTRwaW0ycUk5SDU1aFBIc3Q1UT09>

Roger Bergeron
Executive Director

2105#028

NOTICE OF INTENT

Uniform Local Sales Tax Board

Interest on Refunds or Credits (LAC 72:I.113)

Act 274 of the 2017 Regular Legislative Session enacted R.S. 47:337.102 establishing the Louisiana Uniform Local Sales Tax Board and defining its powers and authority. Under R.S. 47:337.102(C)(2), the board is authorized to promulgate rules and regulations in accordance with Part H of Chapter 2-D of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950.

Under the authority of the Uniform Local Sales Tax Code, R.S. 47:337.1 et seq., and in accordance with the Uniform Local Sales Tax Administrative Procedure Act, R.S. 47:337.91 et seq., the Louisiana Uniform Local Sales Tax Board proposes to adopt LAC 72:I.113 regarding the payment and suspension of interest on refunds or credits of local sales and use taxes. R.S. 47:337.80 requires the payment of interest on refunds and credits. R.S. 47:337.80(D) states that interest shall be suspended during any period of time that a delay in the issuance of a refund is

attributable to the taxpayer's failure to provide information or documentation required by statute or regulation. R.S. 47:337.80(A)(4)(d) provides that a claim for refund shall be submitted in the form and with the documentation provided for by rules promulgated by the Louisiana Uniform Local Sales Tax Board, pursuant to R.S. 47:337.102(C)(2). The purpose of this proposed regulation is to establish the taxpayer’s obligations for providing documentation to verify a claim for refund or credit and to explain how interest will be calculated.

Title 72

UNIFORM LOCAL SALES TAX

Part I. General Provisions

Chapter 1. Administrative Procedures

§113. Interest on Refunds or Credits of Local Sales and Use Tax

A. Definitions. For purposes of this Section, the following terms have the meanings ascribed to them.

Administrative Error—an action by the taxpayer that results in the erroneous remittance of taxes that are not due. This includes the remittance of use tax by a taxpayer, as a purchaser, to the collector when the tax is not due and errors by a vendor when the vendor erroneously charges for and remits taxes that are not due and subsequently files a claim for refund or credit because of the purchaser’s refusal to pay the tax. This excludes errors by a vendor that results in charging tax that is not due when the taxpayer, as a purchaser, disputes the tax charged and files a claim for refund or credit.

Board—the Louisiana Uniform Local Sales Tax Board and its duly authorized representatives.

Claim for Refund or Credit—an application form and supporting documents required to confirm the validity of a refund or credit that has been submitted by a Taxpayer to the Board or a Collector.

Collector—the single collector for a parish as defined in Article VII, Section 3 of the Constitution of Louisiana and the Collector’s duly authorized representatives.

Local Sales Tax—a tax imposed by a Local Taxing Authority under the provisions of Article VI, Section 29 of the Constitution of Louisiana.

Local Taxing Authority—a political subdivision of the state authorized to impose sales tax under the provisions of Article VI, Section 29 of the Constitution of Louisiana.

Taxpayer—any person defined in R.S. 47:301(8) who qualifies as a dealer under R.S. 47:301(4).

B. Interest Rates

1. Prior to January 1, 2021, interest shall be paid as follows.

a. The rate authorized by local ordinance of not less than two percent per annum shall be calculated from the date the tax was paid until the date a claim for refund or credit of tax is filed. If a refund interest rate is not authorized by local ordinance, the rate shall be two percent per annum.

b. The rate computed by the commissioner of financial institutions pursuant to R.S. 13:4202(B), per year, but without the addition of one percentage point, shall be calculated from the following dates, whichever occurs first, until the refund is issued:

- i. the date a claim for refund or credit of tax is filed;
- ii. a payment under protest is submitted; or

iii. the taxpayer gives notice of intention to file suit for recovery of the taxes paid.

c. The interest rate in Subparagraph 1.a shall apply for a period of sixty days after the claim is filed if the reason for the refund is due to an administrative error by the taxpayer.

d. The interest rate in Subparagraph 1.a shall apply from the date the tax was paid until the refund or credit is paid by the collector whenever the taxpayer fails to take any of the actions listed in Subparagraph 1.b.

e. For audit purposes, if the tax was paid by the taxpayer, as a purchaser, to a vendor, the collector may consider the date of payment as the 1st day of the month subsequent to the period in which the transaction that caused the overpayment occurred. If the tax was remitted by the taxpayer directly to the collector, the collector may consider as the date of payment the date on which the tax was reported and paid or the 1st day of the month subsequent to the period in which the transaction that caused the overpayment occurred.

2. Beginning January 1, 2021, interest shall be paid at a rate computed by the commissioner of financial institutions pursuant to R.S. 13:4202(B), per year, but without the addition of one percentage point. Interest shall not begin until ninety days after the latest of:

- a. the due date of the return;
- b. the date that the taxpayer gave the political subdivision notice of the taxpayer's intention to file suit for the recovery of any taxes paid;
- c. the filing date of the return or claim for refund on which the overpayment is claimed; or
- d. the date the tax was paid.

C. Claims Submitted to the Board

1. Taxpayers may submit claims for refund or credit to the board that involve two or more Louisiana parishes having transactions similar in fact. The claim shall include a completed application and supporting schedules, subtotaled by filing period, for each collector to be considered a complete claim.

2. Collectors may request additional information from the taxpayer in order to verify the claim including, but not limited to, invoices, shipping documents, purchase orders, etc.

3. Additional information requested by a collector that is provided within 30 days of the request or any extension of time granted by the collector beyond thirty days shall not be considered a delay by the taxpayer under R.S. 47:337.80(D).

D. Claims Submitted to a Collector

1. Claims for refund or credit submitted to a collector shall include all forms and documentation required by the collector in accordance with local ordinances and the collector's written policies. Claims with missing or incomplete information required by local ordinance or the collector's written policies shall be considered a delay by the taxpayer under R.S. 47:337.80(D).

2. Any such ordinances or policies shall be accessible to taxpayers by publication on the collector's website or other means available for public inspection, including the board's website.

3. Upon written notice, additional information requested by the collector that is provided by the taxpayer within 30 days of the notice or any extension of time granted

by the collector beyond the 30 days shall not be considered a delay by the taxpayer under R.S. 47:337.80(D).

E. Suspension of Interest

1. Claims for refund or credit of overpayments of tax, penalty or interest filed pursuant to R.S. 47:337.77 or R.S. 47:337.102(G) shall include all forms, schedules and documentation required by the collector to:

- a. confirm the veracity of the claim; and
- b. determine the specific amount of the refund or credit due.

2. Failure to provide all required information within the period of time hereafter defined shall constitute a delay by the taxpayer and subject any refund to the suspension of interest until such information is provided.

F. Nonpayment of Interest

1. A collector shall not pay interest on a refund if it is determined that a taxpayer has deliberately overpaid a tax in order to derive benefit of the interest allowed by statute.

2. The interest on the refund shall be eliminated from the collector's accounts whenever the refund has prescribed as provided in R.S. 47:337.79 or a judgment that interest is not due on the refund has become final and non-appealable.

G. Interest on Refunds and Credits of Tax in Audits

1. If the audit contains refund balances in all periods, interest shall be calculated as follows.

a. For periods prior to January 1, 2021, interest shall be computed as follows.

i. Interest shall be computed at the refund rate allowed by local ordinance, but not less than two percent per annum, from the date the tax was paid or determined to have been paid by the collector until the audit is complete or the taxpayer has submitted a claim for refund or credit, whichever occurs first. The audit is complete when the collector and taxpayer agree to the amount of the refund due.

ii. After the audit is complete or a claim for refund or credit has been filed, interest shall be computed at the rates authorized by R.S. 47:337.80(A)(2).

iii. If the refund is due to an administrative error by the taxpayer, the interest shall continue at the rate described in Subparagraph (1)(a) until sixty days after the audit is complete or a claim for refund or credit has been filed by the taxpayer, whichever occurs first.

b. For periods beginning on or after January 1, 2021, interest shall be computed at the rate provided for in R.S. 47:337.80(A)(4)(b) beginning ninety days after the audit is complete or the date a claim for refund or credit has been filed by the taxpayer, whichever occurs first.

2. Overpayments of tax confirmed through an audit shall not include interest when credited against a liability.

3. Collectors should authorize use of the tax balance method when an audit results in running cumulative balances of liabilities and overpayments of tax in the various filing periods. When cumulative credits and cumulative liabilities exist for different filing periods, the local refund interest rate shall be computed from the payment date of periods of the cumulative credits until the next period when a cumulative liability exists, the audit is complete or a claim for refund or credit has been filed, whichever occurs first. The interest rate due on liabilities shall be computed on periods with cumulative liabilities until the next period when a cumulative refund or credit is due or the audit is paid, whichever occurs first.

4. For periods beginning on or after January 1, 2021, R.S. 47:337.80(A)(4)(c) authorizes a collector to credit an overpayment resulting from an audit to the taxpayer's account without the payment of interest.

H. This Section shall apply only to claims for refund or credit for overpayments of local sales tax imposed by a local taxing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:337.102(C)(2) and R.S. 47:337.80.

HISTORICAL NOTE: Promulgated by the Louisiana Uniform Local Sales Tax Board, LR 47:

Public Comments

Interested persons may submit written data, views, arguments or comments to J. A. Cline, Jr., Sales Tax Analyst, Louisiana Uniform Local Sales Tax Board, P.O. Box 404, Port Allen, LA 70767. Written comments shall be accepted until 4:30 p.m., Monday, June 21, 2021.

Public Hearing

A public hearing shall be held on Friday, June 25, 2021 at 10 a.m. at the offices of the Louisiana Uniform Local Sales Tax Board located in the Municipal Police Employees' Retirement System Building, 7722 Office Park Boulevard, Baton Rouge, LA 70809. Masks and social distancing are required. Members of the public may view the hearing on Zoom and submit comments and questions via the Zoom chat feature. The login to participate in the hearing is: <https://zoom.us/j/93955109963?pwd=WS9vbTRwaW0ycUkYSDU1aFBIc3Q1UT09>

Roger Bergeron
Executive Director

2105#027

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Domesticated Aquatic Organisms (LAC 76:VII.Chapter 9)

Under the authority of R.S. 56:411, et seq., and in accordance with the provisions of the Administrative Procedure Act, La. R.S. 49:950, et seq., the Wildlife and Fisheries Commission hereby advertises its intent to modify rules and regulations related to Aquaculture and Domesticated Aquatic Organisms. The proposed changes reorganize the existing chapter to be more concise and accurately reflect the current organization in the Louisiana Department of Wildlife and Fisheries. The proposed changes add four groups to the approved Domesticated Aquatic Organism list and remove some that are no longer under LDWF jurisdiction. Legally permitted aquaculture facilities will be able to produce rainbow trout, freshwater prawns and aquarium livestock species including fancy guppies, species of bristlenose catfish and species of African rift lake cichlids. This will allow the development of additional aquaculture business in Louisiana while providing safeguards to assist in protecting native fish species.

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.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 9. Aquaculture

§900. Domesticated Aquatic Organisms (DAO)

A. Definitions

Aquarium Livestock—all animals that are primarily raised for ornamental use in aquariums. The list of approved aquarium livestock species can be found in LAC 76:VII.915.A

Aquarium Livestock Permit—the official document required for the culture of freshwater prawns, and allows for the importation, exportation, transport, culture, possession, disposal, transfer and sale of freshwater prawns in Louisiana as approved by the secretary or designee.

Broodstock—reproductively mature adults held for specific purpose of providing offspring (gametes, larvae, set spat, or later life history stages).

Culture—all activities associated with the rearing and nurturing of approved DAO species and life stages.

Culture System—an approved system designed such that all water containing, or that at any time might contain, DAO species and life stages, is filtered, screened and/or sterilized in such a manner as the department deems adequate to prevent any possibility of escape from the system.

Department—the Louisiana Department of Wildlife and Fisheries (LDWF) or an authorized employee of the department.

Disposal—processing, selling, or purposely removing DAO species from the culture system using departmental approved techniques for each DAO species.

Domesticated Aquatic Organisms (DAO)—all aquaculturally raised species which includes freshwater gamefish, all species of saltwater fish, all endangered or threatened species as well as all nonnative fish as defined by R.S. 56:8 and R.S. 56:411.

Fisheries Permit Manager—Biologist or other staff assigned the duties to manage and issue fisheries related permits.

Freshwater Prawn—any life stages of the shrimp of the species *Marcobrachium rosenbergii*.

Freshwater Prawn Permit—the official document required for the culture of freshwater prawns, and allows for the importation, exportation, transport, culture, possession, disposal, transfer and sale of freshwater prawns in Louisiana as approved by the secretary or designee.

Live Holding System—an approved indoor temporary holding or display system that at any time may contain DAO species (adult fish, juvenile fish, fry or fish eggs) designed such that all water is filtered, screened and/or sterilized prior to release in such manner as the department deems adequate to prevent any possibility of escape.

Permittee—individual that possesses any type of valid Louisiana permit under this Chapter. A permittee can only be a natural person. A permittee may represent himself, a business, corporation or organization. The permittee is responsible for compliance with all stipulations in the permit.

Rainbow Trout—adult fish, juvenile fish, fingerlings, fry and eggs belonging to the species *Oncorhynchus mykiss*.

Rainbow Trout Permit—the official document required for the culture, importation, exportation, transport, culture, possession, disposal, transfer and sale of Rainbow Trout in Louisiana, as approved by the secretary or designee.

