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Executive Orders

EXECUTIVE ORDER BJ 14-17

Medical Expenses and Examinations
Related to the Crime of Sexual Assault

WHEREAS, Article I, Section 1 of the Louisiana Constitution is titled "Origin and Purpose of Government", and provides

"All government, of right, originates with the people, is founded on their will alone, and is instituted to protect the rights of the individual and for the good of the whole. Its only legitimate ends are to secure justice for all, preserve peace, protect the rights, and promote the happiness and general welfare of the people. The rights enumerated in this Article are inalienable by the state and shall be preserved inviolate by the state.";

WHEREAS, Article IV, Section 5 establishes the governor as the chief executive officer of the State and charged with the duty to faithfully support the constitution and laws of the State and see that the laws are faithfully executed;

WHEREAS, sexual assault is a horrendous crime that creates physical and emotional damage to victims, for which special measures must be taken by every public officer and agency in this state in order to bring the perpetrators to justice and assist the victims in their recovery;

WHEREAS, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, a statutorily created agency in the executive branch, is responsible for bringing together persons familiar with law enforcement and the administration of criminal justice for the purpose of studying and encouraging the adoption of methods by which law enforcement can be made more effective and justice administered more efficiently and fairly so that the citizens of this state may be more fully protected.

WHEREAS, the Crime Victims Reparations Board, created in statute under the jurisdiction of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, is responsible for assisting victims of crime with the financial losses caused by the crime, and is charged with administering this vital program in accordance with law and the administrative rules which it has promulgated;

WHEREAS, the Department of Health and Hospitals, which is created within the executive branch, is responsible for protecting and promoting the health of the people of this state by ensuring access to preventative, medical, and rehabilitative services;

WHEREAS, the Department of Public Safety, which is also statutorily created within the executive branch, is responsible for protecting the health and safety of the people of this state by providing functions related to the enforcement of laws of the state and the maintenance of investigations;

WHEREAS, both the Department of Health and Hospitals and the Department of Public Safety are responsible for carrying out their statutory duties in accordance with the laws and the administrative rules promulgated by them;

WHEREAS, Executive Order BJ 2014–14 directed the Board of Regents and the Crime Victims Reparations Board to review and revise its policies and procedures according to best practices and it is the goal of this administration that a victim of sexual assault not be billed for the financial cost of forensic or other testing incident to the crime whether the victim reports the crime to law enforcement or not, that such bills be sent for payment directly to the Crime Victims Reparations Board, and that this outcome will require a change in statutory law;

WHEREAS, it is incumbent upon the public officers and agencies, with a role to play in bringing the perpetrators to justice and assisting the victims in their recovery, to coordinate their efforts to ensure that this vital issue is addressed immediately.

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

SECTION 1: The Crime Victims Reparations Board, in consultation with the Louisiana Commission on Law Enforcement, shall review and revise its administrative rules, policies, and practices to develop a defined list of eligible medical expenses related to the forensic medical examination provided to victims of sexual assault for which such victims of sexual assault may assign, or otherwise transfer, his or her right to collect these specific expenses from the Crime Victims Reparations Board to the hospital or health care provider that conducts the forensic medical examination or provides medical services related to the sexual assault. Upon assignment or transfer of this right, the hospital or health care facility may apply on behalf of the victim and the agency may pay such eligible expenses directly to the hospital or health care facility.

SECTION 2: The Crime Victims Reparations Board shall exercise its statutory discretion, as provided for in R.S. 46:1806, to revise its administrative rules, policies, and practices to extend the time period by which a victim has reported an act of sexual assault to the appropriate law enforcement officers from 72 hours to 1 year in order to make a claim for reparations.

SECTION 3: The Department of Health and Hospitals and the Department of Public Safety shall jointly convene a group to review and formulate a definition for "Forensic Medical Exam" as it relates to the crime of sexual assault in order to ensure that all charges related to such forensic medical exam including, but not limited to emergency room charges, hospital stay charges, and physician charges are included in that definition such that those expenses are not chargeable to the sexual assault victim. The Department of Health and Hospitals and the Department Public Safety shall further jointly revise such administrative rules, policies, and practices in accordance with their findings as they pertain to victims of sexual assault.

SECTION 4: The Department of Health and Hospitals, through the medical directors of each of its nine

(9) regional Health Service Districts, shall coordinate a sexual assault response plan for each district and shall submit such plan to the Secretary by February 1, 2015. The plan shall include existing resources and infrastructure and shall clearly outline the entity responsible for the purchase of sexual assault examination kits, the standards and procedures for the storage of such kits, and the standards, and procedures for a woman to receive a sexual assault examination to ensure access to a forensic medical examination in every parish. The plan shall further outline the standards and procedures for the handling and payment of medical bills related to the sexual assault examination to clarify and ensure that those standards and procedures are in compliance with the law.

SECTION 5: The Department of Health and Hospitals and the Department of Public Safety are jointly directed to convene a group to review and formulate the minimum standards and requirements for the contents of a sexual assault examination kit, including the accompanying paperwork to be included therein, with the intent of creating a kit that that is shelf stable and has no expiration date. The Department of Health and Hospitals and the Department Public Safety shall further jointly revise such administrative rules, policies, and practices in accordance with their findings as they pertain to victims of sexual assault.

SECTION 6: All departments, budget units, agencies, offices, entities, and officers of the executive branch of the State of Louisiana are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 7: Nothing in this Order shall be applied in a manner which violates, or is contrary to, the Fair Labor Standards Act (FLSA), the Family and Medical Leave Act (FMLA), the Health Insurance Portability and Accountability Act (HIPAA), or any other applicable federal or state law, rule, or regulation.

SECTION 8: The Order is effective December 9, 2014 and shall remain in effect modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 9th day of December, 2014.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1412#115

Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities (LAC 28:XCVII.503 and 505)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to amend LAC 28: XCVII, *Bulletin 1530—Louisiana's IEP Handbook*: §503. Types of Alternate Assessments and §505. Alternate Assessment Participation Criteria. This Declaration of Emergency, effective December 11, 2014, will remain in effect for a period of 120 days.

The Elementary and Secondary Education Act (ESEA) allows states to assess one percent of the student population on an alternate assessment based on alternate achievement standards. In Louisiana, this assessment is known as the Louisiana Alternate Assessment, Level 1, or the LAA 1. ESEA stipulates that only students with the most significant cognitive disabilities may be assessed on alternate achievement standards, however, the federal regulations give states the responsibility of developing criteria to define this population. After discussions with parents, educators, advocates, the Special Education Advisory Panel, and the Superintendents' Advisory Council, the LDE recommends these revisions to the LAA 1 participation criteria.

As expressed by numerous stakeholders, a delay in promulgating these rules would result in students with disabilities not being able to take the LAA 1 assessment in 2014-2015 or being required to take regular assessments that are inappropriate for them.

Title 28
EDUCATION
Part XCVII. Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities
Chapter 5. Participation in Statewide Assessments
§503. Types of Alternate Assessments

A. LEAP Alternate Assessment, Level 1 (LAA 1), was developed for students with disabilities who are served under IDEA for whom there is evidence that the student has a significant cognitive disability. LAA 1 is a performance-based assessment designed for students whose instructional program is aligned with the Louisiana Extended Standards.

B. LEAP Alternate Assessment, Level 2 (LAA 2) based on modified academic achievement standards, was developed for students with persistent academic disabilities who are served under IDEA to participate in academic assessments that are sensitive to measuring progress in their learning. There is evidence the student is having significant academic difficulties in English language arts, reading and/or mathematics. LAA 2 is a criterion-referenced assessment designed for students whose instructional program is aligned with the Louisiana Content Standards.

1. A student who meets the LAA 2 Participation Criteria may test in all or in one or more content areas of LAA 2, based on the determination of the IEP team. The IEP team may decide that the student will participate in the LAA 2 assessment in one or more content areas and at the same time participate in the regular statewide assessment (*i*LEAP/LEAP/GEE) for the remaining content areas required at the student's enrolled grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), LR 41:

§505. Alternate Assessment Participation Criteria

A. LEAP Alternate Assessment, Level 1 (LAA1)

1. The student has a disability that significantly impacts cognitive function and/or adaptive behavior. This may be demonstrated in the following ways:

a. For students who have not completed the fifth grade, an eligible student is functioning three or more standard deviations below the mean in cognitive functioning and/or adaptive behavior.

b. For students who have completed fifth grade, an eligible student is functioning 2.3 or more standard deviations below the mean in cognitive functioning and/or adaptive behavior.

c. Students who have completed the fifth grade functioning between 2.0 and 2.29 or more standard deviations below the mean in cognitive functioning and/or adaptive behavior may be eligible for LAA 1 participation if the IEP team provides additional empirical evidence a LAA 1 identification is appropriate for the student.

2. The student requires extensive modified instruction aligned with the Louisiana Extended Standards to acquire, maintain, and generalize skills.

3. The decision to include the student in LAA 1 is not solely based on the following:

a. student's placement;
b. excessive or extended absences;
c. disruptive behavior;
d. English language proficiency;
e. student's reading level;
f. student's disability according to *Bulletin 1508*;
g. social, cultural, and/or economic differences;
h. anticipated impact on school performance scores;
i. administrative decision;
j. expectation that the student will not perform well on the LEAP, iLEAP, GEE or LAA 2.

B. - B.4.j. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), amended LR 37:886 (March 2011), LR 41:

Charles E. "Chas" Roemer, IV
President

1412#117

DECLARATION OF EMERGENCY

Student Financial Assistance Commission
Office of Student Financial Assistance

Personally Identifiable Information
and TOPS Core Curriculum
(LAC 28:IV.113, 301, 502, 703, 803, 1703, 2103, and 2113)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the scholarship/grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, and R.S. 56:797.D(2)].

This rulemaking implements Act 837 of the 2014 Regular Session of the Louisiana Legislature by providing policies and procedures for the collection, receipt, use, protection and destruction of personally identifiable information. These procedures include requirements for consent from a parent or guardian for the public schools to collect and disclose certain personally identifiable information related to eighth through twelfth grade students to LOSFA to make it possible for the agency to guide and motivate these students to prepare for and achieve eligibility for college financial aid programs, and to allow LOSFA to determine eligibility for financial aid programs, including the Taylor Opportunity Program for Students (TOPS).

This rulemaking implements Acts 566, 733, and 737 of the 2014 Regular Session of the Louisiana Legislature by amending the TOPS Core Curriculum, including provisions for additional credit for certain advance placement courses; and the TOPS Tech Core Curriculum, including the deletion of a requirement to earn one unit of chemistry or applied chemistry.

This rulemaking extends the maximum length of an exception for parental leave to the equivalent of one academic year (college) per pregnancy.

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

This Declaration of Emergency is effective November 18, 2014, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG15159E)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 1. Scope
§113. Personally Identifiable Information (PII)

A. LASFAC recognizes that personally identifiable information must be collected and maintained to determine whether a student meets the initial and continuing eligibility requirements for state and federal financial aid programs administered by LASFAC, and when required by law for use in preparing and submitting reports required by state and federal law.

B. LASFAC is required by the TOPS statute to inform "all students of the availability of the assistance...early enough in their schooling that a salutary motivational effect is possible."

C. It is the intent and policy of LASFAC that:

1. LOSFA will collect and maintain only that PII necessary to fulfill LASFAC's program responsibilities and duties, including but not limited to:

a. providing information to participating students beginning in the eighth grade that will guide and motivate students to prepare for and to achieve eligibility for financial aid programs to attend postsecondary education;

b. determining the initial eligibility of participating students for financial aid;

c. determining the continuing eligibility of students awarded financial aid;

d. making payments for students who have been awarded financial aid; and

e. submitting reports and assessments required by state or federal law regarding the effectiveness of the financial aid programs administered by LOSFA;

2. LOSFA will maintain and comply with policies and procedures to protect PII from disclosure to third parties/entities that have not been authorized to have access by:

a. state or federal law;

b. the parent or legal guardian of the person to whom the PII applies, if the person is not at least 18 years old or judicially emancipated or emancipated by marriage; or

c. the person to whom the PII applies, if the person is at least 18 years old or judicially emancipated or emancipated by marriage;

3. LOSFA will ensure that LOSFA employees will have access only to that PII that is necessary to perform their duties;

4. LOSFA will provide information to parents, legal guardians, students and schools regarding:

a. requirements for consenting to the release of PII to LOSFA;

b. possible college access advantages provided to students by consenting to the release of PII to LOSFA; and

c. adverse consequences of withholding consent for release of PII to LOSFA;

5. LOSFA will develop and use consent forms that inform students, parents, and legal guardians of:

a. purpose(s) for which the PII will be used;

b. who will have access to the PII;

c. how long the PII will be retained by LOSFA; and

d. how the PII will be destroyed at the end of the retention period;

6. LOSFA will destroy PII that is no longer necessary to fulfill LASFAC's program responsibilities and duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 41:

Chapter 3. Definitions

§301. Definitions

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

* * *

Articulated Courses for College Credit—courses offered by the Louisiana School for Math, Science and the Arts for which eligible Louisiana colleges have agreed to give college credit if the student successfully completes the course and attends a participating college.

* * *

Honors Courses—a rigorous high school course used to complete the TOPS core curriculum approved as an *honors course* for grading on a 5.00 scale by the Board of Elementary and Secondary Education and the Board of Regents.

* * *

Legal Guardian—

a. an adult appointed by a court of competent jurisdiction to have custody and care of a minor, and who demonstrates the requirement to provide the primary support for such minor. Also referred to as a *court ordered custodian*;

b. for the purposes of consenting to the collection and disclosure of personally identifying information, the student's parent, *legal guardian*, or other person responsible for the student.

* * *

Personally Identifiable Information or *PII*—personal information about an individual that can be used on its own or with other information to identify, contact, or locate a single individual.

* * *

Skill and Occupational Training—

a. any and all certificate, diploma, associate of applied technology, and associate of applied science programs offered by eligible colleges/universities; and

b. any coordinated and comprehensive course of study offered by eligible colleges/universities which qualifies a student upon completion to sit for testing leading to and/or meeting national and/or state professional/occupational licensure and/or certification requirements;

c. any training leading to an industry-based certification, a certificate of applied science or a certificate of technical sciences approved by the Workforce Investment Council offered by a provider recognized by the Louisiana Workforce Commission.

* * *

Talented Course—a course developed and provided to fulfill an individualized education program for a student who has been deemed to be gifted pursuant to R.S. 17:1941 et seq., as implemented in state Board of Elementary and Secondary Education policy.

* * *

TOPS Cumulative High School Grade Point Average—

a. - e. ...

f. effective for high school graduates beginning with academic year (high school) 2017-2018, the TOPS cumulative grade point average will be calculated by dividing the total number of quality points earned on the courses used to complete the TOPS core curriculum by the total units earned to complete the TOPS core curriculum.

Quality points equal the credit for the course multiplied by the value assigned to the letter grade.

The quality points for courses used to complete the TOPS core curriculum, except for Advanced Placement, International Baccalaureate, Gifted and Talented, Honors, Articulated Courses for College Credit and Dual Enrollment courses approved by the Board of Regents and the State Board of Elementary and Secondary Education, used to complete the TOPS core curriculum on a 5.00 scale, shall be converted to a 4.00 scale utilizing the following formula:

An "A" shall equal 4.0.
A "B" shall equal 3.0.
A "C" shall equal 2.0.
A "D" shall equal 1.0.
An "F" shall equal zero ("0.0").

The quality points for Advanced Placement, International Baccalaureate, Gifted and Talented, Honors, Articulated Courses for College Credit and Dual Enrollment courses approved by the Board of Regents and the State Board of Elementary and Secondary Education used to complete the TOPS core curriculum shall be converted to a 5.00 scale as follows:

An "A" shall equal 5.0.
A "B" shall equal 4.0.
A "C" shall equal 3.0.
A "D" shall equal 2.0.
An "F" shall equal zero ("0.0").

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:

Chapter 5. Applications, Federal Grant Aid and ACT Test

§502. Consent Required to Process Applications and Deadlines

A. To process an application for financial aid or to allow participation in LOSFA programs to provide guidance and motivation in preparing for and achieving eligibility for

financial aid programs, certain student personally identifiable information (PII) must be provided to LASFAC. The PII required depends on the financial aid program for which the student is applying. If the required PII is not provided, an applicant will not be determined to be eligible.

B. The submission of an application for a financial aid program administered by LASFAC or for participation in LOSFA programs to provide guidance and motivation in preparing for and achieving eligibility for financial aid programs constitutes consent for the student's school to collect and disclose the student's PII to LOSFA, and for LOSFA to collect, maintain, and use the PII for the program in which the student has indicated a desire to participate, if submitted by:

1. a student who is judicially emancipated, or emancipated by marriage, or who is 18 years old or older; or
2. a parent or legal guardian on behalf of a student who is not at least 18 years old and who is not emancipated.

C. To grant consent for a public school to collect the student's PII and disclose it to LOSFA, the student, parent or legal guardian, as applicable, must sign a consent form provided by the public high school that includes the following:

1. purpose(s) for which the PII will be used;
2. who will have access to the PII;
3. how long the PII will be retained by LOSFA; and
4. how the PII will be destroyed at the end of the retention period.

D. Submission of one of the following constitutes consent for LOSFA to collect, maintain, and use the PII included in the submission for the purposes of determining eligibility for financial aid:

1. free application for federal student aid (FAFSA) naming LOSFA as a recipient;
2. ACT score naming LOSFA as a recipient;
3. ACT WorkKeys score naming LOSFA as a recipient;
4. SAT score naming LOSFA as a recipient;
5. TOPS on-line application.

E. The required information for consideration for initial eligibility for a TOPS award, includes, but is not limited to, all the following student information:

1. full name;
2. date of birth;
3. Social Security number;
4. student high school transcript data, including but not limited to:
   a. month and year of high school graduation;
   b. the course code for each course completed;
   c. the grade for each course completed;
   d. the term and year each course is completed;
   e. designation of each advanced placement, International Baccalaureate®, honors, gifted and talented, articulated course for college credit, and dual enrollment course;
   f. the grading scale for each course reported; and
   g. the high school attended for each course reported;
5. ACT, ACT WorkKeys, and/or SAT scores;
6. FAFSA data;
7. college transcript data as set forth in Section 1903.

F. The required information for consideration for eligibility for other awards, grants and programs may include, but is not limited to, the following student information:

1. the information set forth in Subsection E above;
2. student disciplinary data;
3. family income;
4. dual enrollment high school and college transcript data;
5. foster care status;
6. ACT plan score;
7. school lunch program status;
8. standardized test scores;
9. grade point average for each semester and cumulative grade point average.

G. Deadlines to Provide Consent to a Public School for the Release of a Student's PII to LOSFA

1. For participation in LOSFA's program for guidance and motivation to prepare for and to achieve eligibility for financial aid programs, the parent or legal guardian, as applicable, should provide consent by the eighth grade.
2. For eligibility for payment of a TOPS award for the fall semester immediately following high school graduation, the student, parent or legal guardian, as applicable, should provide consent no later than January 15 of the year of graduation.
3. The final date for receipt of consent is the January 15 immediately following the final deadline for receipt of the student's FAFSA or on-line application. See Section 505 below.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 41:

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

§703. Establishing Eligibility

A. - A.5.a.i.(e). …

* * *

(f). beginning with the graduates of academic year (high school) 2013-14 through 2016-2017, at the time of high school graduation, an applicant must have successfully completed 19 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (1 unit) or Applied Algebra 1A and 1B (2 units)
1	Algebra II
2	Geometry, Calculus, Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III, Advanced Math – Pre-Calculus, Advanced Math – Functions and Statistics, Integrated Mathematics III
1	Biology
1	Chemistry
2	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)

Units	Course
1	American History
2	World History, Western Civilization, World Geography or History of Religion
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit)
1	Fine Arts Survey; (or substitute one unit of a performance course in music, dance, or theater; or substitute one unit of a visual art course; or substitute one unit of a studio art course; or substitute one unit of drafting)
2	Foreign Language, both units in the same language

(g). beginning with the graduates of academic year (high school) 2017-2018, at the time of high school graduation, an applicant must have successfully completed 19 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows.