Secretary—the Secretary of the Department of Wildlife and Fisheries.

Shovelnose Sturgeon—pure strain of genetically unaltered fish (adult fish, juvenile fish, fingerlings, fry, and eggs), belonging to the species *Scaphirhynchus platyrhynchus*.

Shovelnose Sturgeon Permit—the official document required for the culture, importation, exportation, transport, culture, possession, disposal, transfer, and sale of shovelnose sturgeon in Louisiana, as approved by the secretary or designee.

Species Certification—positive species, hybrid, subspecies and/or variation type identification using of department approved procedures.

Tilapia — adult fish, juvenile fish, fingerlings, fry and eggs or body parts belonging to the genera *Tilapia*, *Sarotherdon*, or *Oreochromis* and their hybrids.

Tilapia Culture Permit—the official document required for the importation, exportation, transport, culture, possession, disposal, transfer and sale of tilapia in Louisiana, as approved by the secretary or designee.

Tilapia Live Holding Permit—the official document required for the live holding of tilapia for retail sale and allows for the import, live holding, and sale of tilapia in Louisiana, as approved by the secretary or designee.

Triploid Grass Carp (TGC)—refers to *Ctenopharyngodon idella* fingerlings and larger individuals that are certified as triploid carp (3N chromosomes) by the U.S. Fish and Wildlife Service or a qualified agent or contractor approved by the department.

Triploid Grass Carp Possession and Transportation Permit—the official document required for the importation, transportation, and possession of live triploid grass carp (TGC) in Louisiana for use in privately owned waterbodies, as approved by the secretary or designee.

Triploid Grass Carp Sales Permit the official document required for the importation, transportation, possession, and sale of live triploid grass carp (TGC) in Louisiana, as approved by the secretary or designee.

Triploid Grass Carp Seller—a properly licensed fish farmer who possesses a triploid grass carp (TGC) Sales Permit.

B. Procedures for nominating a new species to the approved list of DAO

1. An application to consider a new aquatic species shall be submitted in writing to the Louisiana Department of Wildlife and Fisheries, Fisheries Permit Manager by emailing fisheriespermits@wlf.la.gov or by mail:

Louisiana Department of Wildlife and Fisheries
Fisheries Permit Manager
P.O. Box 98000
Baton Rouge, LA 70898-9000

2. The application shall include the following information:

- a. American Fisheries Society approved species and common name(s);
- b. intended use or uses;
- c. biology, including environmental tolerances, diseases, life history, and associated references;
- d. potential sources of broodstock;
- e. proposed restrictions for the culture of the proposed species.

3. Within 30 days of receipt of the completed application, the Fisheries Permit Manager shall convene a technical committee to review the species. The technical committee will consist of a minimum of four members. Those members must consist of at least one Department Biologist from the appropriate Fisheries Division, an Enforcement Division representative as well as at least one committee member not employed by department which may be, but not limited to, a representative from academia or a federal agency representative. The department may nominate a DAO species or amend the list by convening a review panel to review species of interest.

4. The technical committee, by way of the Fisheries Permit Manager, may ask the applicant to provide additional information.

5. The technical committee will be responsible for evaluating all relevant information regarding the species. The committee will consider approving a new aquatic species by evaluating the potential negative risks the new species might pose on native species, habitat, and human health. The committee will also consider mitigation measures that reduce risk. The committee's findings will be summarized by the Fisheries Permit Manager and a recommendation made to the Assistant Secretary, Office of Fisheries to either deny the applicant's request or approve the request with or without mitigating requirements.

6. The assistant secretary shall determine whether to recommend to the secretary to approve the application for the addition of the proposed species to the DAO list, along with any restrictions or mitigating requirements. If approved by the secretary, a formal request will be made to the Wildlife and Fisheries Commission in the form of a Notice of Intent.

C. Except for the species of fish specifically prohibited in La. R.S. 56:319.A, the provisions of this Section shall not apply to activities consistent with noncommercial personal aquarium ownership and commercial retail facilities that do not breed or propagate fish.

D. The following species are approved for commercial sale and transport for aquaculture or mariculture:

1. shadow bass (*Ambloplites ariommus*) not exceeding a maximum total length of 6 inches;
2. white bass (*Morone chrysops*) not exceeding a maximum total length of 6 inches;
3. yellow bass (*Morone mississippiensis*) not exceeding a maximum total length of 6 inches;
4. crappie (*Pomoxis spp.*) not exceeding a maximum total length of 6 inches;

5. bream (*Lepomis spp.*) not exceeding a maximum total length of 6 inches;
6. spotted bass (*Micropterus punctulatus*) of any size;
7. striped bass (*Morone saxatilis*) of any size;
8. largemouth bass (*Micropterus salmoides*) of any size;
9. hybrid striped bass (*Morone saxatilis* x *Morone chrysops*) or (*Morone saxatilis* x *Morone mississippiensis*) of any size;
10. coppernose bluegill (*Lepomis macrochirus purpurescens*) not exceeding a maximum total length of 6 inches;
11. hybrid bream limited to a bluegill (*Lepomis macrochirus*) and green sunfish (*L. cyanellus*) cross or a redear sunfish (*L. microlophus*) and bluegill (*L. macrochirus*) cross not exceeding a maximum total length of 6 inches;
12. common carp (*Cyprinus carpio*) and koi (*Cyprinus rubrofuscus*) and goldfish (*Carassius auratus*);
13. red drum (*Sciaenops ocellatus*);
14. triploid grass carp (*Ctenopharyngodon idella*); LAC 76:VII.901;
15. tilapia (*Oreochromis aurea*, *O. niloticus*, *O. mossambicus* and *O. urolepis hornorum*); LAC 76:VII.903;
16. shovelnose sturgeon (*Scaphirhynchus platyrhynchus*); LAC 76:VII.911;
17. rainbow trout (*Oncorhynchus mykiss*); LAC 76:VII.913;
18. aquarium livestock: A list of approved species can be found in LAC 76:VII.915;
19. cocohoe minnows (*Fundulus grandis*);
20. freshwater prawn (*Marcobrachium rosenbergii*); LAC 76:VII.919

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327(A)(2) and R.S. 56:411.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:

§901. Triploid Grass Carp (TGC)

A. General Provisions

1. No person, firm, or corporation shall at any time possess, sell or cause to be transported into this state, triploid grass carp (TGC) (*Ctenopharyngodon idella*), except in accordance with and in compliance with this Section.

B. Triploid Grass Carp (TGC) Possession and Transport Permit

1. General Rules for TGC Possession and Transportation Permit

a. No person shall stock private waterbodies in the state of Louisiana without a TGC Possession and Transport Permit.

b. No person shall import, transport and/or purchase TGC to be brought into the state unless such fish are certified as TGC by the U.S. Fish and Wildlife Service or a qualified agent or contractor approved by the department.

c. No person shall import, transport or possess fingerlings less than six inches in total length, eggs, or fry within the state.

d. Permits are not transferable from person to person or from site location to site location.

e. Permittee shall provide an adequate number of TGC to the department, at no cost to the department, upon request, to verify ploidy. The permittee shall agree to allow department officials or a department approved contractor to

conduct unannounced random inspections of the transport vehicle, property, waterbody site, and fish.

f. Department officials may be accompanied by other persons during these inspections. The department or its agents have the right to remove or take fish samples for analysis and/or inspection.

g. Permittee is responsible for criminal penalties or civil damages caused by any escapement.

h. In cases of mortality or unavoidable loss, restocking will be permitted as long as permit is still valid.

i. If a permittee terminates the use of TGC in the permitted waterbody, the permittee shall notify the department immediately and dispose of the TGC according to methods approved by the department.

j. In addition to all other legal remedies, failure to comply with any of the provisions in this Section shall be just cause to immediately suspend and/or revoke the permittee's permit. All TGC shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation. Violation of any of the provisions of the permit constitutes a Class Four violation in accordance with R.S. 56:319.E

k. Any permittee charged with violation of this Section may make a written response to the alleged violation(s) to the secretary, and may request a hearing to review the alleged violation(s).

1. Universities and public entities conducting research approved by or in conjunction with the department shall be exempt from fee charges.

2. Application Procedure for a TGC Possession and Transport Permit

a. Individuals wishing to import or possess live TGC in Louisiana, but not sell them, must apply for a TGC Possession and Transport Permit from the department for a fee of \$50. TGC Possession and Transport Permittees do not need to possess a Domesticated Aquatic Organism License.

b. The TGC Possession and Transport Permit shall be valid for one year from date of purchase.

c. Permittees may stock up to the recommended 10 fish per acre of water. Request to stock more than 500 fish must be approved by the department through site visitations by a department representative. Fisheries staff of the Louisiana Cooperative Extension Service or other qualified fisheries professional(s) approved by the department may be used as a substitution for departmental site visit.

3. Requirements for transporting and stocking of TGC in private water bodies.

a. Permittee must have in his immediate possession and available upon demand by department representatives, a TGC Possession and Transportation Permit when importing, transporting and/or purchasing live TGC within the state.

b. A bill of lading must accompany those individuals in possession of live TGC during transportation and shall include:

- i. source of TGC (hatchery);
- ii. name, address, and phone number of seller;
- iii. name, address, and phone number of buyer;
- iv. copy of triploid certification;
- v. total number of fish;
- vi. destination of shipment.

c. No person shall stock private waters without a valid TGC Possession and Transportation Permit.

d. Permittee is responsible for containing TGC in his private waterbody.

e. This permit does not authorize the permittee to stock TGC in public waterbodies of the state. Release of any fish into the waters of the state is strictly prohibited, except as provided in Subsection D.

C. TGC Sales Permit

1. Request Procedure for a TGC Sales Permit

a. Individuals wishing to sell live TGC in the state must first obtain a TGC Sales Permit through an application furnished by the department.

b. The TGC Sales Permit shall be valid for one year beginning January 1 and ending December 31 of that same calendar year. The permit may be purchased at any time during the year for the current permit year and beginning November 15 for the immediately following permit year. The cost of a TGC Sales Permit is \$250.

c. An annual report detailing each sales transaction, including name and address of permitted buyer, permit number, date, and number of TGC sold must be submitted with permit renewal application. Reports should be sent to the Louisiana Department of Wildlife and Fisheries, Fisheries Permit Manager by emailing fisheriespermits@wlf.la.gov or by mail:

Louisiana Department of Wildlife and Fisheries
Fisheries Permit Manager
P.O. Box 98000
Baton Rouge, LA 70898-9000

2. Requirement for TGC Sales Permit

a. No person shall import or cause to be imported into the state of Louisiana TGC unless certified as TGC by the U.S. Fish and Wildlife Service or a qualified agent or contractor approved by the department. Such certification must be furnished to and approved by the department prior to importing of any fish into the state of Louisiana for stocking.

b. A TGC seller must possess a valid domestic aquatic organism license.

c. The person shall ship TGC with the words "TRIPLOID GRASS CARP" prominently on at least two sides of the vehicle or hauling tank with block letters that are not less than four inches high.

d. A TGC seller is bound by the TGC possession and transportation regulations as stipulated in LAC 76:VII.901.B; except that:

i. the TGC Sales Permit serves in lieu of the TGC Possession and Transportation Permit;

ii. the holders of a TGC Sales Permit may only sell live TGC to holders of a valid TGC Possession and Transportation Permit or a TGC Sales Permit;

iii. no person shall sell more than 500 TGC to an individual possessing a valid TGC Possession and Transportation Permit unless otherwise stipulated by the department in the permit.

e. A TGC seller shall notify the department at the designated telephone number (1-800-442-2511) of shipments of live TGC to permitted buyers at least 24 hours prior to shipment. Notification shall include seller's permit number, buyer's name, address, buyer's permit number, number of fish, destination of shipment, and date.

f. In addition to all other legal remedies, failure to comply with any of the provisions in this Section shall be

just cause to immediately suspend and/or revoke the permittee's permit. All TGC shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation. Violation of any of the provisions of the permit constitutes a class four violation in accordance with R.S. 56:319.E

D. Requirements for Stocking TGC in Public (state or local) Waterbodies

1. No person shall release TGC into the public waters of Louisiana without written approval of the secretary or designee. Individuals, organizations, and local governments may request, in writing, that they be allowed to stock TGC in public waters. The department shall review the request, and if approved, shall provide written approval signed by the secretary or designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, R.S. 56:319 and R.S. 56:319.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:806 (August 1991), amended LR 19:511 (April 1993), LR 24:962 (May 1998), LR 37:3534 (December 2011), repromulgated LR 38:433 (February 2012), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:

§903. Tilapia

A. Tilapia Permit Request Procedures

1. Individuals or organizations wishing to import, export, transport, culture, possess, dispose, transfer, or sell live tilapia in Louisiana must first obtain a Tilapia Culture Permit or Tilapia Live Holding Permit—from the Fisheries Permit Manager. The following procedures will be necessary.

a. Applications for permits may be obtained by contacting the Fisheries Permit Manager by emailing fisheriespermits@wlf.la.gov or by mail:

Louisiana Department of Wildlife and Fisheries
Fisheries Permit Manager
P.O. Box 98000
Baton Rouge, LA 70898-9000

b. The completed applications should be returned to the same address whereby the Fisheries Permit Manager will review the application. Department personnel or a department approved contractor, at the applicant's expense, will then make an on-site inspection of the property and culture or live holding system.

c. After the on-site inspection has been completed, department personnel will make a final determination as to whether the applicant is in full compliance with all rules for a Tilapia Culture Permit or Tilapia Live Holding Permit. Department personnel will then recommend to the secretary or designee if the applicant's request should be approved or denied.

d. The Fisheries Permit Manager will notify the applicant, in writing, as to whether or not the permit has been granted. In the event that the permit is denied, the Fisheries Permit Manager shall include written reasons for that determination. Applicants may reapply after correcting specified deficiencies noted in the letter of denial.