Units	Course
	English - 4 Units
1	English I
1	English II
1	English III, AP English Language Arts and Composition, or IB English III (Language A or Literature and Performance)
1	English IV, AP English Literature and Composition, or IB English IV (Language A or Literature and Performance)
	Math - 4 Units
1	Algebra I
1	Geometry
1	Algebra II
1	One unit from: Algebra III; Advanced Math- Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL
	Science - 4 Units
1	Biology I
1	Chemistry I
2	Two units from: Earth Science; Environmental Science; Physical Science; Agriscience I and Agriscience II (one unit combined); Chemistry II or AP Chemistry or IB Chemistry II; AP Environmental Science or IB Environmental Systems; Physics I, AP Physics B, or IB Physics I; AP Physics C: Electricity and Magnetism, AP Physics C: Mechanics, or IB Physics II; AP Physics I and AP Physics II; Biology II or AP Biology or IB Biology II
	Social Studies - 4 Units
1	U.S. History or AP U.S. History or IB U.S. History
1	Civics, Government, AP US Government and Politics: Comparative, or AP US Government and Politics: United States
2	Two units from: Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics Economics, AP Macroeconomics AP Microeconomics
	Foreign Language - 2 Units
2	Foreign Language, both units in the same language, which may include: AP Chinese Language and Culture, AP French Language and Culture, AP German Language and Culture, AP Italian Language and Culture, AP Japanese Language and Culture, AP Latin, AP Spanish Language and Culture, French IV IB, French V IB, Spanish IV IB, and Spanish V IB
	Art - 1 Unit
1	One unit of Art from: Performance course in Music, Dance, or Theatre; Fine Arts Survey; Arts I, II, III, and IV; Talented Art I, II, III, and IV; Talented Music I, II, III, and IV; Talented Theater Arts I, II, III, and IV; Speech III and IV (one unit combined); AP Art History; AP Studio Art: 2-D Design; AP Studio Art: 3-D Design; AP Studio Art: Drawing; AP Music Theory; Film Study I IB; Film Study II IB; Music I IB; Music II IB; Art Design III IB; Art Design IV IB; Theatre I IB; or Drafting
NOTE: AP = Advanced Placement IB = International Baccalaureate	

ii.(a). - ii.(d). …

* * *

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

Core Curriculum Course(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III
Any listed core course or its equivalent.	Any core curriculum course taken by a student who has been deemed to be gifted and talented pursuant to R.S. 17:1941 et. seq. as implemented in State Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted and talented course and shall fulfill the core curriculum requirement in its given subject area.

(f). For students graduating in academic year (high school) 2017-2018 and after, the courses listed in the tables below have been approved by the Board of Regents and the state Board of Elementary and Secondary Education to be converted to a 5.00 scale when used to complete the core curriculum, and shall be considered equivalent to the identified core courses and may be substituted to satisfy

corresponding core courses for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a.

(i). Advanced Placement Courses

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

(ii). International Baccalaureate® Courses

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

(iii). Gifted and Talented Courses

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

(iv). Dual Enrollment Courses

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Advanced Math – Pre Calculus	Trigonometry	CMAT 1223
Advanced Math-Functions and Statistics	Introductory Statistics	CMAT 1303

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Algebra III	College Algebra	CMAT 1213
Arabic	Elementary Arabic I Elementary Arabic II	CARB 1013/1014 CARB 1023/1024
Art	Art History I or II Art Structure/2-D Design Beginning Drawing	CART 2103/2113 CART 1113 CART 2203
Biology I	General Biology I General Biology I (Science Majors)	CBIO 1013 CBIO 1033
Biology II	General Biology I General Biology I (Science Majors) General Biology II General Biology II (Science Majors)	CBIO 1013 CBIO 1033 CBIO 1023 CBIO 1043
Calculus	Applied Calculus Calculus I Calculus II	CMAT 2103 CMAT 2113-5 CMAT 2123-5
Chemistry I	General Chemistry Survey I Chemistry I Chemistry I (Science Majors)	CCEM 1013 CCEM 1103 CCEM 1123
Chemistry II	General, Organic and Biochemistry General Chemistry Survey I Chemistry I Chemistry I (Science Majors) Chemistry II Chemistry II (Science Majors)	CCEM 1003 CCEM 1013 CCEM 1103 CCEM 1123 CCEM 1113 CCEM 1133
Earth Science	Physical Geology Historical Geology	CGEO 1103 CGEO 1113
Economics	Economic Principles Macroeconomics Microeconomics	CECN 2113 CECN 2213 CECN 2223
English III	English Composition I English Composition II American Literature I American Literature II Major American Writers	CENL 1013 CENL 1023 CENL 2153 CENL 2163 CENL 2173
English IV	English Composition I English Composition II British Literature I British Literature II Major British Writers World Literature I World Literature II Major World Writers Introduction to Fiction Introduction to Literature Intro duction to Poetry and/or Drama	CENL 1013 CENL 1023 CENL 2103 CENL 2113 CENL 2123 CENL 2203 CENL 2213 CENL 2223 CENL 2303 CENL 2323 CENL 2313
Environmental Science	Environmental Science	CEVS 1103
Fine Arts Survey	Exploring the Arts Introduction to Visual Arts Dance Appreciation Music Appreciation	CART 1013 CART 1023 CDNC 1013 CMUS 1013
French	Elementary French I Elementary French II Intermediate French I Intermediate French II	CFRN 1013/1014 CFRN 1023/1024 CFRN 2013/2014 CFRN 2023
German	Elementary German I Elementary German II Intermediate German I Intermediate German II	CGRM 1013/1014 CGRM 1023/1024 CGRM 2013 CGRM 2023
History Of Religion	World Religions	CPHL 2213
Latin	Elementary Latin I Elementary Latin II Intermediate Latin I Intermediate Latin II	CLTN 1013/1014 CLTN 1023/1024 CLTN 2013 CLTN 2023
Physical Science	Physical Science I	CPHY 1023
Physics I	Physics I (Algebra/Trigonometry Based) Physics I (Lecture and Lab) Physics I (Calculus Based)	CPHY 2113 CPHY 2114 CPHY 2133
Pre-Calculus	Algebra and Trigonometry	CMAT 1233
Probability and Statistics	Introductory Statistics	CMAT 1303
Spanish	Elementary Spanish I Elementary Spanish II Intermediate Spanish I Intermediate Spanish II	CSPN 1013/1014 CSPN 1023/1024 CSPN 2013/2014 CSPN 2023
Theatre (Performance)	Acting I or II Introduction to Theatre	CTHE 2103/2113 CTHE 1013
US Government or Civics	Introduction to American Government Introduction to State and Local Government Introduction to Comparative Government	CPOL 2013 CPOL 2113 CPOL 2213
US History	American History I or II	CHIS 2013/2023
Western Civilization	Western Civilization I or II	CHIS 1013/1023
World Geography	World Regional Geography	CGRG 2113
World History	World Civilization I or II	CHIS 1113/1123

A.5.a.iii.(a). - J.4.b.ii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

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Chapter 8. TOPS-Tech Award

§803. Establishing Eligibility

A. - A.6.a.i. …

ii. for students graduating in the 2000-2001 school year through the 2012-2013 school year, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II
1	English III

Core Curriculum—TOPS-Tech Award	
Units	**Course**
1	English IV or substitute 1 unit of Business English
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
1	Chemistry or Applied Chemistry
1	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization, or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
Remaining Core Courses Shall Be Selected from One of the Following Options:	
Option 1—Total of 17 units	
1	Fine Arts Survey or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	
Option 2—Total of 19 Units	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

iii. for students graduating through the 2001-2002 school year, the TOPS-Tech core curriculum as follows;

Core Curriculum—TOPS-Tech Award	
Units	**Course**
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (1 unit) or Applied Algebra IA and 1B (2 units)
1	Algebra II
1	Geometry or Applied Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute 2 units of performance courses in music, dance or theater; or 2 units of studio art or 2 units of visual art courses; or 1 elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language. (1 unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (2 units).
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least 1/2 unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least 1/2 unit of an elective from among the other subjects listed in this core curriculum)

iv. for students graduating in the 2013-2014 school year and thereafter, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	**Course**
1	English I
1	English II
1	English III
1	English IV or substitute 1 unit of Business English
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
2	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, or Chemistry or Applied Chemistry, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization, or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)

Core Curriculum—TOPS-Tech Award	
Units	**Course**
Remaining Core Courses Shall Be Selected from One of the Following Options:	
Option 1—Total of 17 units	
1	Fine Arts Survey or drafting (one unit) or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	
Option 2—Total of 19 Units	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

A.6.b. - B.4.b.ii. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007), LR 35:230 (February 2009), LR 36:491 (March 2010), LR 36:2270 (October 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 41:

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1703. High School's Certification of Student Achievement

A. - B.2.b.viii. …

c. Commencing with the 2014-2015 academic year (high school), for each student for whom the school has been granted consent to collect and disclose PII to LOSFA, Louisiana public high schools as defined in §1703.A.1 above shall collect the following reportable data elements for each year of attendance for those students in the ninth through twelfth grades:

i. verification that the school has been granted written consent to collect and disclose the student's PII to LOSFA from the student's parent or legal guardian, if the student is not at least 18 or judicially emancipated; or by the student, if the student is at least 18 or judicially emancipated;

ii. student's full name, date of birth, and Social Security number;

iii. transcript data, including, but not limited to:

(a). student's BESE identification number;

(b). month and year of high school graduation;

(c). the course code for each course completed;

(d). the grade for each course completed;

(e). the term and year each course is completed;

(f). designation of each advanced placement, International Baccalaureate®, honors, gifted and talented, articulated course for college credit, and dual enrollment course;

(g). the grading scale for each course reported; and

(h). the high school attended for each course reported.

d. Commencing with the 2014-15 academic year (high school), certification from all approved non-public Louisiana high schools as defined in §1703.A.2 and 3 above shall contain, but is not limited to, the following reportable data elements:

i. student's full name, date of birth, and Social Security number;

ii. transcript data, including, but not limited to:

(a). month and year of high school graduation;

(b). the course code for each course completed;

(c). the grade for each course completed;

(d). the term and year each course is completed;

(e). designation of each advanced placement, International Baccalaureate®, honors, gifted and talented, articulated course for college credit, and dual enrollment course;

(f). the grading scale for each course reported; and

(g). the high school attended for each course reported.

B.3. - D.2.b. …

3. commencing with the 2014-2015 academic year (high school), the submission of the required data by the high school headmaster or principal or designee of Louisiana public high schools as defined in §1703.A.1 above shall constitute a certification that:

a. the school has complied with the requirements of LSA-R.S. 17:3913.K to:

i. beginning in the eighth grade, annually at the beginning of each school year, provide a form to be signed by the parent or legal guardian of each student enrolled in the school, whereby the student's parent or legal guardian may provide consent or deny consent for the collection and disclosure of the student's personally identifiable information as follows:

(a). full name;

(b). date of birth;

(c). Social Security number; and

(d). transcript data, including, but not limited to:

(i). student's BESE identification number;

(ii). month and year of high school graduation;

(iii). the course code for each course completed;

(iv). the grade for each course completed;

(v). the term and year each course is completed;

(vi). designation of each advanced placement, International Baccalaureate®, honors, gifted and talented, articulated course for college credit, and dual enrollment course;

(vii). the grading scale for each course reported; and

(viii). the high school attended for each course reported;

ii. use a form provided by LOSFA or a form substantially similar to LOSFA's form that:

(a). provides notification of exactly what items of student information will be collected and that disclosure of the student information collected will be restricted to Louisiana postsecondary educational institutions and the Office of Student Financial Assistance to be used solely for the purpose of processing applications for admission and for state and federal financial aid;

(b). requires acknowledgment that the failure to provide written consent for the collection and disclosure of the student's information may result in delays or may prevent successful application for admission to a postsecondary educational institution and for state and federal student financial aid;

iii. collect the personally identifiable information for each student for whom consent was provided;

4. commencing with the 2003 academic year (high school), if a student is determined to be eligible for a TOPS award based on data that is incorrect and the student was in fact ineligible for a TOPS award or the level awarded, the high school must reimburse LASFAC for the amount paid in excess of what the student was eligible for.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:1998 (September 2000), LR 26:2269 (October 2000), repromulgated LR 27:1863 (November 2001), amended LR 29:880 (June 2003), LR 30:1165 (June 2004), LR 40:57 (January 2014), LR 41:

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - D.3. …

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS, TOPS-Tech, TOPS Teacher, the Rockefeller State Wildlife Scholarship or the Louisiana GO Youth Challenge Program because of failure to meet the initial or continuous enrollment requirements may request reinstatement in that program based on one or more of the following exceptions.

1. Parental Leave

a. Definition. The student/recipient is pregnant or caring for a newborn or newly adopted child less than one year of age.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts; and

ii. a written statement from a doctor of medicine who is legally authorized to practice certifying the date of diagnosis of pregnancy and the anticipated delivery date or the actual birth date or a copy of the hospital's certificate of live birth or a copy of the official birth certificate or equivalent official document or written documentation from the person or agency completing the adoption that confirms the adoption and date of adoption.

c. Maximum Length of Exception. Up to the equivalent of one academic year (college) per pregnancy.

E.2. - G.5.b.iii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 41:

§2113. Revision of the Core Curricula

A. LASFAC is authorized by law, subject to prior approval by BESE, to determine a high school level course to be equivalent to a course described in the core curricula or to authorize the name change of a core curricula course, including necessary changes to equivalencies and course names for advanced placement and International Baccalaureate® courses as prescribed by the College Board or the International Baccalaureate Foundation.

B. The determination of a course as equivalent to a course included in the definition of core curriculum shall be limited to those courses identified in the secondary programs of study contained in the *Louisiana Handbook for School Administrators* (LDE Bulletin 741).

C. Prior to initiating rulemaking to determine course equivalents or to authorize a name change, LASFAC must seek the written comments and recommendation of the Louisiana Board of Regents.

D. Only those recommendations for a name change or for the designation of an equivalent course which have been submitted by a local school board or other equivalent education agency for private schools will be considered by LASFAC and such recommendations shall be submitted directly to the Office of Student Financial Assistance, Attention: Legal Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:1921 (October 1998), amended LR 27:1220 (August 2001), repromulgated LR 27:1871 (November 2001), amended LR 41:

George Badge Eldredge
General Counsel

1412#006

DECLARATION OF EMERGENCY

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs
TOPS Continuation Requirements
(LAC 28:IV.301, 501, 503, 505, 507,
701, 703, 705, 801, 805, 1903, and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the scholarship/grant programs [(R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, and R.S. 56:797(D)(2)].

This rulemaking amends the scholarship and grant rules provide that students with the TOPS Opportunity, Performance and Honors Awards must meet the same continuation requirement if they are enrolled in academic or technical programs. Beginning with the 2015-16 academic year, all postsecondary courses attempted and grades earned will be used to determine whether these students have met the requirement to earn at least 24 hours each year and to maintain the minimum required cumulative grade point average.

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

This Declaration of Emergency is effective November 18, 2014, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG15158E)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 3. Definitions
§301. Definitions

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

* * *

Academic Year (College)—begins with the fall term of the award year and concludes immediately before the next fall term commences unless specifically provided otherwise in these rules. All intersessions and summer sessions are included.

* * *

Academic Year (TOPS)—for students who are eligible for a TOPS Tech, Opportunity, Performance or Honors Award:

a. through the 2007-2008 *academic year*, the two- and four-year college and university *academic year* begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring term of the award year. Intersessions ending during the *academic year* are included in *the academic year*. The two- and four-year college and university *academic year* does not include summer sessions or intersessions that do not end during the *academic year*;

b. during the 2008-2009 *academic year*, the *academic year* begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the intersession immediately following the spring term of the award year. Intersessions ending during the *academic year*, including the intersession immediately following the spring term, are included in the *academic year*. The two- and four-year college and university *academic year* does not include summer sessions or other intersessions;

c. during the 2009-2010 and 2010-2011 *academic years*, the *academic year* begins with the fall term of the award year and concludes with the completion of the spring term of the award year or the intersession immediately following the spring term if such intersession ends no later than June 15, whichever is later. Any intersession or term that begins and ends during the *academic year* is included. The two- and four-year college and university *academic year* does not include other intersessions or summer sessions. See the definition of *intersession* below;

d. beginning with the 2011-2012 *academic year* and thereafter, the *academic year* begins with the fall term of the award year and concludes immediately before the next fall term commences. All intersessions and summer sessions are included.

* * *

Average Award Amount (TOPS-Tech)—is applicable to those students awarded the TOPS-Tech and TOPS Opportunity, Performance, and Honors Awards who attend a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or who attend an eligible cosmetology or proprietary school and are enrolled in a vocational, technical education certificate or diploma program or non-academic undergraduate degree program, and is determined by dividing the total dollar value of awards, which are made to students enrolled in the same types of programs in the prior academic year (TOPS) at eligible public colleges and universities that do not offer academic degrees at the baccalaureate level, by the total number of students that received the awards.

* * *

Award Year—the academic year (TOPS) during which a TOPS award is paid.

* * *

Eligible Colleges or Universities—Louisiana public colleges or universities and regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities; for recipients of the TOPS Tech Award only, beginning with the 2009-2010 academic year (TOPS), and for recipients of the TOPS Tech, Opportunity, Performance and Honors Award, beginning with the 2010-2011 academic year (TOPS), any school that has a valid and current certificate of registration issued by the state Board of Cosmetology in accordance with law and that is accredited

by an accrediting organization recognized by the United States Department of Education and any proprietary school that has a valid and current license issued by the Board of Regents in accordance with law and that is accredited by an accrediting organization recognized by the United States Department of Education.

* * *

Program Year (Non-Academic Program)—Repealed.

* * *

Returning Student—a student who graduated from high school beginning with academic year (high school):

a. 2001-2002, and met all the academic requirements for a TOPS award, but who enrolled for the first time as a full-time student no later than the deadline established in §703.A.4 in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a full-time student in an eligible college or university; or

b. who was determined eligible for a TOPS Opportunity, Performance or Honors Award and enrolled for the first time as a full-time student no later than the deadline established in §703.A.4 in an eligible college or university in Louisiana, subsequently enrolled in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a full-time student in an eligible college or university during or after the 2009-2010 academic year (TOPS).

* * *

TOPS Cumulative Grade Point Average (Academic)—through the 2014-15 academic year (TOPS), the grade point average calculated by LOSFA on all academic courses taken by a student at postsecondary institutions to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS award. The cumulative grade point average shall be calculated on a 4.00 scale and must include all academic courses from all postsecondary institutions attended for which the student has been awarded a grade. Academic courses taken at a college or university while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled must be included in the calculation. Grades earned in non-academic courses and courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

TOPS Cumulative Grade Point Average (Non-Academic)—through the 2014-15 academic year (TOPS), the grade point average calculated by LOSFA on all non-academic courses taken by a student at postsecondary institutions to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS award. The cumulative grade point average shall be calculated on a 4.00 scale and must include all non-academic courses from all postsecondary institutions attended for which the student has been awarded a grade. Non-academic courses taken at a college or university while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled must be included in the calculation. Grades earned in academic courses and courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

TOPS Cumulative Grade Point Average (Opportunity, Performance, Honors)—beginning with the 2015-16 academic year (TOPS), the grade point average for students with the TOPS Opportunity, Performance and Honors Awards shall be calculated by LOSFA on all courses taken by a student at postsecondary institutions.

a. These courses shall include those taken at postsecondary institutions while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled.

b. The average for these courses shall be calculated on a 4.00 scale and shall include all courses for which the student has been awarded a grade. The average shall not include courses graded on a pass/fail basis.

c. This average will be used to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Opportunity, Performance or Honors Award.

TOPS Cumulative Grade Point Average (TOPS Tech)—beginning with the 2015-2016 academic year (TOPS) the grade point average for a student with the TOPS Tech award shall be calculated by LOSFA on all courses taken by a student at postsecondary institutions while enrolled in a skill, occupational or technical program.

a. These courses shall include all those taken in skill, occupational or technical programs at postsecondary institutions while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled.

b. The average for these courses shall be calculated on a 4.00 scale and shall include all courses while enrolled in a skill, occupational or technical program for which the student has been awarded a grade. The average shall not include courses graded on a pass/fail basis.

c. This average will be used to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Tech Award.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36

(January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:

Chapter 5. Applications, Federal Grant Aid and ACT Test

§501. Initial Application

A. Initial Application for High School Graduates of 2002-2003 or Earlier

1. Except as provided in Subparagraph A.2.b below, all new applicants for Louisiana scholarship and grant programs must apply for federal aid by completing the free application for federal student aid (FAFSA) for the academic year following the year the student graduated from high school. For example, if the student will graduate from high school in school year 2002-2003, submit the 2003-2004 version of the FAFSA.

2. All new applicants for TOPS Opportunity, Performance, Honors and TOPS-Tech Awards who graduate from high school during the 2001-2002 or 2002-2003 academic years (high school) must apply for federal aid by completing the free application for federal student aid (FAFSA) for the academic year (TOPS) the applicant will be a first-time, full-time student. For example, if the applicant will graduate from high school in the 2002-2003 academic year (high school) and does not intend to enroll as a first-time, full-time student until the fall semester of 2004, he must submit the 2004-2005 version of the FAFSA.

A.2.a.- C.2. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), LR 24:1900 (October 1998), amended LR 26:1994 (September 2000), repromulgated LR 27:1846 (November 2001), amended LR 29:554 (April 2003), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:1060 (May 2005), LR 41:

§503. Application Deadlines for High School Graduates of 2003 and Earlier

A. - B.1.a. …

b. For applicants graduating from high school during or after the 2001-2002 academic year (high school), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA application is the July 1 immediately preceding the academic year (TOPS) in which the applicant will be a first-time, full-time student.

B.1.c. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), LR 24:1900 (October 1998), amended LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 26:1994 (September 2000), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 28:1760 (August 2002), LR 29:554 (April 2003), LR 30:1471 (July 2004), LR 30:2016 (September 2004), LR 33:440 (March 2007), LR 41:

§505. Application Deadlines for High School Graduates and Home Study Completers of 2004 and Later and Eligible Non-Graduates

A.1. - A.3. …

B. Deadline for Payment for the Academic Year (TOPS) Immediately Following High School Graduation

1. Beginning with the 2007-2008 academic year (TOPS), to be determined eligible for payment of TOPS awards for the academic year (TOPS) immediately following the academic year (high school) of high school graduation, students must submit the initial FAFSA or on-line application so that it is received no later than the July 1 immediately following the academic year (high school) of graduation.

2. Beginning with the 2007-2008 academic year (TOPS), students will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning with the academic year (TOPS) immediately after the student's one year anniversary of high school graduation if their initial FAFSA or on-line application is received after the July 1 immediately following the academic year (high school) of high school graduation and no later than the final deadline set forth in Subsection C, below, and if the student was enrolled during the preceding academic year (TOPS), the student has met the requirements for continuing eligibility.

3.a. Beginning with the 2010-2011 academic year (TOPS), students whose initial FAFSA or on-line application is received on or before July 1 immediately following the one year anniversary of high school graduation will receive payment of their TOPS award as provided in §701.E beginning with the first semester, quarter or term the student enrolls for the first time as a full-time student in an eligible college or university; provided that no payment of a TOPS award shall be made until the initial FAFSA or on-line application has been received and the applicant has been determined eligible for a TOPS award.

3.b. - 4.b. …

C. Final Deadline for Full TOPS Award

1.a. Except as provided below, through the 2006-2007 academic year (TOPS), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the on-line application is July 1 immediately prior to the academic year (TOPS) he first enrolls as a first-time freshman in an eligible college or university.

b. Beginning with the 2007-2008 academic year (TOPS), in order receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or on-line application is July 1 immediately prior to the academic year (TOPSe) immediately following the one year anniversary of high school graduation.

c.i. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during the 2004-2005 academic year (TOPS) are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2004-2005 academic year (TOPS) if their initial FAFSA or on-line application was received no later than October 29, 2004;

(b). with the 2005-2006 academic year (TOPS) if their initial FAFSA or on-line application was received after October 29, 2004, and no later than July 1, 2005, and, if the student enrolled as a full-time student during the 2004-2005 academic year (TOPS), the student has met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2005 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2005 if their initial FAFSA or on-line application was received no later than July 1, 2005.

iii. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during either the 2004-2005 academic year (TOPS) or fall semester of 2005 are eligible for a reduced TOPS award (see Subsection 505.D, below) beginning with the fall semester of 2005, if their initial FAFSA or on-line application was received after July 1, 2005 and no later than October 31, 2005, and, if the student enrolled as a full-time student during the 2004-2005 academic year (TOPS), the student has met the requirements for continuing eligibility.

d.i. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during the 2005-2006 academic year (TOPS) will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2005-2006 academic year (TOPS) if their initial FAFSA or on-line application is received no later than October 31, 2005;

(b). with the 2006-2007 academic year (TOPS) if their initial FAFSA or on-line application is received after October 31, 2005, and no later than July 1, 2006, and, if the student enrolled as a full-time student during the 2005-2006 academic year (TOPS), the student met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2006 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2006 if their initial FAFSA or on-line application was received no later than July 1, 2006.

iii. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during either the 2005-2006 academic year (TOPS) or fall semester of 2006 are eligible for a reduced TOPS award (see Subsection 505.D, below) beginning with the fall semester of 2006, if their initial FAFSA or on-line application was received after July 1, 2006, and no later than October 30, 2006, and, if the student enrolled as a full-time student during the 2005-2006 academic year (TOPS), the student met the requirements for continuing eligibility.

e.i. Students who graduate from high school during the 2005-2006 academic year (high school) and enroll as a first-time freshman in an eligible college or university during the 2006-2007 academic year (TOPS) will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2006-2007 academic year (TOPS) if their initial FAFSA or on-line application is received no later than October 30, 2006;

(b). with the 2007-2008 academic year (TOPS) if their initial FAFSA or on-line application is received after October 30, 2006, and no later than July 1, 2007, and, if the student enrolled as a full-time student during the 2006-2007 academic year (TOPS), the student met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2005-2006 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2007 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2007 if their initial FAFSA or on-line application was received no later than July 1, 2007.

iii. Students who graduate from high school during the 2005-2006 academic year (high school) and enroll as a first-time freshman in an eligible college or university during either the 2006-2007 academic year (TOPS) or the fall semester of 2007 are eligible for a reduced TOPS award (see Subsection 505.D, below) beginning with the fall semester of 2007, if their initial FAFSA or on-line application is received after July 1, 2007, and no later than October 29, 2007, and, if the student enrolled as a full-time student during the 2006-2007 academic year (TOPS), the student met the requirements for continuing eligibility.

2. Returning Students

a. Beginning with the 2002-2003 through the 2004-2005 academic year (TOPS), in order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the on-line application is May 1 of the academic year (TOPS) he first enrolls as a full-time student in an eligible college or university.

b. Beginning with the 2005-2006 academic year (TOPS), in order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of the student's initial FAFSA or the on-line application is the July 1 immediately following the academic year (TOPS) he first enrolls as a full-time student in an eligible college or university.

C.3. - E. …

F. Renewal FAFSA

1.a. Through the 2004-2005 academic year (TOPS), in order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA so that it is received by May 1 of each academic year (TOPS) after initial eligibility is established.

b. Beginning with the 2005-2006 academic year (TOPS), in order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA so that it is received by the July 1 immediately preceding each academic year (TOPS) after initial eligibility is established.

2. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition are not required to submit a renewal FAFSA.

3.a. In the event of a budgetary shortfall, applicants who do not file a renewal FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

b. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition and do not want to be the first denied a TOPS award must file a renewal FAFSA so that it is received by the July 1 immediately preceding each academic year (TOPS) after initial eligibility is established.

4. All recipients of Louisiana Scholarship and Grant Programs other than TOPS and the Rockefeller Wildlife Scholarship Program must submit a renewal FAFSA for each academic year (TOPS) the student enrolls.

G. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

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§507. Final Deadline for Submitting Documentation of Eligibility

A. LASFAC will continue to process eligibility for both new and renewal applicants during each award year until July 1 after the spring term of that award year.

B.1. Through the 2004-2005 academic year (TOPS), all documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than May 1 of the award year. For example, to receive an award for the 2004-2005 award year, LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 2005.

2. Beginning with the 2005-2006 academic year (TOPS) through the 2010-11 academic year (TOPS), all documentation and certifications necessary to establish student initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than July 1 immediately following the academic year (TOPS) the student is first eligible for payment of a TOPS award . For example, if a student's initial FAFSA is received no later than July 1, 2007, for that student to receive an award for the 2007-2008 academic year (TOPS), LASFAC must have in its possession all documents relevant to establishing eligibility by July 1, 2008.

3. Beginning with the 2011-12 academic year (TOPS), all documentation and certifications necessary to establish student initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than January 15 immediately following the final deadline for receipt of the student's FAFSA or on-line application. For example, if a student's graduates from high school in May 2011, the final deadline for receipt of the student's FAFSA or on-line application is July 1, 2012, and the deadline for receipt of all documents relevant to establishing eligibility is January 15, 2013.

C. Returning Students

1. Returning students, who graduated high school during the 2001-2002 academic years (high school) and who enroll in an eligible college or university in the spring semester 2003, must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

2. Returning students, who enroll in an eligible college or university in the fall semester of 2003 through the spring semester of 2005, must submit documentation that establishes TOPS eligibility no later than May 1 of the academic year (TOPS) the student enrolls in an eligible college or university. For example, a student who seeks to enroll in an eligible college or university in the fall semester of 2003 must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

3.a. Returning students, who enroll in an eligible college or university in academic year (TOPS) 2005-2006 or academic year (TOPS) 2006-2007, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (TOPS) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than April 15 following the July 1 deadline.

b.i. To receive the full benefits of a TOPS award as provided in §701.E, returning students, who enroll in an eligible college or university in the fall semester of 2007 or later, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (TOPS) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than January 15 following the July 1 deadline.

b.ii. - c.vii.…

4.a. Beginning with the 2007-2008 academic year (TOPS), all documentation and certifications necessary to establish a returning student's initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than January 15 immediately following the

deadline for receipt of the student's FAFSA or on-line application.

b.- b.iii. …

D.1. A student who successfully completed an undergraduate degree prior to or during the 2001-2002 academic year (TOPS) and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1, 2004.

2. A student who successfully completes an undergraduate degree during the 2002-2003 through the 2004-2005 academic year (TOPS) and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1 of the academic year (TOPS) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2003-2004 academic year (TOPS), the student must submit the required documents no later than May 1, 2004.

3. A student who successfully completes an undergraduate degree during the 2005-2006 academic year (TOPS) or later and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than July 1 immediately following the academic year (TOPS) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2006-2007 academic year (TOPS), the student must submit the required documents no later than July 1, 2007.

E. The reduction of the student's period of eligibility for this award under §507.C above shall not be cumulative with any reduction under §505.D or §509.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

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

§701. General Provisions

A. - E.1.b. …

2.a. The TOPS Performance Award provides a $400 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C, or 701.E.2.b. The stipend will be paid for each qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

3.a. The TOPS Honors Award provides an $800 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C or 701.E.3.b. The stipend will be paid for each qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight semester limit for TOPS.

3.b. - 5.a. …

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree receive an amount equal to the *average award amount (TOPS-Tech)*, as defined in §301, plus any applicable stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS). The stipend will be paid for each qualified summer session, semester, quarter, term or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight-semester limit for TOPS.

6. - 11.c. …

F. Beginning with the 2000-2001 academic year (TOPS) and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of $200 per qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. prior to June 18, 1999, the student was determined by the administering agency to be eligible for a Performance Award, but who chose either by submission of a completed award confirmation form or by not sending in a completed award confirmation form to receive an Opportunity Award and was awarded an opportunity award; and

2. the student, once enrolled at an eligible institution, has continuously met all requirements to maintain continued state payment for a Performance Award.

G. Beginning with the 2000-2001 academic year (TOPS) and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of $400 per qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid which shall be in addition to the

amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. - 2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

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§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1.a. for students graduating in academic year (high school) 2001-2002 and prior, be a United States citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U.S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided and canceled if such proof is not provided by May 1 of the following academic year (TOPS). Students cancelled solely due to their failure to become a United States citizen within one year after the date of application shall be reinstated to their award if they are a United States citizen or a permanent resident as defined by the Bureau of Citizenship and Immigration Services and were eligible to apply for United States citizenship when cancelled and have met the requirements for maintaining eligibility for the award;

1.b. - 4.f. …

g. all students must apply for an award by July 1 of the academic year (high school) in which they graduate to establish their initial qualification for an award, except as provided by §503.D. For a student entitled to defer acceptance of an award under §703.A.4.b or d that student must apply by July 1 of the academic year (high school) in which the student graduates, except as provided by §503.D:

i. and, if enrolling in an academic program, must also apply by July 1 prior to the academic year (TOPS) in which the student intends to first accept the award, and by July 1 of every year of eligibility thereafter, except as provided in §501.B; or

ii. and, if enrolling in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, must also apply by the July 1 immediately after the start of the academic year (TOPS) in which the student intends to first accept the award, and by July 1 of every year of eligibility thereafter, except as provided in §501.B;

A.5.a. - H.1.c. …

2. A returning student who fails to enroll by the deadline established in §703.A.4 or to maintain full-time enrollment or to earn 24 hours during an academic year (TOPS) while enrolled in an out-of-state college or university, shall not be eligible for a TOPS award unless granted an exception in accordance with §2103.

H.3. - J.4.b.ii. …

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

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§705. Maintaining Eligibility

A. - A.5. …

6. minimum academic progress:

a.i. in an academic undergraduate program at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or term in the academic year (TOPS), including any hours earned during an intersession ending during the academic year. These hours shall include remedial course work required by the institution, but shall not include hours earned during qualified summer sessions, summer sessions or intersessions that do not end during the academic year or by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

ii. beginning in the 2008-2009 and through the 2010-2011 academic year (TOPS), in an academic undergraduate program at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter in the academic year (TOPS), including any hours

earned during an intersession ending during the academic year or immediately following the spring term. These hours shall include remedial course work required by the institution, but shall not include hours earned during qualified summer sessions, summer sessions or intersessions that do not end during the academic year or intersessions that do not immediately follow the spring term or by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

iii. beginning in the 2011-2012 academic year (TOPS), in an academic undergraduate program at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter, intersession and summer session in the academic year (TOPS) (includes any hours earned during any intersession and/or summer session ending before the following fall semester or quarter). These hours shall include remedial course work required by the institution and hours for repeated courses, but shall not include hours by advanced placement course credits, by credit by exam, or through the College-Level Examination Program. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter, intersession and summer session in the academic year (TOPS) (includes any hours earned during any intersession and/or summer session ending before the following fall semester or quarter). These hours shall include remedial course work required by the institution and hours for repeated courses, but shall not include hours by advanced placement course credits, by credit by exam, or through the College-Level Examination Program. Unless granted an exception for cause by LASFAC, failure to earn 24 hours during the academic year (TOPS) will result in permanent cancellation of the recipient's eligibility; or

c. in an academic graduate or professional program at an eligible college or university, by the end of each academic year (TOPS), earn at least the total college credit hours required by the college or university for full-time enrollment for each semester or quarter as determined by totaling the earned hours reported by the institution for each semester or quarter, intersession and summer session in the academic year (TOPS) (includes any hours earned during any intersession and/or summer session ending before the following fall semester or quarter). These hours shall not include hours by advanced placement course credits, by credit by exam, or through the College-Level Examination Program. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

d. in an eligible cosmetology or proprietary school, meet the federal grant aid steady academic progress requirement at that school; and

7. maintain *steady academic progress* as defined in §301; and

8.a. through the 2014-15 academic year (TOPS), maintain at an eligible college or university, by the end of the spring semester, quarter, or term, a TOPS cumulative college grade point average on a 4.00 maximum scale of at least:

i. a 2.30 with the completion of 24 but less than 48 credit hours, a 2.50 after the completion of 48 credit hours, for continuing receipt of an Opportunity Award, if enrolled in an academic program; or

ii. a 2.50, for continuing receipt of an Opportunity Award, if enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree; and

b. beginning the 2015-16 academic year (TOPS), maintain at an eligible college or university, by the end of the spring semester or quarter, a TOPS cumulative college grade point average (Opportunity, Performance, Honors) on a 4.00 maximum scale of at least:

i. a 2.30 with 24 but less than 48 earned credit hours for continuing receipt of an Opportunity Award, if enrolled for the spring semester or quarter in an academic program; or

ii. a 2.50 with 24 but less than 48 earned credit hours for continuing receipt of an Opportunity Award, if enrolled for the spring semester or quarter in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree; or

iii. a 2.50 with 48 or more earned credit hours for continuing receipt of an Opportunity Award, if enrolled for the spring semester or quarter in any program of study; and

c. a 3.00 for continuing receipt of either a Performance or Honors Award; or

d. the minimum grade necessary to maintain good standing, if enrolled in a graduate or professional program; or

e. meet the federal grant aid steady academic progress requirement at that school, if enrolled in an eligible cosmetology or proprietary school; and

B.1. Students failing to meet the requirements listed in §705.A.7 or §705.A.8.a, b, d, or e may have their tuition awards reinstated upon regaining "steady academic progress" (see §301) and/or attainment of the required TOPS cumulative grade point average, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

2. If the two-year period is interrupted due to a student's active duty in the United States Armed Forces, the two-year period will be extended for a length of time equal to the student's active duty service.

3. Students who fail to meet the requirements of §705.A.8.c, shall no longer be eligible for the stipend authorized for the Performance and Honors Awards, but shall be eligible to receive the award amount for the Opportunity Award if they meet the continuation requirements of §705.A.8.a, b, d or e.

4.a. A student shall have one semester or quarter after the spring semester or quarter of 2016 for which the TOPS award will be paid to meet the requirements of §705.A.8.b if the student:

i. failed to meet the requirements listed in §705.A.8.b solely because the calculation of the TOPS cumulative grade point average (Opportunity, Performance, Honors) at the end of the spring semester or quarter of 2016 includes both hours and grades for courses taken before the 2015-16 academic year (TOPS) in both academic and technical courses of study; and

ii. was a high school graduate or home study completer who enrolled for the first time as a full-time student in an eligible postsecondary institution before the 2015-16 academic year (TOPS); and

iii. not suspended after the spring semester or quarter of 2014-15 academic year (TOPS).

b. The TOPS award of a student who meets the requirements of §705.B.4.a shall not be suspended unless the student fails to meet the requirements of §705.A.8.b by the end of the fall semester or quarter of 2016 in which case:

i. the student's TOPS award shall be suspended effective at the end of the fall semester or quarter of 2016; and

ii. the provisions of §705.B.1 and 2 shall apply.

c. If a student does not enroll full-time for the fall semester or quarter of 2016 and any subsequent consecutive semesters or quarters and is granted an exception for all of those semesters or quarters, the provisions of §705.B.4.b shall be extended to the end of the next semester or quarter during which the student enrolls full-time and for which the student's TOPS award is paid.

C. - D.3. …

E. Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Opportunity, Performance or Honors Awards, a displaced student must meet all of the criteria in §705.A-D above, except as follows.

a. The TOPS award of a displaced student who enrolls for the first time as a full-time student in an eligible out-of-state college or university during the 2005-2006 academic year (TOPS) and subsequently enrolls at a Louisiana eligible college or university shall not be reduced due to enrollment in an eligible out-of-state institution during the 2005-2006 academic year (TOPS).

b. The TOPS award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006 academic year (TOPS) shall not be cancelled due to such out-of-state enrollment.

c. The TOPS award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006 academic year (TOPS) shall not be reduced for those semesters or terms such displaced student was enrolled in an eligible out-of-state institution during the 2005-2006 academic year (TOPS).

d. The period of suspension of a TOPS award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or term in which the student does not enroll on a full-time basis in an eligible college or university during the 2005-2006 academic year (TOPS).

2. - 3. …

F.1. A student who successfully completes a baccalaureate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a graduate or professional school at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an undergraduate degree and has met the requirements for continued eligibility set forth in §705.A.6. The remaining eligibility may not be used to pursue a second undergraduate degree.