B. Rules on Transport of Live Tilapia

1. The department shall be notified in writing at least 2 business days prior to shipments of live tilapia from one Tilapia Culture Permit holder to another Tilapia Culture Permit holder, or to a Tilapia Live Holding Permit holders within the state, or for any shipments out-of-state in a format

provided by the department. Notification shall include the Tilapia Culture Permit number, route, date and time(s) of transport, destination, owner of transport vehicle, total number of each species, permit number of resident tilapia culturist or live holder, and a copy or reference to the genetic certification of shipped stock by species. Anyone possessing live tilapia within the state must have a tilapia culture or live holding permit. Live tilapia showing signs of diseases shall not be transported into or within the state of Louisiana.

2. For each occurrence of importation of tilapia into Louisiana from out of state to a permitted resident culturist or live holder, the permittee must obtain, in writing or by email, approval from the department. Procedures and necessary information for obtaining approval are:

a. requests shall be made by emailing to the Fisheries Permit Manager at fisheriespermits@wlf.la.gov.

b. requests shall include:

i. Louisiana tilapia permit number, or a copy of the permit;

ii. route of transport;

iii. date of transport;

iv. time(s) of transport;

v. destination;

vi. owner of transport vehicle;

vii. species certification made any time new fish are added to the system;

viii. total number of each species;

ix. identification of seller and buyer.

3. A bill of lading must accompany the live tilapia during import, export, transport, transfer, or sale and shall include:

a. copy of the permittee's written approval as described in LAC 76:VII.903.B.2. above;

b. date and approximate time of shipment;

c. route of shipment;

d. source of tilapia (culture facility);

e. name, address and phone number of seller;

f. name, address and phone number of buyer;

g. identification and certification as to species;

h. total number of each species;

i. destination;

j. letter from source stating that tilapia are not showing signs of diseases;

k. display the word "TILAPIA" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than 6 inches high.

4. The permittee assumes all responsibility for the tilapia as soon as it enters the state regardless of the owner of the vehicle. If multiple shipments are contained in the vehicle, all permittees with tilapia in the vehicle are responsible for the shipments. This includes those obligations outlined in LAC 76:VII.903.G.11.

C. Rules for Security of Tilapia Culture or Live Holding Facility

1. Applicant must demonstrate to the satisfaction of department officials that adequate security measures are in place at the culture facility that will guard against vandalism and theft of tilapia.

2. Any changes or modification of a permitted security system must first have the approval of department officials.

3. The department will have just cause to revoke a tilapia permit for lapses in security if:

a. the permittee is found to be in noncompliance with LAC 76:VII.903.C.1 and 2 above;

b. the permittee is determined to be derelict in maintaining the security measures that were approved for the permit;

c. failure to take appropriate measures when vandalism, theft, or accidental release of fish occurs.

4. It shall be the responsibility of the permittee to immediately notify the Fisheries Permit Manager of any tilapia that leave the facility for any reason other than those specifically identified and allowed for under their current permit, including but not limited to accidental releases, theft, etc.

5. It shall be the responsibility of the permittee to have at least one individual who is familiar with the culture system readily available for emergencies, inspections, etc.

D. Rules of Tilapia Culture and Live Holding Site

1. A legal description of the tilapia culture facility site that shows ownership must be submitted along with the permit request.

2. The applicant must agree to allow department officials or a department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property, culture system or live holding system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

3. All aspects of the tilapia facility must be at least 1 foot above the 100-year flood elevation. Additionally, the department may require a surface hydrological assessment of the proposed site at permittee's expense.

4. The department will require a live holding contingency plan for disposal of live tilapia in the event of impending flooding or other natural disasters.

E. Rules for the Tilapia Culture and Live Holding System

1. Applicant must provide a detailed narrative description, including scale drawings, of the tilapia culture or live holding system.

2. The tilapia culture or live holding system shall be an approved indoor system designed such that tilapia eggs, larvae, juveniles, or adults cannot escape.

3. Water utilized in the culture or live holding of tilapia shall be accounted for and shall be filtered, screened, and/or sterilized prior to leaving the culture or live holding system and the permittee's property in such a manner as the department deems adequate to prevent any possibility of escape from the system.

4. All aspects of the tilapia culture or live holding system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

5. A means to dispose of tilapia through chlorination, desiccation, or other appropriate methods, in the event of an emergency must be included as a component of any department approved live holding system.

6. One or more persons responsible for the operation of the live holding system must demonstrate to the department 's satisfaction a basic knowledge and understanding of the culture, biology, and potential local ecological impacts of tilapia.

F. Rules for the Processing of Tilapia

1. All tilapia and tilapia parts other than live tilapia specifically permitted by the department must be properly processed and killed prior to leaving the tilapia culture or live holding facility. Tilapia must be processed using any of the following three approved procedures:

- a. chill killing whole tilapia in an ice slurry for a period of not less than 60 minutes,
- b. removal of tilapia intestines followed by immersion of whole fish in an ice slurry for a period of not less than two minutes,
- c. removal of head and all internal organs. All tilapia heads and internal organs must be put in an ice slurry for a period of not less than 60 minutes or frozen for 24 hours prior to disposal to prevent any possibility of accidental release of fry or fertilized eggs.

2. All tilapia, other than live tilapia specifically permitted by the department, being brought into the state from outside the state must be dead.

3. Records shall be kept at the location of the facility. Records shall be kept of all tilapia processed at a culture or live holding facility for the last five years and shall include the following information:

- a. source of fish;
- b. processed pounds;
- c. date processed;
- d. Tilapia culture facilities must retain all records of sales to live holder facilities.

4. A copy of this information shall be sent to the department 's Fisheries Permit Manager at the end of each year, or at any time upon the request of department officials.

G. General Rules for Tilapia

1. The cost of a tilapia culture permit shall be \$50 and live holding permit shall be \$50 and may include the actual cost of the on-site inspection. Universities conducting research approved by the department shall be exempt from the fee charge.

2. In order for the permit to be valid, the following license is required as a prerequisite:

- a. Domesticated Aquatic Organism License for tilapia culturists;
- b. a retail dealer's license for live holders. Live holders do not need to possess a Domesticated Aquatic Organism License.

3. Permits expire on December 31 every year. Any permit issued after November 15, will be valid for the remainder of that calendar year and the following calendar year. Fees will not be prorated. All existing tilapia culture and live holder permits as of June 2021 will be extended for no charge through December 2021.

4. Permits are not transferable from person to person, or property to property.

5. Live tilapia may be sold within the state only to a holder of a valid Tilapia Culture Permit or Tilapia Live Holding Permit. A Tilapia Culture Permit shall be required for the possession or transport of tilapia eggs, fry, or juveniles.

6. No person may release live tilapia, fish, or eggs into the waters of Louisiana (whether public or private) without the written approval of the secretary.

7. Permittee must agree to collect and provide an adequate number of tilapia to the department or a department approved contractor upon request for identification and analysis, at the permittee's expense.

8. Only those persons or organizations with valid tilapia permits may propagate, culture, or possess the following species and/or hybrids produced from their crosses. These species must be verified any time new stock is added to the culture facility by a genetic certification using an LDWF approved method.

<i>Oreochromis aurea</i>	<i>Oreochromis nilotica</i>
<i>Oreochromis mossambica</i>	<i>Oreochromis urolepis hornorum</i>

9. Tilapia culture permittees and Live Holder permittees shall submit an annual report to the Fisheries Permit Manager on a form provided by the department.

10. The department may employ whatever means it deems necessary to prevent the release or escapement of tilapia or their eggs into the environment. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during corrective actions.

11. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill, or recapture fish. The permittee shall reimburse Wildlife and Fisheries for all department costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the secretary that the permittee will fulfill their financial obligations, the tilapia culturists permittees and tilapia live holder permittees shall post a performance bond, or present a letter of credit from a financial institution stating that the value of the bond is available to the department on a certificate of deposit.

a. The performance bond for a tilapia culture permittee shall be \$25,000 for permits issued prior to January 1, 2022. For permits issued after this date the performance bond shall increase yearly to a maximum of \$50,000 as outlined in the table below.

Year	Tilapia Culture Permittee Bond Value
2022	\$30,000
2023	\$35,000
2024	\$40,000
2025	\$45,000
2026	\$50,000

b. The performance bond for a tilapia live holder permittee shall be \$10,000 for permits issued prior to January 1, 2022. For permits issued after this date the performance bond shall increase yearly to a maximum of \$50,000 as outlined in the table below.

Year	Tilapia Live Holder Bond Value
2022	\$18,000
2023	\$26,000

Year	Tilapia Live Holder Bond Value
2024	\$34,000
2025	\$42,000
2026	\$50,000

12. At the time of renewal, the Tilapia culture permit holders must provide LDWF a certificate from a certified veterinarian or other certified expert that the tilapia are free of visible diseases and parasites.

13. If a permittee terminates tilapia production or live holding, the permittee shall notify the secretary or designee immediately and dispose of the tilapia according to methods approved by the department.

14. In addition to all other legal remedies, including provisions of R.S. 56:319.E, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All tilapia shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

15. Any permittee allegedly in violation of the above rules has a right to submit a written response of the alleged violation(s) to the secretary, requesting a hearing to review the alleged violation(s) within five days of receiving notice of violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318, R.S. 56:319 and R.S. 319.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Fisheries, LR 17:804 (August 1991), amended LR 20:1022 (September 1994), LR 21:594 (June 1995), LR 25:1987 (October 1999), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:

§905. Domesticated Aquatic Organisms

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327(A)(2) and R.S. 56:411.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 34:2679 (December 2008), amended LR 35:1139 (June 2009), repromulgated LR 35:1263 (July 2009), amended LR 44:1455 (August 2018), repealed LR 47:

§907. Game Fish Fingerling Aquaculture—Rules and Regulations [Formerly LAC 76:VII.159]

A. A fish farmer raising and selling live game fish fingerlings must obtain an annual domesticated aquatic organism license issued by the department.

B. Live game fish fingerlings sold from an approved fish farm shall be subject to all applicable statutes and rule limitations, if any.

C. Fish farmers who raise and sell live game fish fingerlings must maintain a record of all sales and shipments of such fish, and these records must be readily available for inspection by the department.

D. Game fish farmers who transport game fish fingerlings for sale must attach a bill of lading to each shipment showing the species of fish contained in the shipment, number, the origin of the payload, destination of the shipment, the name of the consignee and consignor, and the grower's name and domesticated aquatic organism license number.

E. All trucks transporting game fish fingerlings for sale must have the words "GAME FISH FARMER" prominently displayed with a minimum of 3-inch block letters.

F. Fish farmers holding a domesticated aquatic organism license are not granted any fishing privileges greater than those stated in Title 56 of the *Louisiana Revised Statutes* and must abide by all statutes pertaining to domestic fish farming.

G. The department shall have the authority to cancel sales or to confiscate and destroy shipments of game fish fingerlings that are determined by department personnel to have fish diseases or parasites that would endanger native fish populations. Game fish farmers must allow department personnel or a department approved contractor to conduct unannounced random inspections of the transport vehicle. Those individuals may remove or take fish samples for analysis and/or inspection.

H. Genetic purity shall be maintained and game fish fingerlings produced shall not be genetically manipulated or altered in any way without prior approval of the department, except for hybrid crosses within the genera of *Lepomis*, *Pomoxis*, *Micropterus*, or *Morone*, or fish produced with polyploid chromosomes.

I. The secretary may revoke any or all licenses issued for the raising and selling of game fish fingerlings if the licensee fails to adhere to any of the above regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:327 (A)(2), R.S. 56:411, and R.S. 56:412.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 17:893 (September 1991), amended by the Department of Wildlife and Fisheries, Office of Fisheries, LR 24:2155 (November 1998), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:546 (March 2014), LR 47:

§911. Shovelnose Sturgeon

A. Shovelnose Sturgeon Permit Request Procedures

1. Individuals or organizations wishing to import, export, transport, culture, dispose of, or transfer live Shovelnose Sturgeon in Louisiana must first request a Shovelnose Sturgeon permit from the secretary or designee of the department. A separate permit will be required for each facility or location. The following procedures will be necessary.

a. Applications for permits may be obtained by contacting the Fisheries Permit Manager via email fisheriespermits@wlf.la.gov or by mail:

Louisiana Department of Wildlife and Fisheries
 Fisheries Permit Manager
 P.O. Box 98000
 Baton Rouge, LA 70898-9000

b. The completed applications should be returned to the same address whereby Fisheries Division personnel will review the application. Department personnel or a department approved contractor, at the applicant's expense, will then make an on-site inspection of the property and culture system.

c. After the on-site inspection has been completed, department personnel will make a final determination as to whether the applicant is in full compliance with all rules pertaining to a Shovelnose Sturgeon permit. Department personnel will then recommend to the secretary or designee if the applicant's request should be approved or denied.

d. The Fisheries Permit Manager will notify the applicant, in writing, as to whether or not the permit has been granted. In the event that the permit is denied, the Fisheries Permit Manager shall include written reasons for

that determination, and that applicant may reapply after correcting specified deficiencies noted in letter of denial. Applicants may reapply after correcting specified deficiencies noted in the letter of denial.