2. Beginning with the 2012-2013 academic year (TOPS), a student who successfully completes any type of technical, vocational, or academic credential other than a baccalaureate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a program of study leading to a baccalaureate degree, to a vocational or technical certificate or diploma, or to a non-academic degree at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an associate's degree and has met the requirements for continued eligibility set forth in §705.A.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996 (September 2000), LR 26:2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1163 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:437 (March 2007) , LR 34:1390 (July 2008), LR 36:491 (March 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 40:1002 (May 2014), LR 41:

Chapter 8. TOPS-Tech Award

§801. General Provisions

A. - D.2. …

3. Beginning with the 2010-2011 academic year (TOPS), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students with the TOPS-Tech Award participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus a sum of $300 per semester or $600 per program year (nonacademic program) to be applied toward the cost of books and other instructional materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 26:1997 (September 2000), repromulgated LR 27:1854 (November 2001), amended LR 36:2856 (December 2010), LR 41:

§805. Maintaining Eligibility

A. To continue receiving the TOPS-Tech Award, the recipient must meet all of the following criteria:

1. have received the TOPS-Tech Award for not more than two years or the equivalent number of terms and summer sessions, provided that not attending a summer session shall not reduce the number of eligible terms; and, except as provided by §805.C, or unless reduced as required by §503.D;

2. - 4. …

5. continue to enroll and accept the TOPS Tech Award as a full-time student in an *eligible college or university* defined in §301, and maintain an enrolled status throughout the academic year (TOPS) (Enrollment in a summer session is optional and is not required to meet this requirement.), unless granted an exception for cause by LASFAC; and

6. …

7. maintain, by the end of the spring term, a TOPS cumulative college grade point average (TOPS Tech) of at least 2.50 on a 4.00 maximum scale, provided that this requirement does not apply to a student who is enrolled in a cosmetology or proprietary school that is an eligible college or university and the student has met the federal grant aid steady academic progress requirement at that school; and

8. earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or term in the academic year (TOPS). Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility, provided that this requirement does not apply to a student who is enrolled in a cosmetology or proprietary school that is an eligible college or university and the student has met the federal grant aid steady academic progress requirement at that school.

B. - D.1. …

a. The TOPS Tech Award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006 academic year (TOPS) shall not be cancelled due to such out-of-state enrollment.

b. The TOPS Tech Award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006 academic year (TOPS) shall not be reduced for those semesters or terms such displaced student was enrolled in an eligible out-of-state institution during the 2005-2006 academic year (TOPS).

c. The period of suspension of a TOPS Tech Award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or other term in which the student does not enroll on a full-time basis in an eligible college or university during the 2005-2006 academic year (TOPS).

d. A TOPS Tech Award may be used by a displaced student during the 2005-2006 academic year (TOPS) to enroll on a full-time basis in an academic program at a Louisiana eligible college or university to take courses that contribute to the pursuit of a skill or occupation. In such case, the award amount shall be at the same as the opportunity award for that institution.

D.2. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1165 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:438 (March 2007), LR 35:1489 (August 2009), LR 38:3160 (December 2012), LR 40:1002 (May 2014), LR 41:

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions

§1903. Responsibilities of Post-Secondary Institutions

A. - A.2.h. …

3. Beginning with the 2013-2014 academic year (TOPS), an institution shall also report:

a. a student's completion of program of study;

b. whether the program of study was academic or technical;

c. type of credential (degree, certificate, diploma, baccalaureate);

d. semester of completion.

B. - B.9. …

10.a. upon the school's certification that a student who is eligible for a TOPS-Tech Early Start Award is enrolled in an industry based occupational or vocational education credential program in a top demand occupation, institutions shall bill for, and LASFAC will pay the institution, for each such recipient according to the following schedule.

Credit Hours	Payment
1	$50
2	$100
3	$150
4	$200
5	$250
6	$300

b. The maximum that may be billed is $300 per semester and $600 per academic year (TOPS).

c. Institutions may not bill for summer semesters or sessions.

B.11.a. - G.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, 17:3041.10-3041.15, 17:3041.21-3041.26, R.S. 17:3048.1, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:1233 (July 2009), LR 35:1490 (August 2009), LR 35:1491 (August 2009), LR 36:2857 (December 2010), LR 40:282 (February 2014), LR 40:1003 (May 2014), LR 41:

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - C.3.b. …

D. Procedure for Requesting Exceptions to the Initial and Continuous Enrollment Requirement

1. The student should complete and submit an application for an exception, with documentary evidence, to the office as soon as possible after the occurrence of the event or circumstance that supports the request. Through the 2000-2001 academic year (TOPS), the student must submit application for an exception no later than May 30 of the academic year the student requests reinstatement. Commencing with the 2001-2002 academic year (TOPS), the student must submit the application for exception no later than six months after the date of the notice of cancellation, except that a returning student must submit the application for exception no later than six months after the date of the notice of ineligibility due to failure to meet the continuing eligibility requirements of §705. The deadline for filing the exception shall be prominently displayed on the notice of cancellation. If the applicant for an exception is a dependent student, a parent or court ordered custodian of the dependent student may submit the application for exception on behalf of the applicant.

D.2. - G.3. …

4.a. For the 2005-2006 academic year (TOPS), displaced students are not required to enroll as full-time students, to maintain continuous enrollment or to earn at least 24 hours during the 2005-2006 academic year (TOPS).

b. Displaced students may enroll on a part-time basis in an eligible college or university without losing TOPS eligibility. Upon request by the student, the eligible college or university may bill for these part-time students.

c. The terms of eligibility for a displaced student whose part-time enrollment is paid by TOPS will be reduced by one full semester (term) for each semester (term) (part- or full-time) paid.

d. Institutions must document the displaced student's request for part-time payment of the award.

e. If a displaced student enrolls in an eligible college or university during the 2005-2006 academic year (TOPS) and receives grades, those grades will be included in calculating the student's cumulative grade point average.

5.a. For the 2005-2006 academic year (TOPS), students who are not displaced students, but due to the effects of a natural disaster were unable to enroll for the first time as full-time students by the deadline or to enroll as full-time students or to maintain continuous enrollment or to earn at least 24 hours during the academic year (TOPS), may submit a request for an exception in accordance with §2103.D, based on one of the circumstances listed in §2103.E, or in accordance with the following procedures for the circumstances described in this Subsection.

i. - ii. …

b. Natural Disaster Exception (for other than displaced students)

i. Definition. The effects of a natural disaster prevented the student/recipient from enrolling as a full-time student or continuing enrollment or earning 24 hours during the 2005-2006 academic year (TOPS).

ii. - iii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 41:

George Badge Eldredge
General Counsel

1412#009

DECLARATION OF EMERGENCY

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs
TOPS Tech Early Start Award (LAC 28:IV.1003)

The Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend and re-promulgate the rules of the Scholarship/Grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, and R.S. 17:3042.1.1-3042.8, R.S. 17:3048.1, and R.S. 56:797(D)(2)].

This rulemaking adds definitions to the TOPS Tech Early Start Program rules including a definition of technical or applied course.

This Declaration of Emergency is effective November 18, 2014, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG15160E)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 10. TOPS-Tech Early Start Award

§1003. Definitions

Approved Training Program—a program provided by an approved training provider of technical and/or applied courses toward a credential in a top demand occupation.

Approved Training Provider—a Louisiana provider recognized by the Louisiana Workforce Commission and approved by the State Board of Elementary and Secondary Education to provide technical and/or applied courses toward a credential in a top demand occupation.

Credential—Industry-Based Certification, a Certificate of Applied Science or a Certificate of Technical Sciences approved by the Workforce Investment Council.

Technical or *Applied Course*—a course required for a credential in a top demand occupation.

Top Demand Occupation—an occupation identified by the Occupation Forecasting Conference as being in top demand in Louisiana and recognized by the State Industry-Based Certification Leadership Council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 41:

George Badge Eldredge
General Counsel

1412#008

DECLARATION OF EMERGENCY

Tuition Trust Authority
Office of Student Financial Assistance

START Savings Program (LAC 28:VI.301)

The Louisiana Tuition Trust Authority (LATTA) is exercising the emergency provisions of the Administrative Procedure Act [R.S. 49:953(B)] to amend rules of the Student Tuition Assistance and Revenue Trust (START Saving) Program (R.S. 17:3091 et seq.).

This rulemaking revises the residency requirements for account owners and beneficiaries to include individuals who are lawfully residing in the United States and have a valid Social Security number.

The emergency rules are necessary to allow the LATTA and educational institutions to effectively administer these programs. A delay in promulgating rules would have an adverse impact on the financial welfare of the students and the financial condition of their families. LATTA has determined that these emergency rules are necessary in order to prevent imminent financial peril to the welfare of the affected students.

This Declaration of Emergency is effective on November 18, 2014, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (ST15157E)

Title 28
EDUCATION
Part VI. Student Financial Assistance—Higher Education Savings
Chapter 3. Education Savings Account
§301. Education Savings Accounts

A. - E.2. …

F. Citizenship Requirements. Both an account owner who is not a legal entity and the beneficiary must meet the following citizenship requirements:

1. be a United States citizen; or

2. be a permanent resident of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor and provide copies of USCIS documentation with the submission of the owner's agreement; or

3. be lawfully residing in the United States and have a valid Social Security number.

G. - H.2. …

3. By signing the owner's agreement:

a. the account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, certifies that:

i. both account owner and beneficiary are United States citizens or permanent residents of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor or be lawfully residing in the United States and have a valid Social Security number; and

(a). if permanent residents have provided copies of USCIS documentation with the submission of the application and owner's agreement; or

(b). if in the United States lawfully with a valid Social Security number have provided the visa or other document(s) from the USCIS evidencing lawful residency and a copy of the Social Security card from the Social Security Administration; and

ii. the information provided in the application is true and correct;

H.3.b. - I. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002), LR 30:786 (April 2004), LR 33:443 (March 2007), LR 36:313 (February 2010), LR 40:

George Badge Eldredge
General Counsel

1412#007

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Property Assistance Agency

Electronic Media Sanitization (LAC 34:VII.307 and 509)

Under the authority of R.S. 39:332., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Property Assistance Agency finds that an imminent peril to the public safety requires adoption of a Rule upon shorter notice than that provided in R.S. 49:953(A), as provided in R.S. 49:953(B), relative to sanitizing surplus electronic equipment to prevent the release of sensitive personal information. This Emergency Rule also requires all electronic media assets be tagged and entered into the agency's official system of recordation regardless of original acquisition cost.

It is necessary to adopt this Emergency Rule to have this procedure in place until the corresponding permanent Rule can be adopted. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall take effect December 4, 2014, and shall be in effect for the maximum period allowed under the Act (120 days) or until adoption of the final Rule, whichever occurs first.

Title 34
GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL
Part VII. Property Control
Chapter 3. State Property Inventory
§307. Items of Property to be Inventoried

A. All items of moveable property having an "original" acquisition cost, when first purchased by the state of Louisiana, of $1000 or more, all gifts and other property having a fair market value of $1000 or more, and all weapons and electronic media assets, regardless of cost, with the exception of items specifically excluded in §307.E, must be placed on the statewide inventory system. The term "moveable" distinguishes this type of equipment from equipment attached as a permanent part of a building or structure. The term "property" distinguishes this type of equipment from "supplies" with supplies being consumable through normal use in no more than one year's time. All acquisitions of qualified items must be tagged with a uniform state of Louisiana identification tag approved by the Commissioner of Administration and all pertinent inventory information must be forwarded to the Louisiana Property Assistance Agency director or his designee within 60 calendar days after receipt of these items. In instances when equipment must be installed and/or tested before acceptance by the agency, the calendar days will begin upon official acceptance by the agency.

B. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:321 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Property Control Section, LR 2:228 (August 1976), amended 8:277 (June 1982), amended by the Office of the Governor, Division of Administration, Louisiana Property Assistance Agency, LR 15:832 (October 1989), LR 18:1256 (November 1992), LR 28:481 (March 2002), LR 41:

Chapter 5. State Property Disposition
§509. Disposal and Surplus of Electronic Equipment

A. Policy. Electronic media, as defined by Office of Technology Services IT-POL-1-04 Data Sanitization Policy, that are subject to surplus, transfer, disposal, or otherwise permanently leave the possession of a state agency or its agents, except for lawful purpose shall be sanitized in accordance with Office of Technology Services IT-STD-1-17 Data Sanitization – Standards and Requirements.

B. Scope. All entities under the authority of the Louisiana Property Assistance Agency, pursuant to the provisions of R.S. 39:321 et seq., or any political subdivision that desires to utilize LPAA services must comply with this policy.

C. Responsibilities

1. Agencies shall establish policies and procedures to ensure compliance with this policy.

2. Agencies shall attest that they have sanitized all electronic equipment in accordance with the Office of Technology Services Policy IT-POL-1-04 Data Sanitization Policy prior to requesting permission to surplus or dispose of the electronic equipment.

3. Attestation shall be evidenced in a manner prescribed by LPAA PPM 11, Data Sanitization.

D. Related Policies, Standards, Guidelines. The following policies can be viewed on the respective agencies' websites.

1. Office of Technology Services IT-POL-1-04 Data Sanitization Policy

2. Office of Technology Services IT-STD-1-17 Data Sanitization – Standards and Requirements

3. LPAA PPM No. 11, Data Sanitization

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:200.C, R.S. 39:326, R.S. 39:330, R.S. 39:330.1-2 and R.S. 39:332.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Louisiana Property Assistance Agency, LR 41:

Kristy H. Nichols
Commissioner of Administration

1412#062

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Tax Commission

Ad Valorem Taxation
(LAC 61:V.101, 304, 703, 907, 1103, 1307, 1503, 2503, 3101, 3103, 3105, 3106, 3107 and 3501)

The Louisiana Tax Commission exercised the provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the Real/Personal Property Rules and Regulations. The adoption date for this Emergency Rule is December 9, 2014.

This Emergency Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2015. Cost indexes required to finalize these assessment tables are not available to this office until late October 2014. The effective date of this Emergency Rule is January 1, 2015.

Pursuant to the Administrative Procedure Act, this Emergency Rule shall be in effect for a maximum of one hundred twenty days or until adoption of the Final Rule or another Emergency Rule, whichever occurs first.

Title 61
REVENUE AND TAXATION
Part V. Ad Valorem Taxation
Chapter 1. Constitutional and Statutory Guides to Property Taxation
§101. Constitutional Principles for Property Taxation

A. - F.3.h. …

G. Special Assessment Level

1. - 1.d.…

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, for the year prior to the application for the special assessment, exceeds $71,563 for tax year 2015 (2016 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. - 9. …

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:528 (March 2014), LR 41:

Chapter 3. Real and Personal Property

§304. Electronic Change Order Specifications, Property Classifications Standards and Electronic Tax Roll Export Specifications

A. Electronic Change Order Specifications

* * *

B. Property Classifications Standards

* * *

C. Electronic Tax Roll Export Specifications

Parish Information (Parish.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Assessment Information (Assmt.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Assessment Value Information (Avalue.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Assessment Millage Information (Amillage.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Millage Group Information (Tgroup.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Parcel Information (Parcel.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
Tax_year	Numeric	4	Yes	Tax year submitting (Format: 1999, 2000,2001,2002,2003,2004, etc.)
* * *	* * *	* * *	* * *	* * *
Conv_ book	Character	10	No	Conveyance book number
Conv_folio	Character	10	No	Conveyance page number
Instr_no	Character	8	No	Conveyance instrument number
* * *	* * *	* * *	* * *	* * *
Tax_sale	Character	1	No	Y = Yes and N = No (default)
Taxsale_date	Character	10	No	Date of tax sale (Format: 01/01/1999)
* * *	* * *	* * *	* * *	* * *

Legal Description Information (Legal.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Additional Owner Information (Owner.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

Improvement Information (Improve.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
Tax_year	Numeric	4	Yes	Tax year submitting (ex. 1999, 2000)
* * *	* * *	* * *	* * *	* * *
Fact_cond	Character	40	Yes	Condition of improvement (Excellent, Avg., Fair, Poor)

Improvement Information (Improve.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
Fact_qual	Character	40	Yes	Quality of construction (Excellent, Avg., Fair, Poor)
* * *	* * *	* * *	* * *	* * *

Place FIPS Information (FIPS.txt)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
* * *	* * *	* * *	* * *	* * *

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18 and R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), amended LR 32:427 (March 2006), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:529 (March 2014), LR 41:

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		**Average Economic Life 12 Years**		
Year	**Index**	**Effective Age**	**Percent Good**	**Composite Multiplier**
2014	0.992	1	94	.93
2013	1.005	2	87	.87
2012	1.014	3	80	.81
2011	1.042	4	73	.76
2010	1.075	5	66	.71
2009	1.067	6	58	.62
2008	1.098	7	50	.55
2007	1.141	8	43	.49
2006	1.203	9	36	.43
2005	1.259	10	29	.37
2004	1.354	11	24	.32
2003	1.401	12	22	.31
2002	1.424	13	20	.28

B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		**Average Economic Life 20 Years**		
Year	**Index**	**Effective Age**	**Percent Good**	**Composite Multiplier**
2014	0.992	1	97	.96
2013	1.005	2	93	.93
2012	1.014	3	90	.91
2011	1.042	4	86	.90
2010	1.075	5	82	.88
2009	1.067	6	78	.83
2008	1.098	7	74	.81
2007	1.141	8	70	.80
2006	1.203	9	65	.78
2005	1.259	10	60	.76
2004	1.354	11	55	.74
2003	1.401	12	50	.70
2002	1.424	13	45	.64
2001	1.433	14	40	.57
2000	1.445	15	35	.51

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		**Average Economic Life 20 Years**		
Year	**Index**	**Effective Age**	**Percent Good**	**Composite Multiplier**
1999	1.471	16	31	.46
1998	1.476	17	27	.40
1997	1.488	18	24	.36
1996	1.512	19	22	.33
1995	1.536	20	21	.32
1994	1.591	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:772 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:802 (March 2012), LR 39:490 (March 2013), LR 40:530 (March 2014), LR 41:

Chapter 9. Oil and Gas Properties

§907. Valuation of Oil, Gas, and Other Wells

A. …

* * *

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	**Cost—New By Depth, Per Foot**		**15% of Cost—New By Depth, Per Foot**	
	$ Oil	**$ Gas**	**$ Oil**	**$ Gas**
0-1,249 ft.	40.36	141.26	6.05	21.19
1,250-2,499 ft.	36.44	103.87	5.47	15.58
2,500-3,749 ft.	28.64	68.79	4.30	10.32
3,750-4,999 ft.	39.61	68.54	5.94	10.28
5,000-7,499 ft.	46.58	66.90	6.99	10.04
7,500-9,999 ft.	102.12	90.18	15.32	13.53
10,000-12,499 ft.	297.78	109.39	44.67	16.41
12,500-14,999 ft.	484.28	165.18	72.64	24.78
15,000-17,499 ft.	619.84	188.36	92.98	28.25
17,500-Deeper ft.	N/A	526.88	N/A	79.03

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	$ Oil	$ Gas	$ Oil	$ Gas
0-1,249 ft.	310.32	140.33	46.55	21.05
1,250-2,499 ft.	107.16	233.25	16.07	34.99
2,500-3,749 ft.	104.64	185.97	15.70	27.90
3,750-4,999 ft.	92.24	148.76	13.84	22.31
5,000-7,499 ft.	126.01	168.99	18.90	25.35
7,500-9,999 ft.	171.90	176.92	25.79	26.54
10,000-12,499 ft.	234.41	231.27	35.16	34.69
12,500-14,999 ft.	307.50	299.20	46.13	44.88
15,000-17,499 ft.	498.09	400.59	74.71	60.09
17,500-19,999 ft.	608.16	567.42	91.22	85.11
20,000-Deeper ft.	324.73	851.87	48.71	127.78

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Table 907.A.3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters*				
Producing Depths	Cost—New By Depth, Per Foot		15% Of Cost—New By Depth, Per Foot	
	$ Oil	$ Gas	$ Oil	$ Gas
0 -1,249 ft.	N/A	N/A	N/A	N/A
1,250 -2,499 ft.	1,555.55	1,136.62	233.33	170.49
2,500 -3,749 ft.	799.88	873.54	119.98	131.03
3,750 -4,999 ft.	1,141.75	801.00	171.26	120.15
5,000 -7,499 ft.	568.18	741.90	85.23	111.29
7,500 -9,999 ft.	720.36	702.05	108.05	105.31
10,000 -12,499 ft.	815.50	711.63	122.33	106.74
12,500 -14,999 ft.	709.26	692.55	106.39	103.88
15,000 -17,499 ft.	488.85	718.59	73.33	107.79
17,500 - 19,999 ft.	243.50	686.99	36.53	103.05
20,000 - Deeper ft.	N/A	1,079.88	N/A	161.98

B. The determination of whether a well is a Region 2 or Region 3 well is ascertained from its onshore/offshore status as designated on the Permit to Drill or Amended Permit to Drill form (Location of Wells Section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the Permit to Drill or Amended Permit to Drill form on file at the Department of Natural Resources.

1. Parishes Considered to be Located in Region I

Table 907.B.1 Parishes Considered to be Located in Region 1			
Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

NOTE: All wells in parishes not listed above are located in Region 2 or Region 3.

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	20 Year Life Percent Good
2014	247423	Higher	97
2013	245849	247422	93
2012	244268	245848	90
2011	242592	244267	86
2010	240636	242591	82
2009	239277	240635	78
2008	236927	239276	74
2007	234780	236926	70
2006	232639	234779	65
2005	230643	232638	60
2004	229010	230642	55
2003	227742	229009	50
2002	226717	227741	45
2001	225352	226716	40
2000	223899	225351	35
1999	222882	223898	31
1998	221596	222881	27
1997	220034	221595	24
1996	218653	220033	22
1995	217588	218652	21
1994	Lower	217587	20 *
VAR.	900000	Higher	50

*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

C. Surface Equipment

1. Listed below is the cost-new of major items used in the production, storage, transmission and sale of oil and gas. Any equipment not shown shall be assessed on an individual basis.

2. All surface equipment, including other property associated or used in connection with the oil and gas industry in the field of operation, must be rendered in accordance with guidelines established by the Tax Commission and in accordance with requirements set forth on LAT Form 12-Personal Property Tax Report—Oil and Gas Property.

3. Oil and gas personal property will be assessed in seven major categories, as follows:

a. oil, gas and associated wells;
b. oil and gas equipment (surface equipment);
c. tanks (surface equipment);
d. lines (oil and gas lease lines);
e. inventories (material and supplies);
f. field improvements (docks, buildings, etc.);
g. other property (not included above).

4. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good listed in Table 907.B-2, based on the actual age of the equipment. If the actual age of the equipment is unknown or unavailable, for equipment associated with a single well, use the age of that well to determine the appropriate percent good. When determining the value of equipment used on

multiple wells and the age of the equipment is unknown or unavailable, use the average age of the wells within the lease/field to determine the appropriate year to be used for this purpose. This shall apply only to surface equipment with an original purchase value greater than $500.00.

5. Functional and/or economic obsolescence shall be considered in the analysis of fair market value as substantiated by the taxpayer in writing. Consistent with Louisiana R.S. 47:1957, the assessor may request additional documentation.

6. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

Table 907.C.1
Surface Equipment

Property Description	$ Cost New
Actuators—(see Metering Equipment)	
Automatic Control Equipment—(see Safety Systems)	
Automatic Tank Switch Unit—(see Metering Equipment)	
Barges - Concrete—(assessed on an individual basis)	
Barges - Storage—(assessed on an individual basis)	
Barges - Utility—(assessed on an individual basis)	
Barges - Work—(assessed on an individual basis)	
Communication Equipment—(see Telecommunications)	
Dampeners—(see Metering Equipment—"Recorders")	
DESORBERS—(no metering equipment included):	
125#	114,320
300#	126,050
500#	143,440
Destroilets—(see Metering Equipment–"Regulators")	
Desurgers—(see Metering Equipment—"Regulators")	
Desilters—(see Metering Equipment—"Regulators")	
Diatrollers—(see Metering Equipment—"Regulators")	
Docks, Platforms, Buildings—(assessed on an individual basis)	
Dry Dehydrators (Driers)—(see Scrubbers)	
Engines-Unattached—(only includes engine and skids):	
Per Horsepower	360
Evaporators—(assessed on an individual basis)	
Expander Unit—(no metering equipment included):	
Per Unit	41,940
Flow Splitters—(no metering equipment included):	
48 In. Diameter Vessel	20,420
72 In. Diameter Vessel	27,050
96 In. Diameter Vessel	41,450
120 In. Diameter Vessel	58,890
Fire Control System—(assessed on an individual basis)	
Furniture & Fixtures—(assessed on an individual basis) (Field operations only, according to location.)	
Gas Compressors-Package Unit—(Skids, scrubbers, cooling system, and power controls. No metering or regulating equipment.):	
1 - 49 HP	750
50 – 99 HP	1,510
100 – 999 HP	1,230
1,000 – 1,499 HP	940
1,500 HP and Up	830
Gas Coolers—(no metering equipment);	
5,000 MCF/D	32,210
10,000 MCF/D	36,280
20,000 MCF/D	112,860
50,000 MCF/D	256,060
100,000 MCF/D	419,370

Table 907.C.1
Surface Equipment

Property Description	$ Cost New
Generators—Package Unit only -(no special installation)	
Per K.W.	240
Glycol Dehydration-Package Unit—(Including pressure gauge, relief valve and regulator. No other metering equipment.):	
Up to 4.0 MMCF/D	22,610
4.1 to 5.0 MMCF/D	25,220
5.1 to 10.0 MMCF/D	48,620
10.1 to 15.0 MMCF/D	67,650
15.1 to 20.0 MMCF/D	92,080
20.1 to 25.0 MMCF/D	119,730
25.1 to 30.0 MMCF/D	227,430
30.1 to 50.0 MMCF/D	254,050
50.1 to 75.0 MMCF/D	316,050
75.1 & Up MMCF/D	364,670
Heaters—(Includes unit, safety valves, regulators and automatic shut-down. No metering equipment.):	
Steam Bath—Direct Heater:	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	7,840
30 In. Diameter Vessel - 500,000 BTU/HR Rate	9,850
36 In. Diameter Vessel - 750,000 BTU/HR Rate	11,910
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	17,630
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	21,760
Water Bath—Indirect Heater:	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	6,690
30 In. Diameter Vessel - 500,000 BTU/HR Rate	9,180
36 In. Diameter Vessel - 750,000 BTU/HR Rate	11,970
48 In. Diameter Vessel - 1,000,000 BTU/HR Rate	16,960
60 In. Diameter Vessel - 1,500,000 BTU/HR Rate	21,700
Steam—(Steam Generators):	
24 In. Diameter Vessel - 250,000 BTU/HR Rate	8,570
30 In. Diameter Vessel - 450,000 BTU/HR Rate	10,700
36 In. Diameter Vessel - 500 to 750,000 BTU/HR Rate	16,050
48 In. Diameter Vessel - 1 to 2,000,000 BTU/HR Rate	18,420
60 In. Diameter Vessel - 2 to 3,000,000 BTU/HR Rate	20,850
72 In. Diameter Vessel - 3 to 6,000,000 BTU/HR Rate	32,940
96 In. Diameter Vessel - 6 to 8,000,000 BTU/HR Rate	39,570
Heat Exchange Units-Skid Mounted—(see Production Units)	
Heater Treaters—(Necessary controls, gauges, valves and piping. No metering equipment included.):	
Heater - Treaters - (non-metering):	
4 x 20 ft.	17,140
4 x 27 ft.	22,060
6 x 20 ft.	23,100
6 x 27 ft.	29,050
8 x 20 ft.	37,010
8 x 27 ft.	43,330
10 x 20 ft.	48,930
10 x 27 ft.	57,560
L.A.C.T. (Lease Automatic Custody Transfer)—see Metering Equipment)	
JT Skid (Low Temperature Extraction)—(includes safety valves, temperature controllers, chokes, regulators, metering equipment, etc.—complete unit.):	
Up to 2 MMCF/D	42,540
Up to 5 MMCF/D	60,780
Up to 10 MMCF/D	145,870
Up to 20 MMCF/D	243,110
Liqua Meter Units—(see Metering Equipment)	
Manifolds—(see Metering Equipment)	
Material & Supplies-Inventories—(assessed on an individual basis)	
Meter Calibrating Vessels—(see Metering Equipment)	
Meter Prover Tanks—(see Metering Equipment)	
Meter Runs—(see Metering Equipment)	

Table 907.C.1 Surface Equipment	
Property Description	**$ Cost New**
Meter Control Stations—(not considered Communication Equipment) - (assessed on an individual basis)	
Metering Equipment	
Actuators—hydraulic, pneumatic & electric valves	6,620
Controllers—time cycle valve - valve controlling device (also known as Intermitter)	2,070
Fluid Meters:	
1 Level Control	
24 In. Diameter Vessel - 1/2 bbl. Dump	5,040
30 In. Diameter Vessel - 1 bbl. Dump	6,500
36 In. Diameter Vessel - 2 bbl. Dump	9,000
2 Level Control	
20 In. Diameter Vessel - 1/2 bbl. Dump	4,740
24 In. Diameter Vessel - 1/2 bbl. Dump	5,710
30 In. Diameter Vessel - 1 bbl. Dump	7,170
36 In. Diameter Vessel - 2 bbl. Dump	9,660
L.A.C.T. and A.T.S. Units:	
30 lb. Discharge	31,850
60 lb. Discharge	36,280
Manifolds—Manual Operated:	
High Pressure	
per well	24,980
per valve	8,450
Low Pressure	
per well	12,090
per valve	4,010
Manifolds—Automatic Operated:	
High Pressure	
per well	45,160
per valve	14,890
Low Pressure	
per well	32,210
per valve	10,880
NOTE: Automatic Operated System includes gas hydraulic and pneumatic valve actuators, (or motorized valves), block valves, flow monitors-in addition to normal equipment found on manual operated system. No Metering Equipment Included.	
Meter Runs—piping, valves & supports—no meters:	
2 In. piping and valve	6,810
3 In. piping and valve	7,660
4 In. piping and valve	9,240
6 In. piping and valve	12,880
8 In. piping and valve	19,350
10 In. piping and valve	25,770
12 In. piping and valve	32,210
14 In. piping and valve	43,880
16 In. piping and valve	57,310
18 In. piping and valve	70,990
20 In. piping and valve	92,260
22 In. piping and valve	116,270
24 In. piping and valve	142,340
Metering Vessels (Accumulators):	
1 bbl. calibration plate (20 x 9)	3,950
5 bbl. calibration plate (24 x 10)	4,250
7.5 bbl. calibration plate (30 x 10)	5,960
10 bbl. calibration plate (36 x 10)	7,410
Recorders (Meters)—Includes both static element and tube drive pulsation dampener-also one and two pen operations.	
per meter	2,740
Solar Panel (also see Telecommunications)	
per unit (10' x 10')	360

Table 907.C.1 Surface Equipment	
Property Description	**$ Cost New**
Pipe Lines—Lease Lines	
Steel	
2 In. nominal size - per mile	19,810
2 1/2 In. nominal size - per mile	26,680
3 & 3 1/2 In. nominal size - per mile	34,040
4, 4 1/2 & 5 In. nominal size - per mile	58,530
6 In. nominal size - per mile	85,940
Poly Pipe	
2 In. nominal size - per mile	10,880
2 1/2 In. nominal size - per mile	14,650
3 In. nominal size - per mile	18,720
4 In. nominal size - per mile	32,150
6 In. nominal size - per mile	47,220
Plastic-Fiberglass	
2 In. nominal size - per mile	16,900
3 In. nominal size - per mile	28,930
4 In. nominal size - per mile	49,720
6 In. nominal size - per mile	72,990
NOTE: Allow 90% obsolescence credit for lines that are inactive, idle, open on both ends and dormant, which are being carried on corporate records solely for the purpose of retaining right of ways on the land and/or due to excessive capital outlay to refurbish or remove the lines.	
Pipe Stock—(assessed on an individual basis)	
Pipe Stock - Exempt—Under La. Const., Art. X, §4 (19-C)	
Production Units:	
Class I - per unit—separator & 1 heater—500 MCF/D	21,390
Class II - per unit—separator & 1 heater—750 MCF/D	28,500
Production Process Units—These units are by specific design and not in the same category as gas compressors, liquid and gas production units or pump-motor units. (Assessed on an individual basis.)	
Pumps—In Line	
per horsepower rating of motor	300
Pump-Motor Unit—pump and motor only	
Class I - (water flood, s/w disposal, p/l, etc.)	
Up to 300 HP - per HP of motor	360
Class II - (high pressure injection, etc.)	
301 HP and up per HP of motor	430
Pumping Units-Conventional and Beam Balance—(unit value includes motor) - assessed according to API designation.	
16 D	6,990
25 D	13,130
40 D	16,410
57 D	21,880
80 D	36,530
114 D	37,990
160 D	51,110
228 D	55,490
320 D	70,140
456 D	83,270
640 D	100,830
912 D	106,670
NOTE: For "Air Balance" and "Heavy Duty" units, multiply the above values by 1.30.	
Regenerators (Accumulator)—(see Metering Equipment)	
Regulators:	
per unit	2,800

Table 907.C.1 Surface Equipment	
Property Description	**$ Cost New**
Safety Systems	
Onshore And Marsh Area	
Basic Case:	
well only	5,590
well & production equipment	6,440
with surface op. ssv, add	9,660
Offshore 0 - 3 Miles	
Wellhead safety system (excludes wellhead actuators)	
per well	16,110
production train	40,300
glycol dehydration system	24,190
P/L pumps and LACT	56,400
Compressors	35,430
Wellhead Actuators (does not include price of the valve)	
5,000 psi	4,010
10,000 psi and over	6,020
NOTE: For installation costs - add 25%	
Sampler—(see Metering Equipment—"Fluid Meters")	
Scrubbers—Two Classes	
Class I - Manufactured for use with other major equipment and, at times, included with such equipment as part of a package unit.	
8 In. Diameter Vessel	3,400
10 In. Diameter Vessel	4,860
12 In. Diameter Vessel	5,530
Class II - Small "in-line" scrubber used in flow system usually direct from gas well. Much of this type is "shop-made" and not considered as major scrubbing equipment.	
8 In. Diameter Vessel	1,580
12 In. Diameter Vessel	2,070
NOTE: No metering or regulating equipment included in the above.	
Separators—(no metering equipment included)	
Horizontal—Filter /1,440 psi (High Pressure)	
6-5/8” OD x 5’-6”	4,980
8-5/8” OD x 7’-6”	5,410
10-3/4” OD x 8’-0”	7,600
12-3/4” OD x 8’-0”	10,210
16” OD x 8’-6”	16,410
20” OD x 8’-6”	24,250
20” OD x 12’-0”	25,530
24” OD x 12’-6”	34,400
30” OD x 12’-6”	50,200
36” OD x 12’-6”	59,680
Separators—(no metering equipment included)	
Vertical 2—Phase /125 psi (Low Pressure)	
24” OD x 7’-6”	5,650
30” OD x 10’-0”	6,080
36” OD x 10’-0”	12,700
Vertical 3—Phase /125 psi (Low Pressure)	
24” OD x 7’-6”	5,960
24” OD x 10’-0”	6,750
30” OD x 10’-0”	9,360
36” OD x 10’-0”	13,310
42” OD x 10’-0”	15,440
Horizontal 3—Phase /125 psi (Low Pressure)	
24” OD x 10’-0”	8,810
30” OD x 10’-0”	11,300
36” OD x 10’-0”	12,340
42” OD x 10’-0”	19,690

Table 907.C.1 Surface Equipment	
Property Description	**$ Cost New**
Vertical 2—Phase /1440 psi (High Pressure)	
12-3/4” OD x 5’-0”	3,340
16” OD x 5’-6”	4,980
20” OD x 7’-6”	9,480
24” OD x 7’-6”	11,490
30” OD x 10’-0”	17,500
36” OD x 10’-0”	22,670
42” OD x 10’-0”	36,280
48” OD x 10’-0”	42,790
54” OD x 10’-0”	64,790
60” OD x 10’-0”	81,020
Vertical 3 - Phase /1440 psi (High Pressure)	
16” OD x 7’-6”	5,830
20” OD x 7’-6”	10,210
24” OD x 7’-6”	11,850
30” OD x 10’-0”	18,290
36” OD x 10’-0”	23,400
42” OD x 10’-0”	38,170
48” OD x 10’-0”	44,250
Horizontal 2—Phase /1440 psi (High Pressure)	
16” OD x 7’-6”	5,710
20” OD x 7’-6”	9,180
24” OD x 10’-0”	12,520
30” OD x 10’-0”	19,270
36” OD x 10’-0”	24,430
42” OD x 15’-0”	49,590
48” OD x 15’-0”	57,190
Horizontal 3—Phase /1440 psi (High Pressure)	
16” OD x 7’-6”	8,810
20” OD x 7’-6”	9,850
24” OD x 10’-0”	14,340
30” OD x 10’-0”	20,420
36” OD x 10’-0”	29,420
36” OD x 15’-0”	32,880
Offshore Horizontal 3—Phase /1440 psi (High Pressure)	
30” OD x 10’-0”	42,360
36” OD x 10’-0”	40,420
36” OD x 12’-0”	58,650
36” OD x 15’-0”	61,200
42” OD x 15’-0”	95,000
Skimmer Tanks—(see Flow Tanks in Tanks section)	
Stabilizers—per unit	6,260
Sump/Dump Tanks—(See Metering Equipment -"Fluid Tanks")	
Tanks—no metering equipment	Per
Flow Tanks (receiver or gunbarrel)	Barrel*
50 to 548 bbl. Range (average tank size - 250 bbl.)	39.10
Stock Tanks (lease tanks)	
100 to 750 bbl. Range (average tank size – 300 bbl.)	30.40
Storage Tanks (Closed Top)	
1,000 barrel	25.90
1,500 barrel	22.90
2,000 barrel	22.20
2,001 - 5,000 barrel	20.40
5,001 - 10,000 barrel	19.20
10,001 - 15,000 barrel	18.00
15,001 - 55,000 barrel	12.60
55,001 - 150,000 barrel	9.50
Internal Floating Roof	
10,000 barrel	37.00
20,000 barrel	25.00
30,000 barrel	18.60
50,000 barrel	16.50
55,000 barrel	15.90
80,000 barrel	14.10
100,000 barrel	12.30
*I.E.: (tanks size bbls.) X (no. of bbls.) X (cost-new factor.)	

Table 907.C.1 Surface Equipment	
Property Description	**$ Cost New**
Telecommunications Equipment	
Microwave System	
Telephone & data transmission	
Radio telephone	
Supervisory controls:	48,620
remote terminal unit, well	3,650
master station	10,390
towers (installed):	23,700
heavy duty, guyed, per foot	610
light duty, guyed, per foot	50
heavy duty, self supporting, per foot	620
light duty, self supporting, per foot	130
equipment building, per sq. ft.	180
solar panels, per sq. ft.	60
Utility Compressors	
per horsepower - rated on motor	800
Vapor Recovery Unit—no Metering Equipment	
60 MCF/D or less	21,270
105 MCF/D max	30,390
250 MCF/D max	40,110
Waterknockouts—Includes unit, backpressure valve and regulator, but, no metering equipment.	
2' diam. x 16'	5,770
3' diam. x 10'	8,630
4' diam. x 10'	11,910
6' diam. x 10'	19,510
6' diam. x 15'	22,550
8' diam. x 10'	28,260
8' diam. x 15'	32,460
8' diam. x 20'	35,980
8' diam. x 25'	40,050
10' diam. x 20'	47,100

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	**$ Cost New**
Air and Water Units:	
Above ground	1,360
Below ground	580
Air Compressors:	
1/3 to 1 H.P.	1,820
1/2 to 5 H.P.	3,080
Car Wash Equipment:	
In Bay (roll over brushes)	48,930
In Bay (pull through)	75,950
Tunnel (40 to 50 ft.)	165,320
Tunnel (60 to 75 ft.)	221,230
Drive On Lifts:	8,930
Single Post	10,060
Dual Post	
Lights:	910
Light Poles (each)	1,010
Lights - per pole unit	
Pumps:	3,870
Non-Electronic - self contained and/or remote	5,750
controlled computer	6,540
Single	8,810
Dual	
Computerized - non-self service, post pay, pre/post pay. self contained and/or remote controlled dispensers	
Single	
Dual	
Read-Out Equipment (at operator of self service)	1,430
Per Hose Outlet	

Table 907.C.2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	**$ Cost New**
Signs:	4,320
Station Signs	7,900
6 ft. lighted - installed on 12 ft. pole	3,600
10 ft. lighted - installed on 16 ft. pole	3,680
Attachment Signs (for station signs)	13,080
Lighted "self-serve" (4 x 11 ft.)	17,120
Lighted "pricing" (5 x 9 ft.)	19,150
High Rise Signs - 16 ft. lighted - installed on:	6,950
1 pole	3,680
2 poles	
3 poles	
Attachment Signs (for high rise signs)	
Lighted "self-serve" (5 x 17 ft.)	
Lighted "pricing" (5 x 9 ft.)	
Submerged Pumps—(used with remote control equipment, according to number used - per unit)	3,860
Tanks—(average for all tank sizes) Underground - per gallon	2.20

NOTE: The above represents the cost-new value of modern stations and self-service marketing equipment. Other costs associated with such equipment are included in improvements. Old style stations and equipment should be assessed on an individual basis, at the discretion of the tax assessor, when evidence is furnished to substantiate such action.