B. Rules on Transport of Live Shovelnose Sturgeon

1. A Louisiana Shovelnose Sturgeon Permit does not allow for the export of live Shovelnose Sturgeon from Louisiana.

2. Live Shovelnose Sturgeon being imported into Louisiana from out of state, or live transfer within the state, the permittee must obtain, in writing, approval from the department. These importations will only be allowed from fish that are acquired outside of the Red River drainage, and are limited only to those populations occurring outside of the range for the similarity of appearance listing for the species Shovelnose and Pallid Sturgeon.

3. The permittee must obtain, in writing, approval from the department for all importations or live transfer within the state. Written requests under this Section must be made no less than two business days before the expected date of shipment. Procedures and necessary information required to obtain approval are:

- a. Requests shall be made via email to fisheriespermits@wlf.la.gov;
- b. requests shall include:
 - i. Louisiana Shovelnose Sturgeon permit number;
 - ii. route of transport;
 - iii. date of transport;
 - iv. time(s) of transport;
 - v. destination;
 - vi. owner of transport vehicle;
 - vii. species certification issued within the past 30 days identifying shipped stock to species;
 - viii. total number of Shovelnose Sturgeon;
 - ix. identification of seller, buyer, and any permit numbers from the jurisdiction of origin to the jurisdiction of destination in which they are coming from.

4. A bill of lading must accompany the live Shovelnose Sturgeon during import, transport, transfer, or sale and shall include:

- a. copy of the permittee's written approval as described in LAC 76:VII.911.B.2 above;
- b. date and approximate time of shipment;
- c. route of shipment;
- d. source of Shovelnose Sturgeon;
- e. name, address, and phone number of seller;
- f. name, address, and phone number of buyer;
- g. identification and certification as to species;
- h. total number of Shovelnose Sturgeon;
- i. destination;
- j. if imported, the source must provide certificate of health from a veterinarian or other certified expert stating that Shovelnose Sturgeon are not showing signs of diseases;
- k. display the words "SHOVELNOSE" prominently on at least two sides of the vehicle or hauling tank with letters that are no less than 6 inches high.

C. Rules for Security of Shovelnose Sturgeon Culture Facility

1. Shovelnose Sturgeon live holding facilities will only be permitted in the following parishes: Acadia, Allen, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, DeSoto, Evangeline, Franklin, Grant, Jackson, Jefferson Davis, LaSalle, Lafayette, Lincoln, Morehouse, Natchitoches, Ouachita, Rapides, Sabine, Union, Vermilion, Vernon, Webster, West Carroll, and Winn.

2. Applicant must demonstrate to the satisfaction of department officials that sufficient security measures are in place at the live holding facility that will guard against vandalism and theft of Shovelnose Sturgeon.

3. Any changes or modification of a permitted security system must first have the approval of department officials.

4. The department will have just cause to revoke a Shovelnose Sturgeon permit for lapses in security if:

- a. the permittee is found to be in noncompliance with LAC 76:VII.911.C.2 and 3 above;
- b. the permittee is determined to be derelict in maintaining the security measures that were approved for the permit;
- c. failure to take appropriate measures when vandalism, theft, or accidental release of fish occurs.

5. It shall be the responsibility of the permittee to immediately notify the secretary or designee of any Shovelnose Sturgeon that leave the facility for any reason other than those specifically identified and allowed for under their current permit, including but not limited to accidental releases due to weather related events, vandalism and theft.

6. It shall be the responsibility of the permittee to have at least one individual who is familiar with the live holder system readily available for emergencies and inspections, both announced and unannounced.

D. Rules of Shovelnose Sturgeon Culture Site

1. A legal description of the Shovelnose Sturgeon live holding facility site that proves ownership must be submitted along with the permit request.

2. The applicant must agree to allow department officials or a department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property culture system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

3. All aspects of the Shovelnose Sturgeon culture facility must be at least 1 foot above the 100-year flood elevation. Additionally, the department may require a surface hydrological assessment of the proposed site at the permittee's expense.

4. The department will require a live holding contingency plan for disposal of live Shovelnose Sturgeon in the event of impending flooding or other natural disasters.

5. All Shovelnose Sturgeon shall be tagged with a departmental approved non-removable tag.

E. Rules for the Shovelnose Sturgeon Culture System

1. Applicant must provide a detailed narrative description, including scale drawings, of the Shovelnose Sturgeon culture system.

2. The Shovelnose Sturgeon culture system shall be an approved indoor recirculating system designed such that Shovelnose Sturgeon eggs, larvae, fingerlings, juveniles, or adults cannot escape.

3. All water utilized in the culture of Shovelnose Sturgeon shall be accounted for and shall be filtered, screened, and/or sterilized prior to leaving the live holding system and the permittee's property in such a manner as the department deems adequate to prevent any possibility of escape from the system.

4. All aspects of the Shovelnose Sturgeon culture system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

5. A means to dispose of Shovelnose Sturgeon through chlorination, desiccation, or other appropriate methods in the event of an emergency must be included as a component of any department approved live holding system.

6. One or more persons responsible for the operation of the live holding system must demonstrate to the department's satisfaction a basic knowledge and understanding of the culture, rearing (care and feeding), biology, and potential local ecological impacts of Shovelnose Sturgeon.

F. Rules for the Processing of Shovelnose Sturgeon

1. All Shovelnose Sturgeon and Shovelnose Sturgeon parts other than live Shovelnose Sturgeon specifically permitted by the department must be properly processed and killed prior to leaving the Shovelnose Sturgeon culture facility. At no time will live Shovelnose Sturgeon be allowed to be moved within Louisiana without expressed approval of the department. No live Shovelnose Sturgeon shall be sold or transferred to any parties outside of Louisiana. Transfer between Louisiana Shovelnose Sturgeon permittees within the state of Louisiana must be approved prior to shipment as described in LAC 76:VII.911.B.2 above.

2. Records of all Shovelnose Sturgeon processed for the previous five years shall be kept at the permitted culture facility and shall include the following information:

- a. source of fish;
- b. processed pounds of both meat and caviar; and
- c. date processed.

3. A copy of this information shall be sent to the Fisheries Permit Manager by December 31 of each year, or at any time upon the request of department officials.

G. General Rules for Shovelnose Sturgeon

1. The cost of a Shovelnose Sturgeon permit shall be \$50 and may include the actual cost of the on-site inspection. Universities and other facilities conducting research approved by the department shall be exempt from the fee charge.

2. In order for the permit to be valid, the following licenses are required as a prerequisite:

- a. Domesticated Aquatic Organism license;

3. Permits expire on December 31 every year. Any permit issued after November 15 will be valid for the

remainder of that calendar year and the following calendar year.

4. Permits are not transferable from person to person, or property to property.

5. Live Shovelnose Sturgeon shall not be sold within Louisiana except to a permitted culture facility.

6. No person may release live Shovelnose Sturgeon, fish, or eggs into the waters of Louisiana (whether public or private).

7. Permittee must agree to collect and provide an adequate number of Shovelnose Sturgeon to the department or a department approved contractor upon request for identification and analysis, at the permittee's expense.

8. The only Sturgeon allowed in commercial aquaculture under the Louisiana Shovelnose Sturgeon permit is *Scaphirhynchus platyrhynchus*. No genetically altered Shovelnose Sturgeon or their hybrids are allowed.

9. Shovelnose Sturgeon permittees shall be required to submit an annual report to the secretary or designee on a form provided by the department.

10. The department may employ whatever means it deems necessary to prevent the release or escape of Shovelnose Sturgeon or their eggs into the environment. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during corrective actions.

11. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill, or recapture fish. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the secretary that the permittee will fulfill their financial obligations, the Shovelnose Sturgeon permittee shall post a \$50,000 performance bond, or present a letter of credit from a financial institution stating that the \$50,000 is available to the department on a certificate of deposit.

12. If a permittee terminates Shovelnose Sturgeon culture, the permittee shall notify the secretary or his designee immediately and dispose of the Shovelnose Sturgeon according to methods approved by the department.

13. In addition to all other legal remedies, including provisions of R.S. 56:319.E, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All Shovelnose Sturgeon shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

14. Any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s) within five days.

H. Collection of Shovelnose Sturgeon Broodstock from Louisiana Waters

1. The department will allow legally permitted Shovelnose Sturgeon permit holders to collect local broodstock from approved locations on the Red River while under the supervision of departmental personnel or other approved third parties. The permittee may be charged for

associated costs including, but not limited to, man-power and equipment.

2. This collection of broodstock will be limited to 3 years. The permittee may be granted additional years upon approval by the secretary. The collection must be approved and coordinated with the LDWF Fisheries Permit Manager and the Director of Inland Fisheries and would require a special broodstock collection permit from the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 44:1455 (August 2018), amended LR 47:

§913. Rainbow trout

A. Rainbow Trout Permit Request Procedures

1. Individuals or organizations wishing to import, export, transport, culture, dispose, or transfer live Rainbow Trout for aquaculture in Louisiana must first request a Rainbow Trout permit from LDWF Fisheries Permit Manager. A separate permit will be required for each facility or location. This permit is not needed for stocking into public or private waters, and persons interested in stocking Rainbow Trout should contact the Fisheries Permit Manager to request a special Rainbow Trout stocking permit.

2. Applications for Rainbow Trout permits may be obtained by contacting the Fisheries Permit Manager via emailing fisheriespermits@wlf.la.gov or by mail:

Louisiana Department of Wildlife and Fisheries
Fisheries Permit Manager
P.O. Box 98000
Baton Rouge, LA 70898-9000

3. The completed applications must be returned to the same address whereby the Fisheries Permit Manager will review the application. Department personnel or a department approved contractor will then make an on-site inspection of the property and culture system. The department may charge the applicant for any associated costs to perform the inspection.

4. After the on-site inspection has been completed, the Fisheries Permit Manager will make a final determination as to whether the applicant is in full compliance with all rules pursuant to the Rainbow Trout permit. The Fisheries Permit Manager will then make a recommendation of approval or denial of the applicant's request to the secretary or designee.

5. The Fisheries Permit Manager will notify the applicant, in writing, as to whether or not the permit has been granted. In the event that the permit is denied, the Fisheries Permit Manager shall include written reasons for that determination. Applicant may reapply after correcting specified deficiencies noted in letter of denial.

B. Rules on Transport of Live Rainbow Trout

1. For each occurrence of live Rainbow Trout importation into Louisiana from out of state, or live transfer within the state, the permittee must obtain, in writing, approval from the Fisheries Permit Manager. These requests shall be made no less than two business days before the expected date of shipment.

a. Requests shall be made via email to fisheriespermits@wlf.la.gov

b. Requests shall include:

- i. Louisiana Rainbow Trout permit number,
- ii. date of transport;
- iii. total number of Rainbow Trout;

iv. identification of seller and buyer and any permit numbers from the jurisdiction of origin to the jurisdiction of destination in which they are coming from;

v. a certificate of health from a veterinarian or other certified expert stating that Rainbow Trout are not showing visible signs of diseases or parasites. The facility and delivery vehicle shall be free of diseases, parasites or other organisms such as *Didymosphenia geminate* (commonly known as Didymo or "Rock Snot").

C. Rules of Rainbow Trout Culture

1. It shall be the responsibility of the permittee to immediately notify the secretary or designee of any Rainbow Trout that leave the facility for any reason other than those specifically identified and allowed for under their current permit, including but not limited to, accidental releases due to weather related events, vandalism, and theft.

2. The department will have just cause to revoke a Rainbow Trout permit for lapses in security if the permittee is found to be in noncompliance with LAC 76:VII.913.C.1.

3. The applicant must agree to allow department officials or a department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property culture system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

4. In order for the permit to be valid, the following licenses are required as a prerequisite:

a. Domesticated Aquatic Organism License.

5. Permits expire on December 31 of every year. Any permit issued after November 15, will be valid for the remainder of that calendar year and the following calendar year.

6. Permits are not transferable from person to person, or property to property.

7. Transfer of fish between Louisiana Rainbow Trout permittees within the state of Louisiana must be approved prior to shipment as described in LAC 76:VII.913.B.1 above.

8. No person may release live Rainbow Trout, fish, or eggs into the waters of Louisiana (whether public or private) without LDWF Secretarial approval.

9. Permittee must agree to collect and provide an adequate number of Rainbow Trout to the department or a department approved contractor upon request for identification and analysis at the permittee's expense.

10. Records for the previous 5 years shall be kept at the facility of all Rainbow Trout processed at a culture facility and shall include the following information:

- a. source of fish;
- b. processed pounds of fish; and
- c. date fish processed.

11. A copy of this information shall be sent annually to the Fisheries Permit Manager at the end of each year prior to permit renewal, or at any time upon request.

12. If a permittee terminates Rainbow Trout culture, the permittee shall notify the secretary or designee immediately and dispose of the Rainbow Trout according to methods approved by the department.

13. In addition to all other legal remedies, including provisions of R.S. 56:319.E, failure to comply with any of

the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All Rainbow Trout shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

14. Any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s) within five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:

§915. Aquarium Livestock

A. The following species or groups of species have been approved for commercial culture in Louisiana. Any questions on whether a species fits into the categories below should be directed to the Fisheries Permit Manager.