*This alternative assessment procedure should be used only when acquisition cost and age are unknown or unavailable. Otherwise, see general business section (Chapter 25) for normal assessment procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1395 (May 2011), LR 38:803 (March 2012), LR 39:490 (March 2013). LR 40:531 (March 2014), LR 41:

Chapter 11. Drilling Rigs and Related Equipment

§1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
3,000	893,000	134,000
4,000	1,010,900	151,600
5,000	1,262,300	189,300
6,000	1,701,100	255,200
7,000	2,278,300	341,700

Table 1103.A Land Rigs		
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
8,000	2,944,100	441,600
9,000	3,650,000	547,500
10,000	4,350,400	652,600
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
11,000	5,005,500	750,800
12,000	5,582,500	837,400
13,000	6,057,900	908,700
14,000	6,419,800	963,000
15,000	6,669,500	1,000,400
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
16,000	6,823,900	1,023,600
17,000	6,917,300	1,037,600
18,000	7,003,600	1,050,500
19,000	7,158,200	1,073,700
20,000	7,479,800	1,122,000
Depth 21,000 + Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
21,000	8,093,200	1,214,000
25,000 +	9,150,500	1,372,600

1. - 2. …

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	**Water Depth Rating**	**Fair Market Value**	**Assessment**
IC	0-199 FT.	$ 54,500,000	$ 8,175,000
	200-299 FT.	108,900,000	16,335,000
	300-Up FT.	217,500,000	32,625,000
IS	0-199 FT.	16,400,000	2,460,000
	200-299 FT.	27,300,000	4,095,000
	300- Up FT.	32,600,000	4,890,000
MC	0-199 FT	5,500,000	825,000
	200-299 FT.	10,900,000	1,635,000
	300- Up FT.	43,600,000	6,540,000
MS	0-249 FT.	11,400,000	1,710,000
	250 FT. and Deeper	22,400,000	3,360,000

IC - Independent Leg Cantilever

IS - Independent Leg Slot

MC - Mat Cantilever

MS - Mat Slot

C. Semisubmersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	**Fair Market Value**	**Assessment**
	$	$
0- 800 FT.	49,700,000	7,455,000
801-1,800 FT.	89,200,000	13,380,000
1,801-2,500 FT.	163,400,000	24,510,000
2,501FT. and Deeper	512,800,000	76,920,000

Note: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

1. - 3.b.i. …

D. Well Service Rigs Land Only

Table 1103.D Well Service Rigs Land Only				
Class	**Mast**	**Engine**	**Fair Market Value (RCNLD)**	**Assessment**
I	71' X 125M# 71' X 150M# 72' X 125M# 72' X 150M# 75' X 150M#	C-7 50 SERIES 6V71	200,000	30,000
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 200M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	C-11 50 SERIES 8V71	250,000	37,500
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	C-11 50 SERIES 8V92	310,000	46,500
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	C-15 60 SERIES 12V71	370,000	55,500
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	C-15 60 SERIES 12V71 12V92	420,000	63,000
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	C-15 60 SERIES 12V71 (2) 8V92	510,000	76,500
VII	117' X 215M#	C-15 60 SERIES (2) 8V92 (2) 12V71	660,000	99,000

D.1. - E.1. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009), LR 36:778 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1399 (May 2011), LR 38:808 (March 2012), LR 39:495 (March 2013), LR 40:536 (March 2014), LR 41:

Chapter 13. Pipelines

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines (Onshore)

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	$174,710	$ 26,210
4	205,200	30,780
6	241,020	36,150
8	283,100	42,470
10	332,520	49,880
12	390,570	58,590
14	458,750	68,810
16	538,830	80,820
18	632,890	94,930
20	743,370	111,510
22	873,140	130,970
24	1,025,570	153,840
26	1,204,600	180,690
28	1,414,880	212,230
30	1,661,870	249,280
32	1,951,980	292,800
34	2,292,730	343,910
36	2,692,970	403,950
38	3,163,070	474,460
40	3,715,240	557,290
42	4,363,810	654,570
44	5,125,580	768,840
46	6,020,340	903,050
48	7,071,300	1,060,700

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines (Offshore)

Table 1307.B Current Costs for Other Pipelines (Offshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	$977,310	$146,600
4	980,420	147,060
6	984,340	147,650
8	1,000,910	150,140
10	1,024,700	153,710
12	1,055,710	158,360
14	1,093,950	164,090
16	1,139,420	170,910
18	1,192,110	178,820
20	1,252,030	187,800
22	1,319,170	197,880
24	1,393,530	209,030
26	1,475,130	221,270
28	1,563,940	234,590
30	1,659,990	249,000
32	1,763,250	264,490
34	1,873,750	281,060
36	1,991,460	298,720
38	2,116,410	317,460
40	2,248,580	337,290
42	2,387,970	358,200
44	2,534,590	380,190
46	2,688,430	403,260
48	2,849,500	427,430

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation)	
Actual Age	26.5 Year Life Percent Good
1	98
2	96
3	94
4	91
5	88
6	86
7	83
8	80
9	77
10	73
11	70
12	67
13	63
14	60
15	56
16	52
17	48
18	44
19	39
20	35
21	33
22	30
23	28
24	26
25	25
26	23
27 and older	20 *

* Reflects residual or floor rate.

NOTE: See §1305.G (page PL-3) for method of recognizing economic obsolescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:684 (April 2008), LR 35:499 (March 2009), LR 36:778 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:496 (March 2013), LR 40:537 (March 2014), LR 41:

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2014	0.992	1	97	.96
2013	1.005	2	93	.93
2012	1.014	3	90	.91

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2011	1.042	4	86	.90
2010	1.075	5	82	.88
2009	1.067	6	78	.83
2008	1.098	7	74	.81
2007	1.141	8	70	.80
2006	1.203	9	65	.78
2005	1.259	10	60	.76
2004	1.354	11	55	.74
2003	1.401	12	50	.70
2002	1.424	13	45	.64
2001	1.433	14	40	.57
2000	1.445	15	35	.51
1999	1.471	16	31	.46
1998	1.476	17	27	.40
1997	1.488	18	24	.36
1996	1.512	19	22	.33
1995	1.536	20	21	.32
1994	1.591	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:499 (March 2009), LR 36:779 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:

Chapter 25. General Business Assets

§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. …

* * *

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2014 = 100*
2014	1	1578.8	0.992
2013	2	1558.7	1.005
2012	3	1545.9	1.014
2011	4	1503.2	1.042
2010	5	1457.4	1.075
2009	6	1468.6	1.067
2008	7	1427.3	1.098
2007	8	1373.3	1.141
2006	9	1302.3	1.203
2005	10	1244.5	1.259
2004	11	1157.3	1.354
2003	12	1118.6	1.401
2002	13	1100.0	1.424

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2014 = 100*
2001	14	1093.4	1.433
2000	15	1084.3	1.445
1999	16	1065.0	1.471
1998	17	1061.8	1.476
1997	18	1052.7	1.488
1996	19	1036.0	1.512
1995	20	1020.4	1.536
1994	21	985.0	1.591
1993	22	958.0	1.636
1992	23	939.8	1.667
1991	24	928.5	1.688
1990	25	910.2	1.721
1989	26	886.5	1.768

*Reappraisal Date: January 1, 2014-1566.9 (Base Year)

C. …

* * *

D. Composite Multipliers 2015 (2016 Orleans Parish)

Table 2503.D Composite Multipliers 2015 (2016 Orleans Parish)									
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr
1	.69	.84	.86	.89	.91	.93	.94	.96	.97
2	.49	.69	.73	.79	.84	.87	.90	.93	.95
3	.34	.53	.58	.68	.77	.81	.86	.91	.94
4	.17	.35	.43	.56	.70	.76	.82	.90	.94
5		.25	.32	.46	.62	.71	.78	.88	.94
6		.19	.20	.35	.52	.62	.73	.83	.90
7			.20	.29	.43	.55	.68	.81	.89
8				.25	.34	.49	.63	.80	.89
9				.24	.29	.43	.59	.78	.88
10					.26	.37	.54	.76	.88
11					.25	.32	.50	.74	.87
12						.31	.43	.70	.87
13						.28	.37	.64	.85
14							.33	.57	.80
15							.30	.51	.75
16							.29	.46	.71
17								.40	.65
18								.36	.58
19								.33	.51
20								.32	.46
21								.32	.45
22									.43
23									.40
24									.34
25									.34
26									.33

1. Data sources for tables are:
   a. Cost Index—Marshall and Swift Publication Co.;
   b. Percent Good—Marshall and Swift Publication Co.;
   c. Average Economic Life—various.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198

(February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:500 (March 2009), LR 36:780 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1402 (May 2011), LR 38:810 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:

Chapter 31. Public Exposure of Assessments; Appeals

§3101. Public Exposure of Assessments, Appeals to the Board of Review and Board of Review Hearings

A. - I. …

J. The Board of Review shall provide each appellant taxpayer with a written notice of their particular appeal determination with a copy simultaneously submitted to the assessor and the Tax Commission on or before the certification of the assessment list to the Tax Commission. The Board of Review notice of determination shall simultaneously be deposited in the United States Mail by certified mail (return receipt requested) to the Louisiana Tax Commission, the assessor and the taxpayer. The taxpayer address shall be at the address, provided by the taxpayer, shown on the appeal. The Board of Review may not create a cumulative notice to multiple taxpayers who are represented by the same taxpayer representative. The Board of Review may, however, send the multiple separate individual taxpayer determinations to the taxpayer representative compiled, organized and grouped by taxpayer in one certified mailing.

K. The determination of the Board of Review shall be final unless appealed, in writing, to the Tax Commission within 15 business days after the date of deposit of the simultaneous certified mail to the appealing taxpayer and assessor of the Board of Review notice of determination. Either or both parties may appeal the Board of Review determination to the Tax Commission.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1992, R.S. 47:2301 and R.S. 47:2321.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:501 (March 2009), LR 36:781 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 38:811 (March 2012), LR 40:539 (March 2014), LR 41:

§3103. Appeals to the Louisiana Tax Commission

A. ...

B. An appeal to the Louisiana Tax Commission shall be filed by depositing in the United States Mail by certified mail (return receipt requested) with the commission within 15 business days after the Board of Review's written decision was mailed to the appealing taxpayer and assessor. In order to institute a proceeding before the commission, the taxpayer or assessor shall file by depositing in the United States Mail by certified mail (return receipt requested) Form 3103.A and, if applicable, Form 3103.B.

1. The assessor shall confirm, in writing, to the Tax Commission that the Board of Review has issued a written determination to each taxpayer and to the assessor's office in the format required by §3101(J). Upon filing an appeal to the Louisiana Tax Commission, the appealing party must simultaneously by deposit in the United States Mail by certified mail (return receipt requested) to the other party that an appeal was filed with the Louisiana Tax Commission. Failure to timely notify the other party, as provided herein, shall void the appeal to the Louisiana Tax Commission.

C. All filings to the Louisiana Tax Commission shall be filed in proper form, consisting of an original and seven (7) copies on letter size paper, with the Office of the Administrator. All exhibits, where it is helpful, to the consideration of such exhibits, shall be indexed, numbered, color coded, tabbed or otherwise so identified as to provide ready accessibility. All appeals and filings shall be deemed filed when deposited with the United States Postal Service and can be evidenced by proof of mailing by registered or certified mail.

C.1. - P. …

Q. Documents and papers offered into evidence for a hearing before the commission shall be marked as exhibits and bound. All exhibits, where it is helpful, to the consideration of such exhibits, shall be indexed, numbered, color coded, tabbed or otherwise so identified as to provide ready accessibility. Seven (7) copies of all exhibits shall be provided to the commission, with a copy to the opposing party ten (10) days prior to the scheduled appeal. Exhibits offered by a taxpayer shall be marked "Exhibit Taxpayer____" and shall be consecutively numbered. The taxpayer shall, at the time an exhibit is offered, state whether the exhibit contains information not furnished to the assessor before the end of the period for public exposure of the assessment lists. Exhibits offered by the assessor shall be marked "Exhibit Assessor_____" and shall be consecutively numbered. Exhibits offered by the commission or its staff representative shall be marked "Exhibit Tax Commission_____" and shall be consecutively numbered. Legal memorandum submitted by the parties will be made part of the record of proceedings before the commission, but shall not be filed as exhibits to be offered into evidence for the hearing before the commission.

R. - T. …

U. The parties to an appeal shall be simultaneously notified in writing, by United States Mail by certified mail (return receipt requested), of the final decision by the commission. The taxpayer or assessor shall have 30 days from certified mailing date of the Order to appeal to a court of competent jurisdiction. The Louisiana Tax Commission may not create a cumulative notice to multiple taxpayers who are represented by the same taxpayer representative. The Louisiana Tax Commission may, however, send the multiple separate individual taxpayer determinations compiled, organized and grouped by taxpayer to the taxpayer representative in one certified mailing.

V. …

W. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents for a hearing may be issued by the commission upon its own motion, or upon the written request of the taxpayer or assessor. No subpoena shall be issued until the party who

wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient. The form of subpoena attached hereto as Form SUBP.T-2 (found on the Tax Commission's website under General Forms), or a reasonable variation thereof, shall be filled out and presented with the subpoena request. Service of the subpoena may be accomplished by any of the methods prescribed by the Louisiana Administrative Procedure Act.

X. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

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§3105. Practice and Procedure for Public Service Property Hearings

A. - P. …

Q. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents at a hearing, may be issued by the commission upon its own motion, or upon the written request of the taxpayer. No subpoenas shall be issued until the taxpayer who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient. The form of subpoena attached hereto as Form SUBP.T-2 (found on the Tax Commission's website under General Forms), or a reasonable variation thereof, shall be filled out and presented with the subpoena request. Service of the subpoena may be accomplished by any of the methods prescribed by the Louisiana Administrative Procedure Act.

R. - S. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 30:492 (March 2004), LR 31:723 (March 2005), LR 32:438 (March 2006), LR 33:499 (March 2007), LR 34:689 (April 2008), LR 36:782 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:

§3106. Practice and Procedure for Appeal of Bank Assessments

A. - Q. …

R. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents at a hearing, may be issued by the commission upon its own motion, or upon the written request of the taxpayer. No subpoenas shall be issued until the taxpayer who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient. The form of subpoena attached hereto as Form SUBP.T-2 (found on the Tax Commission's website under General Forms), or a reasonable variation thereof, shall be filled out and presented with the subpoena request. Service of the subpoena may be accomplished by any of the methods prescribed by the Louisiana Administrative Procedure Act.

S. - T. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:499 (March 2007), LR 34:690 (April 2008), LR 36:782 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:

§3107. Practice and Procedure for Appeal of Insurance Credit Assessments

A. - Q. …

R. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents at a hearing, may be issued by the commission upon its own motion, or upon the written request of the taxpayer. No subpoenas shall be issued until the taxpayer who wishes to subpoena the witness first deposits with the agency a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Any subpoena duces tecum shall allow no less than five days to assimilate and to deliver said documents subpoenaed by the subpoena recipient. The form of subpoena attached hereto as Form SUBP.T-2 (found on the Tax Commission's website under General Forms), or a reasonable variation thereof, shall be filled out and presented with the subpoena request. Service of the subpoena may be accomplished by any of the methods prescribed by the Louisiana Administrative Procedure Act.

S. - T. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:501 (March 2007), LR 34:690 (April 2008), LR 36:782 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:

Chapter 35. Miscellaneous

§3501. Service Fees - Tax Commission

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period

beginning on July 1, 2014, and ending on June 30, 2018, in connection with services performed by the Tax Commission as follows.

1. A fee for assessing public service property, at the rate of .01 percent of the assessed value, to be paid by each public service property which pays ad valorem taxes.

2. A fee for assessing insurance companies, at the rate of .015 percent of the assessed value, to be paid by each insurance company which pays ad valorem taxes.

3. A fee for assessing financial institutions, at the rate of .015 percent of the assessed value, to be paid by each bank and capital stock association which pays ad valorem taxes.

B. - E. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002), LR 30:493 (March 2004), LR 31:724 (March 2005), LR 32:439 (March 2006), LR 33:502 (March 2007), LR 35:501 (March 2009), LR 37:1403 (May 2011), LR 41:

James D. "Pete" Peters
Chairman

1412#051

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Board of Pharmacy

Pharmacy Compounding (LAC 46:LIII.Chapter 25)

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

The U.S. Congress passed the Drug Quality and Security Act (DQSA) in November 2013. The first portion of that law amended several portions of the federal Food, Drug and Cosmetic Act. Subsequent to the effective date of that new law on November 27, 2013, the federal Food and Drug Administration (FDA) issued preliminary and final guidance to compounding pharmacies. Within the final guidance issued by the FDA on July 1, 2014, there are a number of requirements that compounding pharmacies must comply with in order to be eligible for an exemption to all of the other provisions applicable to the manufacturing of drugs. Among other provisions, the new law established a clear definition of compounding that requires the necessity of a patient-specific prescription. There is no authority for the compounding of medications in the absence of a patient-specific prescription.

New language in the DQSA includes the creation of a new category of provider known as outsourcing facilities. These facilities are registered and regulated by the federal FDA, and they are permitted to prepare products for practitioners without a patient-specific prescription, using quality guidelines that are more stringent than the quality guidelines used by pharmacies for their compounding activities.

The preparation of compounds in the absence of a patient-specific prescription is now construed as manufacturing as opposed to compounding. Compounding by pharmacies is regulated by the board. Manufacturing is regulated by the federal FDA. In an abundance of caution for the health, safety and welfare of Louisiana citizens, the board seeks to repeal the current Rule which allows the compounding of preparations without the necessity of a patient-specific prescription.

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The Declaration of Emergency is effective December 5, 2014 and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 25. Prescriptions, Drugs, and Devices
Subchapter C. Compounding of Drugs
§2531. Purpose and Scope

A. Purpose. The rules of this Subchapter describe the requirements of minimum current good compounding practices for the preparation of drug formulations by Louisiana-licensed pharmacists, pharmacy interns, pharmacy technicians, and pharmacy technician candidates for dispensing and/or administration to patients.

B. Scope. These requirements are intended to apply to all compounded preparations, sterile and non-sterile, regardless of the location of the patient, e.g., home, hospital, nursing home, hospice, or practitioner's office.

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 29:2105 (October 2003), effective January 1, 2004, LR 41:

§2533. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section.

* * *

Preparation—a compounded drug dosage form or dietary supplement or a device to which a compounder has introduced a drug. This term will be used to describe compounded formulations.

* * *

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 29:2105 (October 2003), effective January 1, 2004, LR 41:

§2535. General Standards

A. Compounding Practices. Compounded medications may be prepared using prescription medications, over-the-counter medications, chemicals, compounds, or other components.

1. A pharmacy shall have written procedures as necessary for the compounding of drug preparations to assure that the finished preparations have the identity, strength, quality, and purity they are represented to possess.

2. All compounding activities shall be accomplished utilizing accepted pharmacy techniques, practices, and equipment, as well as the Federal Food, Drug and Cosmetic Act of 1938 as subsequently amended, most recently in November 2013 (FDCA), the 2014 edition of title 21 of the *Code of Federal Regulations* (CFR), and all relevant chapters of the 2014 edition of the United States Pharmacopeia-National Formulary (USP 37-NF 32).

a. The compounding of sterile preparations pursuant to the receipt of a patient-specific prescription shall comply with the provisions of section 503A of the FDCA and USP chapter 797.

b. The compounding of non-sterile preparations pursuant to the receipt of a patient-specific prescription shall comply with the provisions of section 503A of the FDCA and USP chapter 795.

c. The compounding of preparations for veterinary use shall comply with the provisions of section 530 of title 21 of the CFR.

d. The compounding of positron emission tomography (PET) drugs shall comply with the provisions of section 212 of title 21 of the CFR.

3. Products or duplicates of products removed from the market for the purposes of safety shall not be used to compound prescriptions for human use.

B. Board Notification. An applicant or pharmacy permit holder who wishes to engage in the compounding of sterile preparations shall notify the board and shall receive approval from the board prior to beginning that practice.

C. Training and Education. All individuals compounding sterile preparations shall:

1. obtain practical and/or academic training in the compounding and dispensing of sterile preparations;

2. complete a minimum of one hour of Accreditation Council for Pharmacy Education (ACPE) accredited or board-approved continuing education, on an annual basis, related to sterile drug preparation, dispensing, and utilization;

3. use proper aseptic technique in compounding of all sterile preparations, as defined by the pharmacy practice site's policy and procedure manual;

4. qualify through an appropriate combination of specific training and experience to operate or manipulate any item of equipment, apparatus, or device to which such persons will be assigned to use to make and dispense sterile preparations; and

5. maintain in the pharmacy practice site a written record of initial and subsequent training and competency evaluations. The record shall contain the following minimum information:

a. name of the individual receiving the training/evaluation;

b. date of the training/evaluation;

c general description of the topics covered;

d. signature of the individual receiving the training/evaluation; and

e. name and signature of the individual providing the training/evaluation.

D. Anticipated Use Preparations. The pharmacist shall label any excess compounded preparation so as to reference it to the formula used and the assigned lot number and estimated beyond use date based on the pharmacist's professional judgment and/or other appropriate testing or published data.

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

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

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

F. Labeling of Compounded Preparations

1. The labeling requirements of R.S. 37:1225, or its successor, as well as this Chapter, shall apply.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1316 (October 1997), amended LR 29:2105 (October 2003), effective January 1, 2004, LR 41:

§2537. Requirements for Compounding Sterile Products

Repealed.

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 29:2106 (October 2003), effective January 1, 2004, repealed LR 41:

Malcolm J. Broussard
Executive Director

1412#034

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.Chapter 31 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which amended the provisions governing disproportionate share hospital (DSH) payments to hospitals participating in public-private partnerships in the south and north Louisiana areas (*Louisiana Register*, Volume 39, Numbers 7 and 10).

As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the corresponding State Plan Amendments, the department determined that it was necessary to repeal the provisions of the July 6, 2013 and October 1, 2013 Emergency Rules governing DSH payments to the hospitals participating in the south and north Louisiana area public-private partnerships.

The department promulgated an Emergency Rule which amended the provisions governing DSH payments in order to establish payments to Louisiana Low-Income Academic Hospitals (*Louisiana Register*, Volume 40, Number 6). The department subsequently promulgated an Emergency Rule which amended the provisions of the May 24, 2014 Emergency Rule to clarify the provisions governing the payment methodology to Louisiana Low-Income Academic Hospitals (*Louisiana Register*, Volume 40, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2014 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective January 19, 2015 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing DSH payments to Low-Income Academic Hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 31. Louisiana Low-Income Academic Hospitals

§3101. Qualifying Criteria

A. Hospitals Located Outside of the Lake Charles Metropolitan Statistical Area

1. Effective for dates of service on or after May 24, 2014, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located outside of the Lake Charles metropolitan statistical area (MSA);

b. having uninsured patient utilization, as measured by allowable uninsured inpatient and outpatient charges, greater than 20 percent. Qualification shall be based on uninsured utilization data per the prior state fiscal year date of service time period; and

c. maintaining at least 15 unweighted intern and resident full-time equivalent positions, as reported on the Medicare Cost Report Worksheet E-4, line 6.

B. Hospitals Located In the Lake Charles Metropolitan Statistical Area

1. Effective for dates of service on or after May 24, 2014, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located in the Lake Charles MSA;

b. having uninsured patient utilization, as measured by allowable uninsured inpatient and outpatient charges, greater than 10 percent. To determine qualification in state fiscal year 2014, the first six month dates of service time period (July 1, 2013 through December 31, 2013) shall be used. In subsequent state fiscal years, qualification shall be based on uninsured utilization data per the prior state fiscal year date of service time period; and

c. maintaining at least 20 unweighted intern and resident full-time equivalent positions, as reported on the Medicare Cost Report Worksheet E-4, line 6.

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:

§3103. Payment Methodology

A. Each qualifying hospital shall be paid DSH adjustment payments equal to 100 percent of allowable hospital specific uncompensated care costs subject to the Appropriations Act. DSH payments to qualifying hospitals shall not exceed the disproportionate share limits as defined in Section 1923(g)(1) (A) of the Social Security Act for the state fiscal year to which the payment is applicable.

B. Payment Calculation

1. For the initial year's payment calculation, each qualifying hospital shall submit interim actual cost data calculated utilizing Medicaid allowable cost report principles, along with actual Medicaid and uninsured patient charge data.

Annual Medicaid costs shortfalls and unreimbursed uninsured patient costs are determined based on review and analysis of these submissions.

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

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

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

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

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

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

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:

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

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

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

Kathy H. Kliebert
Secretary

1412#085

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Family Planning Services
(LAC 50:XV.Chapters 251-255)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.Chapters 251-255 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to establish a new optional eligibility group under the Medicaid State Plan to provide coverage for family planning services and supplies (*Louisiana Register*, Volume 40, Number 6). The department promulgated an Emergency Rule which amended the provisions governing family planning services to revise and clarify the provisions of the June 20, 2014 Rule (*Louisiana Register*, Volume 40, Number 6). The department promulgated an Emergency Rule which amended the provisions of the June 20, 2014 Emergency Rule in order to revise the formatting of these provisions in order to ensure that the provisions are appropriately incorporated into the *Louisiana Administrative Code* (*Louisiana Register*, Volume 40, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2014 Emergency Rule. This action is being taken to avoid sanctions or federal penalties from the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) for noncompliance with federal requirements and to insure that the provisions of this rule are properly formatted in the *Louisiana Administrative Code*.

Effective January 19, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing family planning State Plan services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 17. Family Planning Services

Chapter 251. General Provisions

§25101. Purpose

A. Effective July 1, 2014, the Medicaid Program shall provide coverage of family planning services and supplies under the Medicaid State Plan, to a new targeted group of individuals who are otherwise ineligible for Medicaid. This new optional coverage group may also include individuals receiving family planning services through the Section 1115 demonstration waiver, Take Charge Program, if it is determined that they meet the eligibility requirements for the state plan family planning services.

B. The primary goals of family planning services are to:

1. increase access to services which will allow improved reproductive and physical health;
2. improve perinatal outcomes; and
3. reduce the number of unintended pregnancies.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1097 (June 2014), amended LR 40:

Chapter 253. Eligibility Criteria

§25301. Recipient Qualifications

A. Recipients who qualify for family planning services in the new categorically needy group include individuals of child bearing age who meet the following criteria:

1. women who are not pregnant and have income at or below 138 percent of the federal poverty level; and
2. men who have income at or below 138 percent of the federal poverty level.
3. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1097 (June 2014), amended LR 41:

Chapter 255. Services

§25501. Covered Services

A. Medicaid covered family planning services include:

1. seven office visits per year for physical examinations or necessary re-visits as it relates to family planning or family planning-related services;
2. contraceptive counseling (including natural family planning), education, follow-ups and referrals;
3. laboratory examinations and tests for the purposes of family planning and management of sexual health;
4. pharmaceutical supplies and devices to prevent conception, including all methods of contraception approved by the Federal Food and Drug Administration; and
   a. - c. Repealed.
5. male and female sterilization procedures and follow-up tests provided in accordance with 42 CFR 441, subpart F.

B. Family planning-related services include the diagnosis and treatment of sexually transmitted diseases or infections, regardless of the purpose of the visit at which the disease or infection was discovered. Medicaid covered family planning-related services include:

1. diagnostic procedures, drugs and follow-up visits to treat a sexually transmitted disease, infection or disorder identified or diagnosed at a family planning visit (other than HIV/AIDS or hepatitis);
2. annual family planning visits for individuals, both males and females of child bearing age, which may include:
   a. a comprehensive patient history;
   b. physical, including breast exam;
   c. laboratory tests; and
   d. contraceptive counseling;
3. vaccine to prevent cervical cancer;
4. treatment of major complications from certain family planning procedures; and
5. transportation services.

C. - C.5. 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 40:1098 (June 2014), amended LR 41:

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

Kathy H. Kliebert
Secretary

1412#086

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities

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

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

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities adopted provisions establishing the Residential Options Waiver (ROW), a home and community-based services (HCBS) waiver program, to promote independence for individuals with developmental disabilities by offering a wide array of services, supports and residential options that assist individuals to transition from institutional care (Louisiana Register, Volume 33, Number 11). The department promulgated an Emergency Rule which amended the November 20, 2007 Rule to revise the provisions governing the allocation of waiver opportunities and the delivery of services in order to provide greater clarity (Louisiana Register, Volume 36, Number 4). As a result of a budgetary shortfall in state fiscal year 2011, the department promulgated an Emergency Rule which amended the provisions governing the Residential Options Waiver to clarify the provisions governing the annual service budget for waiver participants and to reduce the reimbursement rates for waiver services (Louisiana Register, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the May 1, 2010 Emergency Rule to incorporate the provisions of the August 1, 2010 Emergency Rule (Louisiana Register, Volume 36, Number 8). The department promulgated an Emergency Rule which amended the provisions of the August 20, 2010 Emergency Rule governing the allocation of waiver opportunities in order to adopt criteria for crisis diversion, to revise the provisions governing the individuals who may be offered a waiver opportunity, and to clarify the provisions governing the Developmental Disabilities Request for Services Registry (*Louisiana Register*, Volume 37, Number 6). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2011 Emergency Rule. This action is being taken to comply with the provisions of the approved waiver application and to secure enhanced federal funding.

Effective January 10, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities amend the provisions governing the Residential Options Waiver.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 13. Residential Options Waiver
Chapter 161. General Provisions

§16101. Introduction

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

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16103. Program Description

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

B. ROW offers an alternative to institutional care that:

1. utilizes a wide array of services, supports and residential options which best meet the individual's needs and preferences;

2. meets the highest standards of quality and national best practices in the provision of services; and

3. ensures health and safety through a comprehensive system of participant safeguards.

4. Repealed.

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

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

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

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

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

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

G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16105. Participant Qualifications

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

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

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

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

4. be a resident of Louisiana; and

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

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

1 - 3.c. Repealed.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities, LR 41:

§16106. Money Follows the Person Rebalancing Demonstration

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

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

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

1. Participants with a developmental disability must:

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and Office for Citizens with Developmental Disabilities, LR 41:

§16107. Programmatic Allocation of Waiver Opportunities

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

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

a. - e. Repealed.

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

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

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

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

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

a. requests for crisis diversion shall be made through OCDD. To be considered for a crisis diversion opportunity, the individual must need long-term supports, not temporary or short-term supports;

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

i. homeless;

ii. at imminent risk of losing current residential placement;

iii. referred by the judicial system;

iv. referred by child, adult, or elderly protective authorities;

v. without a caregiver and cannot adequately care for self;

vi. with a caregiver who can no longer provide care; or

vii. whose needs cannot be met within a community living situation;

3. children who:

a. are from birth to age 18;

b. reside in a nursing facility;

c. meet the high-need requirements for a nursing facility level of care, as well as the ROW level of care requirements;

d. participate in the MFP Rebalancing Demonstration; and

e. have parents or legal guardians who wish to transition them to a home and community-based residential services waiver;

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

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

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

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

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

C.1. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2441 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16109. Admission Denial or Discharge Criteria

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

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

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

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

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

5. The individual resides in another state.

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

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

8. Repealed.

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

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

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

3. loss of developmental disability system eligibility;

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

5. change of residence to another state;

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

Chapter 163. Covered Services

§16301. Assistive Technology and Specialized Medical Equipment and Supplies

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

1. have life support;
2. address physical conditions;
3. increase ability to perform activities of daily living;
4. increase, maintain or improve ability to function more independently in the home and/or community; and
5. increase ability to perceive, control or communicate.

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

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

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

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

1.a. - 7.Repealed.

D. ...

E. Service Exclusions

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

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

1. be enrolled in the Medicaid Program as a assistive devices or durable medical equipment provider and must meet all applicable vendor standards and requirement for manufacturing, design and installation of technological equipment and supplies;
2. furnish written documentation of authorization to sell, install and/or repair technological equipment and supplies from the respective manufacturer of the designated equipment and supplies; and
3. provide documentation of individual employees' training and experience with the application, use, fitting and repair of the equipment or devices which they propose to sell or repair;
   a. upon completion of the work and prior to payment, the provider shall give the participant a certificate of warranty for all labor and installation and all warranty certificates.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16303. Community Living Supports

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

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

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

C. ...

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

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

E. - E.1. ...

2. Routine care and supervision that is normally provided by the participant's spouse or family, and services provided to a minor by the child's parent or step-parent, are not covered.

3. CLS services may not be furnished in a home that is not leased or owned by the participant or the participant's family.

4. Participants may not live in the same house as CLS staff.

5. Room and board or maintenance, upkeep and improvement of the individual's or family's residence is not covered.

6. Community living supports shall not be provided in a licensed respite care facility.

a. - d. Repealed.

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

a. Shared Living;

b. Home Host; or

c. Companion Care.

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

a. day habilitation;

b. prevocational;

c. supported employment;

d. respite-out of home services; or

e. transportation-community access.

F. - F.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2443 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16305. Companion Care

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

1. providing assistance with all of the activities of daily living as indicated in the participant's POC; and

2. community integration and coordination of transportation services, including medical appointments.

3. Repealed.

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

1. - 2. Repealed.

C. Provider Responsibilities

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

a. - c. …

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

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

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

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

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

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

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

a. - b. Repealed.

D. Companion Responsibilities

1. The companion is responsible for:

a. participating in and abiding by the POC;

b. …

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

E. Service Limits

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

F. Service Exclusions

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

a. respite care service-out of home;

b. shared living;

c. community living supports; or

d. host home.

2. - 2.d.Repealed.

G. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2444 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16307. Day Habilitation Services

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

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

2. …

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

B. Day habilitation services shall:

1. focus on enabling participants to attain maximum skills;

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

3. - 4. …

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

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

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

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

e. no rounding up of hours is allowed.

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

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

2. - 4.c. Repealed.

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

E. Service Exclusions

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

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

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

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

a. community living supports;

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

c. respite care services—out of home.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16309. Dental Services

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

1. diagnostic services;
2. preventative services;
3. restorative services;
4. endodontic services;
5. periodontal services;
6. removable prosthodontics services;
7. maxillofacial prosthetics services;
8. fixed prosthodontics services;
9. oral and maxillofacial surgery
10. orthodontic services; and
11. adjunctive general services.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2445 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16311. Environmental Accessibility Adaptations

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

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

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

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

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

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

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

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

1. installation of ramps and grab-bars;

2. widening of doorways;

3. modification of bathroom facilities; or

4. installation of specialized electric and plumbing systems.

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

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

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

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

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

a. Host Home; or

b. Shared Living settings which are provider owned or leased.

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

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

2. Repealed.

H. Service Exclusions for Vehicle Adaptations

1. Payment will not be made to:

a. adapt vehicles that are owned or leased by paid caregivers or providers of waiver services, or

b. to purchase or lease a vehicle.

2. - 4. ...

I. Provider Responsibilities

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

a. - b. Repealed.

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

a. Repealed.

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

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

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

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

a. In addition, these providers must:

i. meet the applicable state and/or local requirements governing their licensure or certification; and

ii. comply with the applicable state and local building or housing code standards governing home modifications.

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2446 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16313. Host Home

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

1. Repealed.

B. Host home services include:

1. assistance with the activities of daily living sand adaptive living needs;

2. assistance to develop leisure interests and daily activities in the home setting;

3. assistance to develop relationships with other members of the household;

4. supports in accessing community services, activities and pursuing and developing recreational and social interests outside the home; and

5. teaching community living skills to achieve participant's goals concerning community and social life as well as to maintain contacts with biological families and natural supports.

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

1. arranging for a host home;

2. making an initial and periodic inspections of the host home; and

3. providing 24-hour oversight and supervision of Host Home services including providing emergency services and back-up for the scheduled and nonscheduled absences of the contractor;

a. Repealed.

D. Host Home contractors are responsible for:

1. assisting with the development of the participant's POC and complying with the provisions of the plan;

2. maintaining and providing data to assist in the evaluation of the participant's personal goals

3. maintaining adequate records to substantiate service delivery and producing such records upon request;

4. undergoing any specialized training deemed necessary by the provider agency, or required by the department, to provide supports in the Host Home setting; and

5. immediately reporting to the department and applicable authorities any major issues or concerns related to the participant's safety and well-being.

6. - 10. Repealed.

E. ...

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

1. - I.1. ...

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

a. - 3. …

J. Provider Qualifications

1. All agencies must:

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2447 (November 2007) , amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16315. Intensive Community Supports

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2448 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16317. Nursing Services

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

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

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

3. Repealed.

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

1. - 2. ...

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

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

D. Provider Qualifications

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

E. Staffing Requirements

1. ...

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

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

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

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

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

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

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

a. volunteer nursing experience; or

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

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

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

Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16319. One Time Transitional Services

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

1. - 1.d.iii. Repealed.

B. Allowable transitional expenses may include:

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

2. set up fees for utilities;

3. essential furnishings to establish basic living arrangements, including:

a. bedroom and living room furniture;

b. table and chairs;

c. window blinds; and

d. food preparation items and eating utensils;

4. set-up/deposit fee for telephone service;

5. moving expenses; and

6. health and safety assurances including:

a. pest eradication; or

b. one-time cleaning prior to occupancy.

C. Service Limits

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

D. Service Exclusions

1. One time transitional services may not be used to pay for:

a. housing, rent or refundable security deposits; or

b. furnishings or setting up living arrangements that are owned or leased by a waiver provider.

2. One time transitional services are not available to participants who are receiving host home services.

3. One time transitional services are not available to participants who are moving into a family member's home.

E. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2449 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16321. Personal Emergency Response System (PERS)

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

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

1. …

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

3. …

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

D. Service Exclusions

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

E. Provider Qualifications

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2249 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16323. Prevocational Services

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

1. - 2.b....

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

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

a. - c. ...

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

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

a. Repealed.

D. Service Limits

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

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

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

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

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

d. no rounding up of hours is allowed.

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

a. - 5.a. Repealed.

E. Service Exclusions

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

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

a. community living supports;

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

c. respite care services—out of home.

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16325. Professional Services

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

1. - 8.a. Repealed.

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

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

C. Professional services may be utilized to:

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

a. - b. Repealed.

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

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

a. Repealed.

4. provide consultative services and recommendations;

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

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

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

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

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

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

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

D. Service Exclusions

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

a. Repealed.

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

a. - d. Repealed.

E. Provider Qualifications

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

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

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

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

2. Provider agency enrollment of professional services.

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

i. a Medicare certified free-standing rehabilitation center;

ii. a licensed home health agency;

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

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

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

i. employing the professionals; or

ii. contracting with the professionals.

c. Provider agencies are required to verify that all professionals employed by or contracted with their agency meet the same qualifications required for individual practitioners as stated in §16325.E.1.a-c.

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

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

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

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

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

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

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

a. volunteer experience; or

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2450 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16327. Respite Care Services—Out of Home

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

1. A licensed respite care facility shall insure that community activities are available to the participant in accordance with the approved POC, including transportation to and from these activities.

a. …

2. While receiving respite care services, the participant's routine is maintained in order to attend school, school activities, or other community activities that he/she would typically participate in if not in the center-based respite facility.

B. Service Limits

1. Respite care services are limited to 720 hours per participant per POC year.

2. Requests for an extension of the service limit are subject to the department's established approval process and require proper justification and documentation.

C. Service Exclusions

1. …

2. Respite care services—out of home may not be billed for participants receiving the following services:

a. shared living;

b. companion care; or

c. host home.

d. Repealed.

D. Provider Qualifications. The provider must possess a current, valid license as a respite care center issued by the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2451 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16329. Shared Living Services

A. Shared living services assist the participant in acquiring, retaining and improving the self-care, adaptive and leisure skills needed to reside successfully in a shared home setting within the community. Services are chosen by the participant and developed in accordance with his/her goals and wishes with regard to compatibility, interests, age and privacy in the shared living setting.

1. A shared living services provider delivers supports which include:

a. 24-hour staff availability;

b. assistance with activities of daily living included in the participant's POC;

c. a daily schedule;

d. health and welfare needs;

e. transportation;

f. any non-residential ROW services delivered by the Shared Living services provider; and

g. other responsibilities as required in each participant's POC.

2. - 3. Repealed.

B. An ICF/DD may elect to permanently relinquish its ICF/DD license and all of its Medicaid Facility Need Review approved beds from the total number of Certificate of Need (CON) beds for that home and convert it into a shared living waiver home or in combination with other ROW residential options as deemed appropriate in the approved conversion agreement.

1. In order to convert, provider request must be approved by the department and by OCDD.

2. ICF/DD residents who choose transition to a shared living waiver home must also agree to conversion of their residence.