1. "Bristlenose Catfish": *Ancistrus sp.*
2. African Rift Lake Cichlids from the Cichlidae family, tribe Haplochromini
3. Fancy Guppy (*Poecilia reticulata*)

B. Individuals or organizations wishing to import, export, transport, dispose, or transfer live Aquarium Livestock for commercial culture and rearing in Louisiana must first request an Aquarium Livestock permit from the LDWF Fisheries Permit Manager. A separate permit will be required for each facility or location. Retail stores or wholesalers who are not actively breeding or growing Aquarium Livestock and home aquarists who are not selling commercially are all exempt from obtaining an Aquarium Livestock permit as outlined in LAC:76:VII.915.

1. Applications for permits may be obtained by contacting the Fisheries Permit Manager via emailing fisheriespermits@wlf.la.gov or by mail:

Louisiana Department of Wildlife and Fisheries
Fisheries Permit Manager
P.O. Box 98000
Baton Rouge, LA 70898-9000

2. The completed applications should be returned to the same address whereby the Fisheries Permit Manager will review the application. Department personnel or a department approved contractor will then make an on-site inspection of the property and culture system.

3. After the on-site inspection has been completed, the Fisheries Permit Manager will make a final determination as to whether the applicant is in full compliance with all rules for an Aquarium Livestock permit. The Fisheries Permit Manager will then recommend to the secretary if the applicant's request should be approved or denied.

4. The Fisheries Permit Manager will notify the applicant, in writing, as to whether or not the permit has been granted. In the event that the permit is denied, the Fisheries Permit Manager shall include written reasons for that determination. Applicant may reapply after correcting specified deficiencies noted in letter of denial.

C. Rules of Aquarium Livestock Culture

1. It shall be the responsibility of the permittee to immediately notify the secretary or designee of any Aquarium Livestock that leave the facility for any reason other than those specifically identified and allowed for under their current permit, including but not limited to accidental releases due to weather related events, vandalism, and theft.

2. All aspects of the Aquarium Livestock facility must be at least 1 foot above the 100-year flood elevation. Additionally, the department may require a surface hydrological assessment of the proposed site at permittee's expense.

3. All water utilized in the culture of aquarium livestock shall be accounted for and shall be filtered, screened, and/or sterilized prior to leaving the culture and the permittee's property in such a manner as the department deems adequate to prevent any possibility of escape from the system.

4. All aspects of the Aquarium Livestock culture system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

5. A means to dispose of Aquarium Livestock through chlorination, desiccation, or other appropriate methods in the event of an emergency must be included as a component of any department approved system.

6. The department will have just cause to revoke an Aquarium Livestock permit for lapses in security if the permittee is found to be in noncompliance with LAC 76:VII.915.C.1.

7. The applicant must agree to allow department officials or a department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property culture system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take fish samples for analysis and/or inspection.

8. In order for the permit to be valid, the following licenses are required as a prerequisite:

a. Domesticated Aquatic Organism License.

9. Permits expire on December 31 every year. Any permit issued after November 15 will be valid for the remainder of that calendar year and the following calendar year.

10. Permits are not transferable from person to person, or property to property.

11. No person may release live Aquarium Livestock or eggs into the waters of Louisiana (whether public or private) without LDWF Secretarial Approval.

12. Permittee must agree to collect and provide an adequate number of Aquarium Livestock to the department or a department approved contractor upon request for identification and analysis, at the permittee's expense.

13. Records of all Aquarium Livestock processed over the previous five years shall be kept at the culture facility and shall include the following information:

- a. source of fish;
- b. import and export quantities including information of who purchased or supplied the Aquarium Livestock; and
- c. date of all transactions.

14. A copy of this information shall be sent annually to the Fisheries permit manager at the end of each year prior to permit renewal, or at any time upon the request.

15. Any time a new species, hybrid or type is added into the facility, the applicant must contact the Fisheries Permit Manager for approval prior to importation of the species into their facility.

16. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill, or recapture fish. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the secretary that the permittee will fulfill their financial obligations, the Aquarium Livestock permittee shall post a \$25,000 performance bond, or present a letter of credit from a financial institution stating that the \$25,000 is available to the department on a certificate of deposit.

17. If a permittee terminates Aquarium Livestock culture, the permittee shall notify the secretary or designee immediately and dispose of the Aquarium Livestock according to methods approved by the department.

18. In addition to all other legal remedies, including provisions of R.S. 56:319.E, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All Aquarium Livestock shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

19. Any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s) within five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:

§919. Freshwater Prawns

A. Freshwater Prawn Permit Request Procedures

1. Individuals or organizations wishing to import, export, transport, culture, dispose, or transfer live freshwater prawns for aquaculture in Louisiana must first request a Freshwater Prawn Permit from LDWF Fisheries Permit Manager. A separate permit will be required for each facility or location.

2. Applications for permits may be obtained by contacting the Fisheries Permit Manager via emailing fisheriespermits@wlf.la.gov or by mail:

Louisiana Department of Wildlife and Fisheries
Fisheries Permit Manager
P.O. Box 98000
Baton Rouge, LA 70898-9000

3. The completed application must be returned to the same address whereby the Fisheries Permit Manager will review the application. Department personnel or a department approved contractor will then make an on-site inspection of the property and culture system.

4. After the on-site inspection has been completed, the Fisheries Permit Manager will make a final determination as to whether the applicant is in full compliance with all rules pursuant to the Freshwater Prawn Permit. The Fisheries Permit Manager will then make a recommendation of approval or denial of the applicant's request to the secretary or designee.

5. The Fisheries Permit Manager will notify the applicant, in writing, as to whether or not the permit has been granted. In the event that the permit is denied, the Fisheries Permit Manager shall include written reasons for that determination. Applicant may reapply after correcting specified deficiencies noted in letter of denial.

B. Rules on Transport of Live Freshwater Prawn

1. For each occurrence of live freshwater prawn importation into Louisiana from out of state, or live transfer within the state, the permittee must obtain, in writing, approval from the Fisheries Permit Manager. These requests shall be made no less than two business days before the expected date of shipment.

a. Requests shall be made via email to fisheriespermits@wlf.la.gov

b. Requests shall include:

i. Louisiana Freshwater Prawn Permit number;

ii. date of transport;

iii. total number of freshwater prawns;

iv. identification of seller and buyer and any permit numbers from the jurisdiction of origin to the jurisdiction of destination in which they are coming from;

v. a certificate of health from a veterinarian or other certified expert stating that freshwater prawns are not showing visible signs of diseases or parasites.

C. Rules of Freshwater Prawn Culture

1. It shall be the responsibility of the permittee to immediately notify the secretary or designee of any freshwater prawn that leave the facility for any reason other than those specifically identified and allowed for under their current permit, including but not limited to accidental releases due to weather related events, vandalism, and theft.

2. All aspects of the freshwater prawn facility must be at least 1 foot above the 100-year flood elevation. Additionally, the department may require a surface hydrological assessment of the proposed site at permittee's expense.

3. All water utilized in the culture of freshwater prawn shall be accounted for and shall be filtered, screened, and/or sterilized prior to leaving the culture and the permittee's property in such a manner as the department deems adequate to prevent any possibility of escape from the system.

4. All aspects of the freshwater prawn culture system and processing shall be completely enclosed so that predation from birds, mammals, amphibians, and reptiles is precluded.

5. A means to dispose of freshwater prawn through chlorination, desiccation, or other appropriate methods in the event of an emergency must be included as a component of any department approved system.

6. The department will have just cause to revoke a Freshwater Prawn Permit for lapses in security if the permittee is found to be in noncompliance with LAC 76:VII.919.C.1.

7. The applicant must allow department officials or a department approved contractor, at the applicant's expense, to conduct unannounced random inspections of the transport vehicle, property culture system, and fish. Department officials may request other officials to accompany them during these inspections. Additionally, those individuals performing these inspections may remove or take prawn samples for analysis and/or inspection.

8. In order for the permit to be valid, the following licenses are required as a prerequisite:

a. Domesticated Aquatic Organism License

9. Permits expire on December 31 every year. Any permit issued after November 15 will be valid for the

remainder of that calendar year and the following calendar year.

10. Permits are not transferable from person to person, or property to property.

11. No person may release live any life stages of freshwater prawns or eggs into the waters of Louisiana (whether public or private) without LDWF Secretarial approval.

12. Permittee must agree to collect and provide an adequate number of freshwater prawns to the department or a department approved contractor upon request for identification and analysis, at the permittee's expense.

13. Records for the previous five years shall be kept at the facility of all freshwater prawn processed at a culture facility and shall include the following information:

- a. source of freshwater prawns;
- b. import and live export quantities including information of who purchased or supplied the live freshwater prawns; and
- c. date of all transactions.

14. A copy of this information shall be sent annually to the Fisheries Permit Manager at the end of each year prior to permit renewal, or at any time upon the request.

15. The department shall be overseer of all escape incidents and may implement or require to be implemented whatever measures deemed necessary to contain, kill, or recapture freshwater prawns. The permittee shall agree to reimburse the department for all costs including, but not limited to, man hours and materials utilized during these corrective actions. In order to assure the secretary that the permittee will fulfill their financial obligations, the freshwater prawn permittee shall post a \$25,000 performance bond, or present a letter of credit from a financial institution stating that the \$25,000 is available to the department on a certificate of deposit.

16. If a permittee terminates freshwater prawn culture, the permittee shall notify the secretary or designee immediately and dispose of freshwater prawns according to methods approved by the department.

17. In addition to all other legal remedies, including provisions of R.S. 56:319.E, failure to comply with any of the provisions herein shall be just cause to immediately suspend and/or revoke the permittee's permit. All freshwater prawns shall be destroyed at permittee's expense under the department's supervision within 30 days of permit revocation.

18. Any permittee allegedly in violation of the above rules has a right to make a written response of the alleged violation(s) to the secretary requesting a hearing to review the alleged violation(s) within five days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:318 and R.S. 56:319.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 47:

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.

Small Business Analysis

This proposed Rule has no known impact on small businesses as described in R.S. 49:965.2 through R.S. 49:965.8.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed Rule to Mr. Robert Bourgeois, Office of Fisheries, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, prior to 4:30 p.m., Tuesday, July 6, 2021.

Jerri G. Smitko
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Domesticated Aquatic Organisms

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no expenditure impact on state or local governmental units. The proposed rule change refines regulations regarding domesticated aquatic organisms by reorganizing the existing chapter to be more concise and reflect the current organization of the Louisiana Department of Wildlife and Fisheries (LDWF). Also, the proposed rule change adds four groups to the approved domesticated aquatic organism list and removes some that are no longer under LDWF.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to have a minor effect on revenue collections of LDWF from license fees. The LDWF has recently issued two tilapia culture permits. The proposed rule change requiring tilapia culture permits to hold a domestic aquatic organism permit (at a fee of \$15) is expected to increase license fee revenues by approximately \$30.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change clarifying the requirement of tilapia culture permit holders to hold a domestic aquatic organism permit as well, which is expected to increase license expenditures by a collective \$30.

Also, the proposed rule change increasing performance bond requirements in 2026 for tilapia live permit holders (\$25,000 to \$50,000) and tilapia culture permit holders (\$10,000 to \$50,000) will impose a financing cost on the license holders. The premium for the performance bond will vary with market rates and the credit rating of the applicant; therefore, the costs to the license holders are indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have a minor negative impact on receipts or income in Louisiana.

Bryan McClinton
Undersecretary
2105#041

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

Governor's Reports

GOVERNOR'S REPORT

Governor's Review and Determination for an Emergency Rule adopted by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River

Editor's Note: This Emergency Rule can be viewed on pages 333-335 of the March 20, 2021 *Louisiana Register*.

Report of the Governor

April 27, 2021

RE: Board of Examiners New Orleans and Baton Rouge Steamship Pilots for the Mississippi River (NOBRA) March 4, 2021 Emergency Rule

My office received a March 4, 2021, communication from the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, adopting and promulgating an Emergency Rule regarding General Provisions and Standards of Conduct. I have reviewed this rule in accordance with my duty under the Louisiana Administrative Procedure Act, La. R.S. 49:953(B)(4)(b). This rule, promulgated as an emergency rule, nevertheless fails to meet the necessary criteria set forth in La. R.S. 49:953(B)(1)(a). Therefore, it is my conclusion, and the conclusion of this report, that this emergency rule is unacceptable and shall be without effect, pursuant to La. R.S. 49:953(B)(4)(c).

Specifically, the March 4 Emergency Rule declared an emergency to exist; and it adopted and issued a set of regulations and amendments to Title 46:LXX.6103 of the Louisiana Administrative Code. These amendments included provisions regarding recommendations for appointments to

the Board of Examiners, pilots' standards of care, navigational rules, and continuing professional education.

The Administrative Procedure Act requires, in pertinent part, that the emergency rule process is necessary and available in circumstances in which "imminent peril to the public health, safety, or welfare requires adoption of a rule." It further requires that "the agency statement of its reason for finding it necessary to adopt an emergency rule shall include specific reasons why the failure to adopt the rule on an emergency basis would result in imminent peril to the public health, safety, or welfare, or specific reasons why the emergency rule meets other criteria . . . for adoption of an emergency rule." The March 4, 2021 Emergency Rule, as promulgated by the Board, fails to meet both of these requirements.

Further, shortly after adoption and promulgation of this emergency rule, the membership and leadership of the Board of Examiners significantly changed. The current membership of the Board deserves the opportunity to confer and decide the propriety and necessity of these regulations and amendments. Also, the current Board should review this set of rules and regulations to decide whether these matters are more properly handled in the course of the Board's regular rulemaking authority. Therefore, it is my conclusion that this Emergency Rule is unacceptable, as it does not meet the criteria for an emergency rule as provided in La. R.S. 49:953(B)(1).

John Bel Edwards
Governor

2105#004

Potpourri

POTPOURRI

Department of Health Bureau of Health Services Financing

Public Hearing—Substantive Changes to Proposed Rule
Facility Need Review—Relocation of Nursing Facility Beds
(LAC 48:I.12529)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health, Bureau of Health Services Financing published a Notice of Intent in the January 20, 2021 edition of the *Louisiana Register* (LR 47:143-144) to amend LAC 48:I.12529 as authorized by R.S. 36:254 and 40:2116. This Notice of Intent proposed to amend the provisions governing the facility need review (FNR) process in order to allow the department to approve a temporary relocation/transfer of a nursing facility's Medicaid FNR approvals to another licensed, certified and operational nursing facility outside of the service area or parish while awaiting the completion of a replacement nursing facility building. As a result of comments received in response to the January 20, 2021 Notice of Intent, the department determined that additional non-technical revisions were necessary to the provisions of §12529 of the proposed Rule.

Taken together, all of these revisions will closely align the proposed Rule with the department's original intent and the concerns brought forth during the comment period for the Notice of Intent as originally published. No fiscal or economic impact will result from the amendments proposed in this notice

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter D. Relocation of Nursing Facility Beds

§12529. General Provisions

A. - D. ...

1. The department may approve a one-time temporary relocation of a nursing facility's Medicaid FNR approvals to another licensed building that may be outside the existing FNR approved service area or parish, provided that all of the following provisions are met:

a. - e. ...

f. The temporary license shall expire 6 months from the date of issuance and the facility shall relocate to its new replacement nursing facility building during that period. One extension of the temporary license, not to exceed 90 days, may be granted by the department for good cause shown.

g. During the period of temporary licensure, the nursing facility shall not accept any new admissions to the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and 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 34:2619 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1009 (May 2010), amended by the Department of Health, Bureau of Health Services Financing LR 46:953 (July 2020), LR 47:

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding these substantive amendments to the proposed Rule. A public hearing on these substantive changes to the proposed Rule is will be scheduled for Thursday, June 24, 2021 at 9:30 a.m. via Zoom. using the following URL link: <https://us02web.zoom.us/j/87845586319>. Alternatively, you may join by dialing 602-333-0032 and entering conference code 768964. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m., June 29, 2021.

Dr. Courtney N. Phillips
Secretary

2105#046

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, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Anderson-Prichard Oil Corporation	Wildcat-So La New Orleans Dis	L	Annie Herrick et al	001	75009
Davis Petroleum Corp.	Lac Blanc	L	Sd ra sua; SL 18090	001-Alt	231529
Davis Petroleum Corp.	Lac Blanc	L	Sd ra sua; SL 18090	002	232451
Davis Petroleum Corp.	Cameron Canal	L	13000 ra sua; Fremaux Co et al	001	232630
Davis Petroleum Corp.	Cameron Canal	L	Sub All RB sua; Oustalet Farm	001	233269

Operator	Field	District	Well Name	Well Number	Serial Number
Davis Petroleum Corp.	Cameron Canal	L	13000 Rb sua;EE Broussard	001-Alt	249424
Davis Petroleum Corp.	Cameron Canal	L	The Fremaux Co swd	001	973514
F. E. Hargraves & Sons Drl. Co. Inc.	Caddo Pine Island	S	Carlisle	001	128877
Fredria Bertrand, Sr.	Jennings	L	Bertrand Fee	001	44272
Fredria Bertrand, Sr.	Jennings	L	Iowa-Jennings	001	57528
Fredria Bertrand, Sr.	Jennings	L	Iowa-Jennings	002	58035
Fredria Bertrand, Sr.	Jennings	L	Iowa-Jennings	003	72454
Fredria Bertrand, Sr.	Jennings	L	Bertrand Fee	002	202250
Jimmy L. Traylor	Monroe	M	Traylor	001	199760
John W. Pace	Wilcat-So La New Orleans Dis	L	Annie C Herrick	001	99632
Mccarter, Inc And Delwood	Wildcat-So La New Orleans Dis	L	Delacroix Corp	001	118951
Minnie M. Pilgreen	Monroe	M	Minnie M Pilgreen	003	153207
Minnie M. Pilgreen	Monroe	M	Minnie M Pilgreen	002	154327
Minnie M. Pilgreen	Monroe	M	Minnie M Pilgreen	001	154328
Ploutos, Llc	Newlight	M	Tensas swd	001	166533
Ploutos, Llc	New Quarters	M	Chicago Mill S	002	167972
Ploutos, Llc	Newlight	M	Chicago Mill & Lbr Co B	002	168815
Ploutos, Llc	New Quarters	M	Chicago Mill & Lumber Co	002	183567
Ploutos, Llc	New Quarters	M	Bsl Tusc S ra suc;Cml Co D	003	185801
Primos & Luffey Gas Co.	Monroe	M	Howard	001	13886
Primos & Luffey Gas Co.	Monroe	M	Howard	003	47927

Operator	Field	District	Well Name	Well Number	Serial Number
Southwest Energy Partners L.L.C.	Sabine Lake, North	L	SL 21279	001	221428
Yuma E & P Company, Inc.	Stuads Bluff, East	L	Delacroix Corp	001	139110
Yuma E & P Company, Inc.	Stuads Bluff, East	L	Delacroix Corp	001-D	139436
Yuma E & P Company, Inc.	Stuads Bluff, East	L	Delacroix Corp	003	142118
Yuma E & P Company, Inc.	Main Pass Block 4	L	SL 11046	001	207985
Yuma E & P Company, Inc.	Masters Creek	M	Aus C ra sua; Monroe A	001	216274
Yuma E & P Company, Inc.	Masters Creek	M	Aus C ra suq; Labokay Corp A	001-Alt	218184
Yuma E & P Company, Inc.	Masters Creek	M	Aus C ra sua; Monroe A	002-Alt	218626
Yuma E & P Company, Inc.	Masters Creek	M	Aus C ra Suo;Exxon Minerals A	001	218683
Yuma E & P Company, Inc.	Masters Creek	M	Aus C ra sup;Exxon Minerals B	001	219451
Yuma E & P Company, Inc.	Lake Fortuna	L	SL 14564 swd	001	219717
Yuma E & P Company, Inc.	Masters Creek	M	Aus C ra sum; Martin Lbr Co A	001	219781
Yuma E & P Company, Inc.	Masters Creek	M	Aus C ra sul; B N Tyler A	001	219862
Yuma E & P Company, Inc.	Masters Creek	M	Aus C ra succ; B R Haken A	001	220049
Yuma E & P Company, Inc.	Sugrue	L	Aus C ra suc; Johnson 24	001	220188
Yuma E & P Company, Inc.	Sugrue	L	Aus C ra Sue; Crosby 36	001	220189
Yuma E & P Company, Inc.	Stuads Bluff, East	L	SL 15485	001	220321
Yuma E & P Company, Inc.	Masters Creek	M	Aus C ra suw; Lambright A	001	220362
Yuma E & P Company, Inc.	Masters Creek, West	L	Aus C ra sub; Exxon Fee 2	001	220432
Yuma E & P Company, Inc.	Sugrue	L	Aus C ra sud; Crosby 27	001	220488
Yuma E & P Company, Inc.	Masters Creek	M	Aus C ra su 62; Mid State A	001	220566
Yuma E & P Company, Inc.	Chasmore	L	Aus C ra sua;Quinn 15	001	220583

Operator	Field	District	Well Name	Well Number	Serial Number
Yuma E & P Company, Inc.	Sugartown	L	Aus C ra Sud; Collins 15	001	220610
Yuma E & P Company, Inc.	Masters Creek	M	Aus C ra Suk; C K Wilson Tr A	001	220683
Yuma E & P Company, Inc.	Masters Creek	M	Aus C ra Sue; Bullock A	001	220704
Yuma E & P Company, Inc.	Sugrue	L	Aus C ra suf; Crosby 34	001	221259
Yuma E & P Company, Inc.	Masters Creek	M	Aus C ra su 71; Broussard 2	001	221329
Yuma E & P Company, Inc.	Sugartown	L	Aus C ra suf; Quinn 17	001	221436
Yuma E & P Company, Inc.	Whiskey Chitto	L	Aus C ra suj; Usa 34	001	221472
Yuma E & P Company, Inc.	Chasmore	L	Aus C ra sub; Arabie 22	001	221772
Yuma E & P Company, Inc.	Sugrue	L	Aus C ra sug; Crosby 19 A	001	221823
Yuma E & P Company, Inc.	Chasmore	L	Aus C ra sud; Kelly 24	001	222145
Yuma E & P Company, Inc.	Sugartown	L	Aus C ra suq; Quinn 8	001	222479
Yuma E & P Company, Inc.	Sugartown	L	Aus C ra sum; Martin 22	001	222628
Yuma E & P Company, Inc.	Chasmore	L	Aus C ra suc; Quinn 13	001	222671
Yuma E & P Company, Inc.	Sugartown	L	Aus C ra suo; Crosby 5	001	222674
Yuma E & P Company, Inc.	Sugartown	L	Aus C ra sup; Crosby 9a	001	222785
Yuma E & P Company, Inc.	Sugrue	L	Aus C ra suj; Crosby 21a	001	223148
Yuma E & P Company, Inc.	Sugartown	L	Aus C ra sul; Crosby 9	001	223154
Yuma E & P Company, Inc.	Sugrue	L	Aus C ra sul; Crosby 29	001	223297
Yuma E & P Company, Inc.	Chasmore	L	Coffman 34	001	223575
Yuma E & P Company, Inc.	Sugartown	L	Crosby 4	1	223607
Yuma E & P Company, Inc.	Sugrue	L	Aus C ra suk; Beeson 28	001	223794
Yuma E & P Company, Inc.	Whiskey Chitto	L	Aus C ra sul; USA 31	001	223967
Yuma E & P Company, Inc.	Lake Fortuna	L	SL 14564	2	224561
Yuma E & P Company, Inc.	Sugartown	L	Crosby 2b	001	225116

Operator	Field	District	Well Name	Well Number	Serial Number
Yuma E & P Company, Inc.	Lake Fortuna	L	Lf 7300 ra su; SL 14564	002-D	225362
Yuma E & P Company, Inc.	Lake Fortuna	L	Lf 7300 ra su; SL 14564	003	225580
Yuma E & P Company, Inc.	Lake Fortuna	L	SL 14564	004	225795
Yuma E & P Company, Inc.	Lake Fortuna	L	SL 14564	003-D	226230
Yuma E & P Company, Inc.	Lake Fortuna	L	SL 14564	004-D	226231
Yuma E & P Company, Inc.	Main Pass Block 4	L	SL 17005	001	226517
Yuma E & P Company, Inc.	Lake Fortuna	L	SL 14564	005	226534
Yuma E & P Company, Inc.	Lake Fortuna	L	Lf 7300 ra su; SL 14564	005-D	226647
Yuma E & P Company, Inc.	Main Pass Block 10	L	SL 17451	001	227496
Yuma E & P Company, Inc.	Chacahoula	L	Dibert 2 RC sua; DS&B	001-Alt	231162
Yuma E & P Company, Inc.	Chacahoula	L	Dibert Stark & Brown	002	231314
Yuma E & P Company, Inc.	Pointe A La Hache	L	UL 5 Rd sua; SL 18514	001	236053
Yuma E & P Company, Inc.	Bills Branch	L	vua; Weyerhaeuser 18	001	240796
Yuma E & P Company, Inc.	Beaver Dam Creek	L	L Tusc RC sua; Weyerhaeuser 57	002	241282
Yuma E & P Company, Inc.	Bills Branch	L	vub; Weyerhaeuser 19	001	243212
Yuma E & P Company, Inc.	Beaver Dam Creek	L	L Tusc RC sua; Weyerhaeuser 57	003-Alt	243506
Yuma E & P Company, Inc.	Bills Branch	L	Vuc; Weyerhaeuser 9	001	244609
Yuma E & P Company, Inc.	Beaver Dam Creek	L	L Tusc RC sub; Roberts 57	001	244718
Yuma E & P Company, Inc.	Sugartown	L	Aus C ra sub; Crosby 12	001	246627
Yuma E & P Company, Inc.	Sugartown	L	Aus C ra suc; Crosby 14	001	247504
Yuma E & P Company, Inc.	Livingston, North	L	Wx Rb sua; David Blackwell 39	001	248614
Yuma E & P Company, Inc.	Bon Air	L	Mt Rg sua; CI Talbot et al 23	001	248829
Yuma E & P Company, Inc.	Masters Creek	M	Monroe B swd	001	972531

Operator	Field	District	Well Name	Well Number	Serial Number
Yuma E & P Company, Inc.	Sugrue	L	Crosby 36 swd	001	972682
Yuma E & P Company, Inc.	Masters Creek, West	L	Exxon 2 swd	001	972732
Yuma E & P Company, Inc.	Chasmore	L	Quinn 15 swd	001	972734
Yuma E & P Company, Inc.	Sugartown	L	Collins 15 swd	001	972742
Yuma E & P Company, Inc.	Sugartown	L	Quinn 17 swd	001	972760
Yuma E & P Company, Inc.	Masters Creek	M	Broussard 2 swd	001	972763
Yuma E & P Company, Inc.	Sugartown	L	Arabie 22 swd	001	972769
Yuma E & P Company, Inc.	Whiskey Chitto	L	USA 34 swd	001	972772
Yuma E & P Company, Inc.	Chasmore	L	Kelly 24 swd	001	972794
Yuma E & P Company, Inc.	Sugartown	L	Quinn 8 swd	001	972802
Yuma E & P Company, Inc.	Chasmore	L	Quinn 13 swd	001	972804
Yuma E & P Company, Inc.	Sugartown	L	Crosby 9a swd	001	972816
Yuma E & P Company, Inc.	Sugartown	L	Crosby 9 swd	001	972844
Yuma E & P Company, Inc.	Sugrue	L	Crosby 21a swd	001	972852
Yuma E & P Company, Inc.	Sugartown	L	Crosby 4 swd	001	972950
Yuma E & P Company, Inc.	Whiskey Chitto	L	USA 31 swd	001	972966
Yuma E & P Company, Inc.	Sugrue	L	Beeson 28 swd	001	972987
Yuma E & P Company, Inc.	Sugartown	L	Crosby 2b swd	001	973039
Yuma E & P Company, Inc.	Beaver Dam Creek	L	Weyerhaeuser 57 swd	001	974378
Yuma E & P Company, Inc.	Sugartown	L	Crosby 14 swd	001	974538

Richard P. Ieyoub
Commissioner

2105#025

POTPOURRI

Department of Public Safety and Corrections Oil Spill Coordinator's Office

Draft Damage Assessment and Restoration Plan and Environmental Assessment for 2008 Mississippi River Oil Spill

Action: Notice of Availability of a Draft Damage Assessment and Restoration Plan and Environmental Assessment with a 30-day public review and comment period—LOSCO NRDA case file LA2008_0723_0230 (Gretna/MS River 2008).

Agencies: Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOSCO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); Louisiana Coastal Protection and Restoration Authority (CPRA); the United States Department of the Interior (DOI), represented by the U.S. Fish and Wildlife Service (USFWS); and the United States Department of Commerce, represented by the National Oceanic and Atmospheric Administration (NOAA); collectively referred to herein as the "Trustees."

Authorities: The Oil Pollution Act of 1990 (OPA), 33 USC 2701 et seq., and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA), La. R.S. 30:2451 et seq., are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to trust resources and services resulting from oil spill incidents in Louisiana. OPA implementing regulations may be found at 15 C.F.R. Part 990 and OSPRA regulations at LAC 43:XXIX. In accordance with OPA, OSPRA, and the regulations, the Trustees have conducted a Natural Resource Damage Assessment (NRDA) for the July 23, 2008 crude oil discharge into the Mississippi River near New Orleans, Orleans Parish, Louisiana (Incident). American Commercial Barge Line LLC (ACL) was identified as the Responsible Party for the Incident.

Summary: Pursuant to 15 C.F.R. §§ 990.23, 990.55 and LAC 43:XXIX, Chapter 1, notice is hereby given that a document entitled, "Draft Damage Assessment and Restoration Plan and Environmental Assessment, Mississippi River Oil Spill Gretna-New Orleans, Louisiana July 23, 2008, NRDA Case File# LA2008_0723_0230 (Gretna/MS River 2008)" (Draft DARP/EA) is available for public review and comment. The Draft DARP/EA identifies the natural resources and services that were determined to be injured by the Incident, describes the assessment procedures used to quantify injury, outlines the scaling approach and restoration alternative selection process, and presents the Trustees' proposed plan to restore natural resources or services equivalent to those lost as a basis for compensating the public for the injuries to natural resources and services resulting from the Incident. The Draft DARP/EA evaluates

POTPOURRI

Department of Public Safety and Corrections Oil Spill Coordinator's Office

Notice of Final Restoration Plan
Lake Washington 2003 Oil Spill

restoration alternatives that the Trustees considered and identifies the Trustees' preferred restoration alternative, which is a suite of restoration actions including: (1) the Woodlands Acquisition, Management, and Recreational Enhancement Project; (2) marsh creation via a crevasse splay; and (3) recreational fishing enhancements. After finalization of the Draft DARP/EA, the Trustees will prepare a Final Damage Assessment and Restoration Plan and Environmental Assessment (Final DARP/EA) and make it available to the public.

The Draft DARP/EA is available to the public for a 30-day comment period, which will begin on the date of this public notice announcing availability of the document for public review. The Trustees invite the public to review this document and submit comments to the mailing or email address listed below. The Trustees will consider comments received during the public comment period before finalizing the Final DARP/EA. Public review of the Draft DARP/EA is consistent with all federal and state laws and regulations that apply, including Section 1006 of OPA, 33 U.S.C. § 2706; the OPA regulations, 15 C.F.R. Part 990; Section 2480 of OSPRA, La. R.S. 30:2480; and the OSPRA regulations, LAC 43:XXIX, et. seq.

Interested members of the public are invited to view the Draft DARP/EA via the internet at <http://www.losco.state.la.us> (look under Newsflash/current news for 2008 Mississippi River Draft Damage Assessment and Restoration Plan and Environmental Assessment Available) or by requesting a copy of the document from Charles K. Armbruster at the following address:

Charles K. Armbruster
Louisiana Oil Spill Coordinator's Office
Department of Public Safety and Corrections
P.O. Box 66614
Baton Rouge, LA 70896
(225) 925-6606
charles.armbruster@la.gov

Comment Submittals: Comments must be submitted in writing or digitally to Charles K. Armbruster at the above address on or before the end of the 30-day comment period.

For Further Information: Contact Charles K. Armbruster at (225) 925-6606 or by email at charles.armbruster@la.gov.

Supplementary Information: On September 20, 2016, the Trustees published a Notice of Intent in the *Louisiana Register* (Vol. 42, No. 09, pp. 1572-1573) to notify the public that they intended to conduct restoration planning for the Incident and develop restoration alternatives that would restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of the Incident.

Sam Jones
Oil Spill Coordinator

2105#040

Action: Notice of Availability of a Final Restoration Plan (FRP) for LOSCO NRDA case file # LA2003_0302_0716 (Lake Washington 2003).

Agencies: Louisiana Oil Spill Coordinator's Office, Department of Public Safety and Corrections (LOS CO); Louisiana Department of Environmental Quality (LDEQ); Louisiana Department of Natural Resources (LDNR); Louisiana Department of Wildlife and Fisheries (LDWF); and Louisiana Coastal Protection and Restoration Authority (CPRA), collectively referred to herein as the "Trustees".

Authorities: The Oil Pollution Act of 1990 (OPA), 33 U.S.C. 2701 et seq., and the Louisiana Oil Spill Prevention and Response Act of 1991 (OSPRA), R.S. 30:2451 et seq., are the principal federal and state statutes, respectively, authorizing federal and state agencies and tribal officials to act as natural resource trustees for the recovery of damages for injuries to trust resources and services resulting from oil spill incidents in Louisiana. OPA implementing regulations may be found at 15 C.F.R. Part 990 and OSPRA regulations at LAC 43:XXIX. In accordance with OPA, OSPRA, and the regulations, the Trustees have conducted a Natural Resource Damage Assessment (NRDA) for the March 2, 2003, crude oil discharge into Lake Washington, Plaquemines Parish, Louisiana (Incident). ExxonMobil Pipeline Company (EMPCo) was identified as the Responsible Party for the Incident.

Summary: Pursuant to 15 C.F.R. §990.55 and LAC 43:XXIX, Chapter 1, notice is hereby given that a document entitled, "Final Restoration Plan – Lake Washington 2003 Oil Spill" is final and available to the public as of May 20, 2021. The FRP presents the Trustees' plan to restore natural resources or services equivalent to those lost as a basis for compensating the public for the injuries to natural resources resulting from the Incident. The FRP evaluates restoration alternatives that the Trustees considered and identifies the Trustees' preferred restoration alternative to create coastal herbaceous wetlands, including delta splay marsh, near East Bay, Plaquemines Parish, Louisiana.

The Draft Restoration Plan (DRP) was made available to the public for a 30-day review and comment period, which extended from March 23, 2021 through April 22, 2021. Public review of the DRP was consistent with all federal and state laws and regulations that apply, including Section 1006 of OPA, 33 U.S.C. § 2706; the OPA regulations, 15 C.F.R. Part 990; Section 2480 of OSPRA, R.S. 30:2480; and the OSPRA regulations, LAC 43:XXIX. The Trustees did not receive comments during the public comment period and have prepared the FRP for implementation.

Interested members of the public are invited to view the FRP via the internet at <http://www.losco.state.la.us> (look

under Newsflash/current news for Lake Washington 2003 Final Restoration Plan Available) or by requesting a copy of the document from Charles K. Armbruster at the following address:

Charles K. Armbruster
Louisiana Oil Spill Coordinator's Office
Department of Public Safety and Corrections
P.O. Box 66614
Baton Rouge, LA 70896
(225) 925-6606
charles.armbruster@la.gov

For Further Information: Contact Charles K. Armbruster at (225) 925-6606 or by email at Charles.Armbruster@la.gov.

Supplementary Information: On September 20, 2003, the Trustees published a Notice of Intent in the Louisiana Register (Vol. 29, No. 9, pp. 1952-1953) to notify the public that they intended to conduct restoration planning for the Incident and develop restoration alternatives that would restore, replace, rehabilitate, or acquire the equivalent of natural resources injured and/or natural resource services lost as a result of the Incident. The discharge exposed estuarine habitats as well as birds and other wildlife to crude oil. EMPCo was also identified as the Responsible Party for

two other unauthorized crude oil discharges in the vicinity of the Lake Washington incident. These included the Mendicant Island incident on December 2, 2003 and the West Champagne Bay incident on April 19, 2005. The two incidents and the Lake Washington incident (collectively referred to as the LWMIWCB Incidents) were combined into one collective NRDA and joint settlement agreement between the Trustees and EMPCo. In October 2016, EMPCo agreed to settle their NRDA liability for a cash amount, and the Trustees published a Notice of Availability of a Draft Settlement Agreement in the Louisiana Register on July 20, 2017 (Vol. 43, No. 07, pp. 1487-1488). The Trustees did not receive comments during the 30-day public comment period and published a Notice of Availability of a Final Settlement Agreement in the Louisiana Register on November 20, 2017 (Vol. 43, No. 11, pp. 2449). A signed copy of the Settlement Agreement is available via the internet at <https://data.losco.org/PublicAdministrativeRecordSearch/Ind ex/6>. The preferred alternative will be funded using a portion of the LWMIWCB settlement funds.

Samuel E. Jones
Oil Spill Coordinator

2105#039

CUMULATIVE INDEX
(Volume 47, Number 5)

2021	
Pages	Issue
1-206	January
207-329	February
330-427	March
428-552	April
553-701	May
EO—Executive Order	
PPM—Policy and Procedure Memoranda	
ER—Emergency Rule	
R—Rule	
N—Notice of Intent	
CR—Committee Report	
GR—Governor's Report	
L—Legislation	
P—Potpourri	
QU—Administrative Code Quarterly Update	

ADMINISTRATIVE CODE UPDATE

Cumulative

January 2020-December 2020, 200QU, 539QU

AGRICULTURE AND FORESTRY

Agriculture and Environmental Sciences, Office of

Annual quarantine listing, 540P
 Certifications, 437R
 Examinations, 437R
 Fees, 437R
 Licensing, 437R

Agricultural Chemistry and Seed Commission

Industrial hemp, 438R

Horticulture Commission

Minimum examination performance levels required, 503N

Structural Pest Control Commission

Structural pest control, 504NN

Agriculture Finance Authority

Louisiana Agricultural Workforce Development Program, 499N

Agro-Consumer Services, Office of

Annual fee for registration of mass flow meters, 501N
 Commercial weighing and measuring, 562R
 Indian Creek campsite fees, 229R
 Fuel price advertising, 562R
 Meat labeling, 562R

Weights and Measures, Division of

Truth in labeling of food products, 348R

Forestry, Office of

Electronic transfer/driver cards, 276N, 375N, 563R
 Forestry Productivity Program, 277N, 564R

CHILDREN AND FAMILY SERVICES

Child Welfare, Division of

Extended foster care services, 4ER, 36R
 Louisiana's 2021 Annual Progress and Services Report, 413P
 Social Services Block Grant Intended Use Report, 413P

Child Protective Services

Maintenance and disclosure of information on reports, 608N
 Investigations on the state repository, 608N

Economic Stability Section

Caseload reduction, 203P
 Expungement of unused benefits, 609N
 Jobs for America's Graduates Louisiana (JAGS-LA) Program, 210ER, 350R
 Vulnerable communities and peoples initiative, 36R

Family Support, Division of

Caseload reduction, 123P

Licensing Section

Child placing provisions, 350R, 441R
 Suspension of license renewal fees, 229R

CIVIL SERVICE

Ethics, Board of

Food and drink limit, 504N
 Third party ethics training, 376N

CULTURE, RECREATION AND TOURISM

Cultural Development, Office of

State commercial tax credit program credit reservation process, 610N

ECONOMIC DEVELOPMENT

Business Development, Office of

Public hearing
 Enterprise Zone Program, 414P

Secretary, Office of the

Angel Investor Tax Credit Program, 37R, 613N

EDUCATION

Elementary and Secondary Education, Board of

Bulletin 111—The Louisiana School, District, and State Accountability System, 87N, 444R, 565R
 Bulletin 118—Statewide Assessment Standards and Practices, 279N, 565R

EDUCATION (Continued)

- Bulletin 126—Charter Schools—Charter School Renewals and Virtual Charter School Attendance, 284N, 569R
- Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel, 354R
- Bulletin 131—Alternative Education Schools/Programs Standards, 355R
- Bulletin 135—Health and Safety, 94N, 450R
- Bulletin 139—Louisiana Child Care and Development Fund Programs, 4ER, 210ER, 573R
 - CCAP household eligibility, 96N, 288N, 452R, 574R
- Bulletin 140—Louisiana Early Childhood Care and Education Network, 5ER, 98N, 452R, 556ER
- Bulletin 746—Louisiana Standards for State Certification of School Personnel, 5ER, 99N, 453R, 506N, 574R
- Bulletin 1903—Regulations and Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students, 291N
- High school assessment requirements, 428ER, 508N
- Phase 3 minimum requirements pertaining to reopening school facilities, 101N, 431ER, 453R
- Physical distance between students in classrooms, 430ER

Regents, Board of

- Academic program standards, 616N
- Student level data collection and reporting, 616N

Proprietary Schools Section

- Affidavits and Bonds, 619N
- General provisions, 619N
- License requirements, 619N
- Proprietary schools applications, 619N
- Student complaint procedure, 619N
- Student records, 619N
- Violations, 619N

Student Financial Assistance, Office of

- Extension of the ACT testing deadline, 6ER
- Scholarship/Grant Programs
 - 2020 natural disasters, 103N, 221ER
 - 2020 Regular Session of the Louisiana Legislature, 38R
 - Chafee Educational and Training Voucher grade reporting, 331ER, 380N
 - COVID-19 exceptions, 331ER, 380N
 - Dual enrollment calculus, 331ER, 380N
 - TOPS 5.0 grading scale
 - AP Psychology, 38R
- Waivers of certain TOPS initial eligibility for students affected by natural disasters in 2020, 383N

Tuition Trust Authority

Student Financial Assistance, Office of

- Achieving a Better Life Experience (ABLE) Program, 295N, 575R
- START Saving Program, 42R

ENVIRONMENTAL QUALITY

Office of the Secretary

Legal Affairs and Criminal Investigations Division

- 2020 annual incorporation by reference of certain federal air quality regulations, 355R
- Brownfields Cleanup Revolving Loan Fund Program, 511N
- Lead-Based paint activities
 - Accreditation, 513N
 - Recognition, 513N
 - Licensure, 513N
 - Standards for conducting lead-based paint activities, 446N
- Public hearing and request for comments
 - Triennial review of Louisiana water quality standards, 420P
- Regional Haze 5-Year Report
 - State Implementation Plan (SIP) revision, 203P, 542P
- Requirements for credits, 514N
- Water pollution control, 516N
- Water Quality Management Plan
 - Updates
 - Volume 4: Basin and Subsegment Boundaries, 421P
 - Appendix A: Subsegment Descriptions by Basin, 421P

EXECUTIVE ORDERS

- JBE 20-22 Atchafalaya River Basin Restoration and Enhancement, 1EO
- JBE 20-23 Flags at Half-Staff—Dr. Adam John Tassin, Jr, 2EO
- JBE 20-24 Flags at Half-Staff—Victor and Terry Stelly, 2EO
- JBE 20-25 Flags at Half-Staff—Luke Letlow, 3EO
- JBE 21-01 Flags at Half-Staff—Percy Joseph “P.J.” Mills, Jr., 207EO
- JBE 21-02 Carry-Forward Bond Allocation 2020, 207EO
- JBE 21-03 Amending Carry-Forward Bond Allocation 2020, 208EO
- JBE 21-04 Flags at Half-Staff—Stephen Frank “Steve” Carter, 209EO
- JBE 21-05 Flags at Half-Staff—Michael Hanley O’Keefe, 330EO
- JBE 21-06 Flags at Half-Staff—Dr. Virgil Orr, 553EO
- JBE 21-07 Governor’s Task Force on Murdered and Missing Indigenous Women and Girls, 553EO

GOVERNOR

Administration, Division of

Racing Commission

- Pick N procedure, 630N

GOVERNOR (continued)

State Procurement, Office of

PPM 56—Delegated Procurement Authority;
Standard and Special Delegations, 198PPM
Procurement, 110N, 324P, 578R

Tax Commission

Ad Valorem taxation, 12ER, 122N, 456R

Boxing and Wrestling Commission

Boxing and wrestling standards, 109N, 456R

Coastal Protection and Restoration Authority

Deepwater Horizon Oil Spill
Phase II Restoration Plan, 323P

Crime Victims Reparations Board

Compensation to victims, 364R

Indian Affairs, Office of

American Indian Scholarship, 472R

Law Enforcement and Administration of Criminal Justice, Commission on

Peace officer training, 394N

Licensing Board for Contractors

Licensure and exemption of exam for individuals with
military training and experience, 364R
Military spouses and dependents, 364R

New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, Board of Examiners for

Examinations, 335ER
General provisions, 333ER
Qualifications, 333ER
Standards of conduct, 12ER, 333ER, 557ER

Oil Spill Coordinator's Office

Notice of Draft Restoration Plan
Lake Washington 2003 Oil Spill, 421P

Pardons, Board of

General provisions, 358R, 455R
Inactive parole supervision, 627N
Meeting and hearing for the Board of Parole, 627N

River Port Pilot Commissioners for the Port of New Orleans, Board of

River port pilots, 388N

Used Motor Vehicle Commission

Used motor vehicles, 230R

GOVERNOR'S REPORTS

Governor's review and determination for an Emergency
Rule adopted by the Board of Examiners for New
Orleans and Baton Rouge Steamship Pilots for the
Mississippi River, 690GR

HEALTH

Aging and Adult Services, Office of

Home and community-based services waivers
Community Choices Waiver, 522N
Cost reporting requirements, 631N
Support coordination standards for participation, 524N
Personal care services
Long term care, 304N
Programs and services amendments due to the
Coronavirus disease 2019 (COVID-19) public health
emergency, 213ER, 341ER, 433ER

Behavioral Health, Office of

Programs and services amendments due to the
Coronavirus disease 2019 (COVID-19) public health
emergency, 213ER

Citizens with Developmental Disabilities, Office for

Act 421 children's Medicaid option, 43R
Council on the Purchase of Goods and Services of
Individuals with Disabilities, 371R
Home and community-based services waivers
Cost reporting requirements, 631N
Programs and services amendments due to the
Coronavirus disease 2019 (COVID-19) public health
emergency, 341ER, 433ER
Targeted case management, 646N

Counselors, Licensed Professional, Board of Examiners

Consulting, 306N
License renewal, 557ER
Teletherapy, 558ER

Dentistry, Board of

CDC Inspection violation expungement, 42R
Nitrous Oxide Analgesia, 42R
Teledentistry
Authorized duties, 236R

Health Services Financing, Bureau of

2021 third quarter hospital stabilization assessment,
422P
Abortion facilities
Licensing standards, 338ER
Act 421 children's Medicaid option, 43R
Dental Benefits Prepaid Ambulatory Health Plan
Payment methodology, 369R
Emergency telemedicine, 212ER
Facility need review
Relocation of nursing facility beds, 143N
Federally qualified health centers, 46R
Home and community-based services providers
Licensing standards, 47R
Home and community-based services waivers
Community Choices Waiver, 522N
Cost reporting requirements, 631N
Support coordination standards for participation, 524N
Home Health Program
Durable medical equipment, 644N
Intermediate care facilities for persons with intellectual
disabilities
Reimbursement methodology, 370R
Direct care floor recoupment, 645N
Temporary reimbursement for private facilities,
212ER, 302N, 341ER, 593R
Laboratory and radiology services, 250R
Licensing standards
Crisis receiving centers, 138N, 472R
Medicaid eligibility
Twelve-Month continuous eligibility, 396N
Medical Transportation Program
Non-emergency medical transportation, 371R
Nursing facilities
Non-Emergency transportation for medical
appointments, 371R
Supplemental payments
Non-State governmental organizations, 144N, 476R

HEALTH (continued)

Personal care services

Long term care, 304N, 593R

Professional Services Program, 48R

Immunizations, 49R

Reimbursement methodology, 146N, 477R

Programs and services amendments due to the Coronavirus disease 2019 (COVID-19) public health emergency, 213ER, 215ER, 341ER, 433ER

Public Hearing

Substantive changes to proposed Rule Facility Need

Review—Relocation of Nursing Facility Beds, 691P

Reimbursement for vaccine administration during a declared public health emergency, 28ER, 434ER, 459N, 526N

Rural health clinics, 50R

School-Based health services, 398N

Targeted case management, 646N

Nursing, Board of

Advanced practice registered nurses, 123N, 300N, 336ER

Continuing education, 333ER

Temporary permits, 211ER

Delegation of medication administration, 211ER

Optometry Examiners, Board of

2020-2021 continuing education, 337ER

License to practice optometry

Fees, 237R

Licensure by endorsement, 237R

Pharmacy, Board of

Automated medication systems, 240R

Controlled dangerous substance license for hemp facility, 126N

Labeling and delivery of marijuana products, 128N, 590R

Licensing for military families, 244R

Marijuana recommendations, 246R

Pharmacists, pharmacies and prescriptions, 130N

Pharmacy benefit managers, 590R

Prescription Monitoring Program, 84R, 247R

State of emergency, 136N, 592R

Temporary suspension of license renewal fees, 338ER

Transfer of marijuana recommendations, 521N

Physical Therapy Board

Licensing and certification, 654N

Psychologists, Board of Examiners of

Fees, 299N

Public Health, Office of

Automated external defibrillators, 402N

Mandatory tuberculosis (TB) testing, 405N

Registration of foods, drugs, cosmetics and prophylactic devices, 148N, 478R

Sanitary Code

Disease reporting requirements, 51R

INSURANCE

Commissioner, Office of the

Regulation 29—Correlated Sales of Life Insurance and Equity Products, 528N

Regulation 39—Statement of Actuarial Opinion, 52R

Regulation 42—Group Self-Insurance Funds, 52R

Regulation 109—Producer, Adjuster and Related Licenses, 408N

Regulation 112—Adoption of NAIC Handbooks, Guidelines, Forms, and Instructions, 530N

Rule 9—Prelicensing Education, 307N, 594R

Rule 10—Continuing Education, 313N, 599R

Rule 14—Records Management; General, 410N

LOUISIANA LOTTERY CORPORATION

On-Line and instant lottery games, 366R

NATURAL RESOURCES

Coastal Management, Office of

Local coastal management programs, 151N

Coastal Protection and Restoration Authority

Fiscal Year 2022 Draft Annual Plan2, 203P

Conservation, Office of

Class VI injection wells, 53R

Commercial deep well injection waste disposal facility, 542P

Orphaned oilfield sites, 325P, 542P, 691P

Pipeline safety, 663N

PUBLIC SAFETY AND CORRECTIONS

Corrections Services

Access to and release of active and inactive offender records, 532N

Restoration of good time, 535N

Gaming Control Board

Fantasy sports contest, 255R

Liquefied Petroleum Gas Commission

Class I-E permit, 29ER, 216ER, 480R

Oil Spill Coordinator's Office

Draft Damage Assessment and Restoration Plan and Environmental Assessment for 2008 Mississippi River Oil Spill, 694P

Notice of Final Restoration Plan Lake Washington 2003 Oil Spill, 695P

State Fire Marshal, Office of the

Fire-resistant material applicators, 253R

Storm shelters, 79R

Transporter license/modular homes, 484R

State Police, Office of

Hazardous materials, 155N, 489R

Motor carrier safety, 155N, 489R

Uniform Construction Code Council

Storm shelters, 33ER

REVENUE

Alcohol and Tobacco Control, Office of

Direct delivery of alcohol public safety regulations, 80R

Policy Services Division

Installment agreement for payment of tax, 537N

Mandatory Electronic Filing, 271R

STATE

Elections Division

Opportunity to cure deficiencies in absentee by mail ballot, 226ER

TRANSPORTATION AND DEVELOPMENT

Offshore Terminal Authority

Offshore terminal facilities air emissions, 672N
Recordkeeping and reporting, 672N

TREASURY

Deferred Compensation Commission

Administration, 346ER
Distribution, 346ER

TRANSPORTATION AND DEVELOPMENT

Offshore Terminal Authority

Superport Environmental Protection Plan, 156N, 490R

Professional Engineering and Land Surveying Board

Accredited land surveying curriculum, 490R
Continuing professional development, 490R
Military members/spouses/dependents, 490R

UNIFORM LOCAL SALES TAX BOARD

Audit protocols for local sales and use taxes, 518N
Claims for refund or credit, 674N
Interest on refunds or credits, 675N

WILDLIFE AND FISHERIES

Wildlife and Fisheries Commission

Deer Management Assistance Program

Signage change, 158N, 605R
Domesticated aquatic organisms, 677N
Hunting regulations for the 2021-2023 season, 159N
Oyster

Harvest restriction, 319N, 605R

Poverty Point Reservoir

Netting season extension, 347ER

Public hearing

Substantive change to Notice of Intent
2021-2023 hunting regulations and seasons, 423P

Recreational reef sites, 319N

Shrimp

Season closure

Portions of state inside waters, 34ER

Portions of state inshore and outside waters, 227ER

Season opening

Inshore shrimp, 559ER

Portions of state outside waters, 436ER, 560ER

Shark

Season adjustment

Commercial large coastal shark, 435ER

Waterfowl

Hunting zones, 411N

Yo-Yo and trotline regulations, 497R

WORKFORCE COMMISSION

Plumbing Board

Multi-site signage, 273R

Unemployment Insurance Administration, Office of

State income tax withholding from unemployment insurance benefits, 34ER, 560ER

Workers' Compensation Administration, Office of

Medical treatment guidelines, 320N, 606R

Weekly compensation benefits limits, 326P