3. If choosing ROW services, persons may select any ROW services and provider(s) based upon freedom of choice.

C. Shared Living Options

1. Shared Living Conversion Option. The shared living conversion option is only allowed for providers of homes which were previously licensed and Medicaid certified as an ICF/DD for up to a maximum of eight licensed and Medicaid-funded beds on October 1, 2009.

a. The number of participants for the shared living conversion option shall not exceed the licensed and Medicaid-funded bed capacity of the ICF/DD on October 1, 2009, or up to six individuals, whichever is less.

b. The ICF/DD used for the shared living conversion option must meet the department's operational, programming and quality assurances of health and safety for all participants.

c. The provider of shared living services is responsible for the overall assurances of health and safety for all participants.

d. The provider of shared living conversion option may provide nursing services and professional services to participants utilizing this residential services option.

2. Shared Living Non-Conversion (New) Option. The shared living non-conversion option is allowed only for new or existing ICF/DD providers to establish a shared living waiver home for up to a maximum of three individuals.

a. The shared living waiver home must be located separate and apart from any ICF/DD.

b. The shared living waiver home must be either a home owned or leased by the waiver participants or a home owned or leased and operated by a licensed shared living provider.

c. The shared living waiver home must meet department's operational, programming and quality assurances for home and community-based services.

d. The shared living provider is responsible for the overall assurances of health and safety for all participants.

D. Service Exclusions

1. ...

2. Payments shall not be made for environmental accessibility adaptations when the provider owns or leases the residence.

3. Participants may receive one-time transitional services only if the participant owns or leases the home and the service provider is not the owner or landlord of the home.

a. - d. Repealed.

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

5. Transportation-community access services cannot be billed or provided for participants receiving shared living services, as this is a component of shared living services.

6. The following services are not available to participants receiving shared living services:

a. community living supports;

b. respite care services;

c. companion care;

d. host home; or

e. personal emergency response system.

E. Provider Qualifications. Providers must be approved by the department and have a current, valid license as a supervised independent living agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16331. Specialized Medical Equipment and Supplies

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2452 (November 2007), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16333. Support Coordination

A. Support coordination services are provided to all ROW participants to assist them in gaining access to needed waiver services, Medicaid State Plan services, as well as needed medical, social, educational and other services, regardless of the funding source for the services. Support coordinators provide information and assistance to waiver participants by directing and managing their services in compliance with the rules and regulations governing case management services.

1. Support coordinators shall be responsible for ongoing monitoring of the provision of services included in the participant's approved POC.

2. Support coordinators shall also participate in the evaluation and re-evaluation of the participant's POC.

B. Support coordinators are responsible for providing assistance to participants who choose the self-direction option with their review of the Self-Direction Employer Handbook and for being available to these participants for on-going support and help with carrying out their employer responsibilities.

C. Provider Qualifications. Providers must have a current, valid license as a case management agency and meet all other requirements for targeted case management services as set forth in LAC 50:XV.Chapter 105 and the Medicaid Targeted Case Management Manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16335. Supported Employment

A. Supported employment provides assistance in an integrated work setting to assist in the achievement and attainment of work related skills and includes on-going support to maintain employment.

1. - 3. Repealed.

B. Supported employment services include:

1. …

2. services that assist a participant to develop and operate a micro-enterprise;

a. This service consists of:

i. assisting the participant to identify potential business opportunities;

ii. …

iii. identification of the supports that are necessary in order for the participant to operate the business; and

iv. …

3. enclave services which is an employment situation in competitive employment in which a group of eight or fewer workers with disabilities are working at a particular work setting. The workers with disabilities may be disbursed throughout the company and among workers without disabilities or congregated as a group in one part of the business;

4. mobile work crews which is a group of eight or fewer workers with disabilities who perform work in a variety of locations under the supervision of a permanent employment specialist (job coach/supervisor); and

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

C. Service Limits

1. The required minimum number of service hours per day per participant is as follows for:

a. individual placement services, the minimum is one hour;

b. services that assist a participant to develop and operate a micro-enterprise, the minimum is one hour;

c. an enclave, the minimum is 2.5 hours; and

d. a mobile work crew, the minimum is 2.5 hours.

2. Two half-day units may be billed if the participant spends a minimum of five hours at the service site.

3. Participants may receive more than one vocational or habilitative service per day as long as the service and billing requirements for each service are met.

4. Transportation to and from the service site is offered and billable as a component of the support employment service; however, transportation is payable only when a supported employment service is provided on the same day.

D. Service Exclusions

1. ...

2. Any time less than one hour for individual placement and micro-enterprise is not billable or payable.

3. - 3.c….

4. Any time less than 2.5 hours for enclaves and mobile crews is not billable or payable.

5. ...

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

6. - 6.c….

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

8. No rounding up of hours is allowed.

E. Provider Qualifications. In order to enroll in the Medicaid Program, providers must have a compliance certificate from the Louisiana Rehabilitation Services as a community rehabilitation program or a current, valid license as an Adult Day Care Center.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2453 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16337. Transportation-Community Access

A. Transportation-community access services enable participants to gain access to waiver and other community services, activities and resources. These services are necessary to increase independence, productivity, community inclusion and to support self-directed employees benefits as outlined in the participant's POC. Transportation-community access services shall be offered as documented in the participant's approved POC.

1. The participant must be present to receive this service.

2. Whenever possible, the participant must utilize the following resources for transportation:

a. - b. ...

B. Service Limits

1. Community access trips are limited to three per day and must be arranged for geographic efficiency.

2. Greater than three trips per day require approval from the department or its designee.

a. Repealed.

C. Service Exclusions

1. Transportation services offered through ROW shall not replace the medical transportation services covered under the Medicaid State Plan or transportation services provided as a means to get to and from school.

2. Separate payment will not be made for transportation-community access and the following services:

a. shared living services; or

b. community living services.

3. Transportation-community access will not be used to transport participants to day habilitation, pre-vocational, or supported employment services.

D. Provider Qualifications. Friends and family members who furnish transportation-community access services to waiver participants must be enrolled as Medicaid friends and family transportation providers.

1. In order to receive reimbursement for transporting Medicaid recipients to waiver services, family and friends must maintain:

a. the state minimum automobile liability insurance coverage;

b. a current state inspection sticker; and

c. a current valid driver's license.

2. No special inspection by the Medicaid agency will be conducted.

a. - b. Repealed.

3. Documentation of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the Medicaid agency is sought. Acceptable documentation shall be the signed statement of the individual enrolling for payment that all three requirements are met.

a. The statement must also have the signature of two witnesses.

4. Family and friends transportation providers are limited to transporting up to three specific waiver participants.

E. Vehicle Requirements. All vehicles utilized by for profit and non-profit transportation services providers for transporting waiver recipients must comply with all of the applicable state laws and regulations and are subject to inspection by the department or its designee.

1. - G. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2454 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

Chapter 165. Self-Direction Initiative

§16501. Self-Direction Service Option

A. The self-direction initiative is a voluntary, self-determination option which allows the waiver participant to coordinate the delivery of designated ROW services through an individual direct support professional rather than through a licensed, enrolled provider agency. Selection of this option requires that the recipient utilize a payment mechanism approved by the department to manage the required fiscal functions that are usually handled by a provider agency.

B. Recipient Responsibilities. Waiver participants choosing the self-direction service option must understand the rights, risks and responsibilities of managing their own care and individual budget. If the participant is unable to make decisions independently, he must have an authorized representative who understands the rights, risks and responsibilities of managing his care and supports within his individual budget. Responsibilities of the participant or authorized representative include:

1. - 2. …

a. Participants must adhere to the health and welfare safeguards identified by the support team, including:

i. …

ii. compliance with the requirement that employees under this option must have criminal background checks prior to working with waiver participants;

3. …

a. This annual budget is determined by the recommended service hours listed in the participant's POC to meet his needs.

b. The participant's individual budget includes a potential amount of dollars within which the participant, or his authorized representative, exercises decision-making responsibility concerning the selection of services and service providers.

C. Termination of Self-Direction Service Option. Termination of participation in the self-direction service option requires a revision of the POC, the elimination of the fiscal agent and the selection of the Medicaid-enrolled waiver service provider(s) of choice.

1. Voluntary Termination. The waiver participant may choose at any time to withdraw from the self-direction service option and return to the traditional provider agency management of services.

2. Involuntary termination. The department may terminate the self-direction service option for a participant and require him to receive provider-managed services under the following circumstances:

a. the health or welfare of the participant is compromised by continued participation in the self-direction service option;

b. the participant is no longer able to direct his own care and there is no responsible representative to direct the care;

c. there is misuse of public funds by the participant or the authorized representative; or

d. over three payment cycles in the period of a year, the participant or authorized representative:

i. …

ii. fails to follow the Personal Purchasing Plan and the POC;

C.2.d.iii. - D. …

E. Relief coverage for scheduled or unscheduled absences, which are not classified as respite care services, can be covered by other participant-directed providers and the terms can be part of the agreement between the participant and the primary Companion Care provider.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

Chapter 167. Provider Participation

§16701. General Provisions

A. …

1. meet all of the requirements for licensure and the standards for participation in the Medicaid Program as a home and community-based services provider in accordance with state laws and the rules promulgated by the department;

2. comply with the regulations and requirements specified in LAC 50:XXI, Subparts 1 and 13 and the ROW provider manual;

3. comply with all of the state laws and regulations for conducting business in Louisiana, and when applicable, with the state requirements for designation as a non-profit organization; and

4. comply with all of the training requirements for providers of waiver services.

B. Providers must maintain adequate documentation to support service delivery and compliance with the approved POC and provide said documentation upon the department's request.

C. In order for a provider to bill for services, the waiver participant and the direct service worker or professional services practitioner rendering service must be present at the time the service is rendered.

1. Exception. The following services may be provided when the participant is not present:

a. - c. ...

2. All services must be documented in service notes which describe the services rendered and progress towards the participant's personal outcomes and his/her POC.

D. If transportation is provided as part of a waiver service, the provider must comply with all of the state laws and regulations applicable to vehicles and drivers.

E. All services rendered shall be prior approved and in accordance with the POC.

F. Providers, including direct care staff, cannot live in the same residence as the participant, except Host Home contractors and Companion Care workers.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2455 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16703. Staffing Restrictions and Requirements

A. Payments shall not be made to persons who are legally responsible for the care of the waiver participants which include:

1. parents of minor children;
2. spouses for each other;
3. legal guardians for adults or children with developmental disabilities; or
4. parents for their adult child with developmental disabilities, regardless of the legal status of the adult child.

B. In order to receive payment, relatives must meet the criteria for the provision of the service and the same provider qualifications specified for the service as other providers not related to the participant.

1. Relatives must also comply with the following requirements:

a. become an employee of the participant's chosen waiver provider agency;

b. become a Medicaid enrolled provider agency; or

c. if the self-direction option is selected, relatives must:

i. become an employee of the self-direction participant; and

ii. have a Medicaid provider agreement executed by the fiscal agent as authorized by the Medicaid agency.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

Chapter 169. Reimbursement

§16901. Reimbursement Methodology

A. Reimbursement for the following services shall be a prospective flat rate for each approved unit of service provided to the waiver participant. One quarter hour (15 minutes) is the standard unit of service, which covers both the service provision and administrative costs for these services:

1. - 3.e.…

f. registered dietician;

4. support coordination; or
5. supported employment:

a. individual placement; and

b. micro-enterprise.

6. Repealed.

B. The following services are reimbursed at the cost of the adaptation device, equipment or supply item:

1. environmental accessibility adaptations; and

a. upon completion of the environmental accessibility adaptations and prior to submission of a claim for reimbursement, the provider shall give the participant a certificate of warranty for all labor and installation work and supply the participant with all manufacturers' warranty certificates;

2. assistive technology/specialized medical equipment and supplies.

3. Repealed.

C. The following services are reimbursed at a per diem rate:

1. …
2. companion cares; and
3. shared living services;

a. Per diem rates are established based on the number of individuals sharing the living service module for both shared living non-conversion and shared living conversion services.

D. The following services are reimbursed at a per one-half-day unit of service based on a minimum of 2.5 hours spent on-site by the participant:

1. day habilitation;
2. pre-vocational; and
3. supported employment:

a. mobile crew; and

b. enclave.

E. ...

F. Nursing services are reimbursed at either an hourly or per visit rate for the allowable procedure codes.

G. ...

H. Transition expenses from an ICF/DD or nursing facility to a community living setting are reimbursed at the cost of the service(s) up to a lifetime maximum rate of $3,000.

I. - J. ...

K. Effective for dates of service on or after August 1, 2010, the reimbursement for residential options waiver services shall be reduced by 2 percent of the rates in effect on July 31, 2010.

1. The following services shall be excluded from the rate reduction:

a. personal emergency response services;

b. environmental accessibility adaption services;

c. specialized medical equipment and supplies; and

d. support coordination services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

§16903. Direct Support Staff Wages

A. In order to maximize staffing stability and minimize turnover among direct support staff, providers of the following services furnished under the Residential Options Waiver are required to pay direct support workers an hourly wage that is at least 29 percent ($1.50) more than the federal minimum wage in effect as of July 23, 2007 or the current federal minimum wage, whichever is higher:

1. community living supports;
2. respite services—out of home;

3. shared living;
4. day habilitation;
5. pre-vocational services; and
6. supported employment.
7. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 33:2456 (November 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 41:

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

Kathy H. Kliebert
Secretary

1412#087

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Laboratory and Radiology Services
Reimbursement Methodology
Manual Pricing
(LAC 50:XIX.Chapter 43)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50: XIX.4329 and §§4334-4337 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for laboratory and radiology services to reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 5). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for laboratory and radiology services to adopt a manual pricing payment methodology for covered services that do not have Medicare established rates (*Louisiana Register*, Volume 40, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2014 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to Medicaid covered services.

Effective January 17, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for laboratory and radiology services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XIX. Other Services
Subpart 3. Laboratory and X-Ray
Chapter 43. Billing and Reimbursement
Subchapter B. Reimbursement

§4329. Laboratory Services (Physicians and Independent Laboratories)

A. - L.3.a. …

M. Effective for dates of service on or after May 20, 2014, the reimbursement for laboratory services shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If laboratory services do not have Medicare established rates, fees will be based on review of statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3028 (October 2011), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:95 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1284 (May 2013), LR 41:

§4334. Radiology Services

A. - J. …

K. Effective for dates of service on or after May 20, 2014, the reimbursement for radiology services shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If radiology services do not have Medicare established rates, fees will be based on review of statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:

§4335. Portable Radiology Services

A. - H. …

I. Effective for dates of service on or after May 20, 2014, the reimbursement for portable radiology services shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If portable radiology services do not have Medicare established rates, fees will be based on review of

statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

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 30:1026 (May 2004), amended LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:

§4337. Radiation Therapy Centers

A. - H. …

I. Effective for dates of service on or after May 20, 2014, the reimbursement for radiology services provided by radiation therapy centers shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If radiology services provided by radiation therapy centers do not have Medicare established rates, fees will be based on review of statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:

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

Kathy H. Kliebert
Secretary

1412#088

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility
Medically Needy Program
Behavioral Health Services
(LAC 50:III.2313)

The Department of Health and Hospitals, Bureau of Health Services Financing hereby repeals and replaces all of the Rules governing the Medically Needy Program, and adopts LAC 50:III.2313 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgated a Rule in order to reinstate the Title XIX Medically Needy Program (MNP) and to establish coverage restrictions (*Louisiana Register*, Volume 24, Number 5). All Behavioral health services are restricted from coverage under the Medically Needy Program.

In February 2012, the department adopted provisions in the Medicaid Program to restructure the existing behavioral health services delivery system into a comprehensive service delivery model called the Louisiana Behavioral Health Partnership (LBHP). Certain recipients enrolled in the Medically Needy Program, whose Medicaid eligibility is based solely on the provisions of §1915(i) of Title XIX of the Social Security Act, are eligible to only receive behavioral health services. These recipients have difficulties accessing behavioral health services through the LBHP due to the service restrictions currently in place in the Medically Needy Program.

Therefore, the department promulgated an Emergency Rule which revised the provisions governing the Medically Needy Program in order to include behavioral health coverage for MNP recipients that qualify for the program under the provisions of §1915(i) of Title XIX of the Social Security Act. This Emergency Rule also repealed and replaced all of the Rules governing the Medically Needy Program in order to repromulgate these provisions in a clear and concise manner for inclusion in the *Louisiana Administrative Code* in a codified format (*Louisiana Register*, Volume 38, Number 12).

The department promulgated an Emergency Rule which amended the provisions governing the Medically Needy Program to further clarify the provisions governing covered services (*Louisiana Register*, Volume 39, Number 4). The department promulgated an Emergency Rule which amended the April 20, 2013 Emergency Rule to further clarify the provisions governing covered services (*Louisiana Register*, Volume 40, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2014 Emergency Rule.

This action is being taken to promote the health and welfare of MNP recipients who are in need of behavioral health services, and to assure their continued access to these services.

Effective January 18, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the Medically Needy Program.

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

§2313. Medically Needy Program

A. The Medically Needy Program (MNP) provides Medicaid coverage when an individual's or family's income and/or resources are sufficient to meet basic needs in a

categorical assistance program, but not sufficient to meet medical needs according to the MNP standards.

1. The income standard used in the MNP is the federal Medically Needy Income Eligibility Standard (MNIES).

2. Resources are not applicable to child-(C-) related MNP cases.

3. MNP eligibility cannot be considered prior to establishing income ineligibility in a categorically related assistance group.

B. MNP Eligibility Groups

1. Regular Medically Needy

a. Children and parents who meet all of the low-income families with children (LIFC) related categorical requirements and whose income is at or below the MNIES are eligible to receive Regular MNP benefits. Regular Medically Needy coverage is only applicable to individuals included in the C-related category of assistance.

b. Individuals in the aged (A-), blind (B-), or disability (D-) related categorical assistance groups cannot receive Regular MNP.

c. The certification period for Regular MNP cannot exceed six months.

2. Spend-Down Medically Needy

a. Spend-Down MNP is considered after establishing financial ineligibility in Regular MNP or other categorically related Medicaid programs and excess income remains. Allowable medical bills/expenses incurred by the income unit are used to reduce (spend-down) the income to the allowable MNP limits.

b. The following individuals may be considered for Spend-Down MNP:

i. individuals or families who meet all of the LIFC related categorical requirements;

ii. non-institutionalized individuals (A-, B-, or D-related categories); and

iii. institutionalized individuals or couples (A-, B-, or D-related categories) with Medicare co-insurance whose income has been spent down to the MNIES.

c. The certification period for Spend-Down MNP begins no earlier than the spend-down date and shall not exceed three months.

3. Long Term Care (LTC) Spend-Down MNP

a. Individuals or couples residing in Medicaid LTC facilities, not on Medicare-coinsurance with resources within the limits, but whose income exceeds the special income limits (three times the current Federal Benefit Rate), are eligible for LTC Spend-Down MNP.

4. C-Related Caretaker Relative MNP

a. A qualified relative may be included in a C-related MNP certification as a caretaker relative. There must be at least one minor child applying for or enrolled in Medicaid. A caretaker relative for MNP purposes is an adult who:

i. is in the LIFC income unit with a minor child;

ii. is a qualified relative of a child who is eligible for Supplemental Security Income (SSI), Prohibited AFDC Provisions (PAP), or Child Health and Maternity Program (CHAMP); and

iii. is not eligible for inclusion in the Medicaid certification of a sibling(s) because of income.

b. An essential person may be included with a qualified relative in an MNP caretaker relative certification, but there can be no essential person if there is no qualified relative certified in C-related MNP.

i. Stepparents or individuals who do not meet the above LIFC essential person criteria must qualify for Medicaid as individuals under the A, B, or D categorical assistance groups.

5. Louisiana Behavioral Health Partnership (LBHP) 1915(i) MNP

a. The LBHP Medically Needy Program is considered only for the individuals who meet the level of need requirements of §1915 of Title XIX of the Social Security Act, and who have been determined to be ineligible for other full Medicaid programs, including the Regular MNP and Spend-Down MNP.

b. LBHP 1915(i) MNP recipients are only eligible to receive behavioral health services through the LBHP. They do not qualify for other Medicaid covered services.

c. The certification period for LBHP 1915(i) Regular MNP recipients cannot exceed six months. For the LBHP 1915(i) Spend-Down MNP, the certification period begins no earlier than the spend-down date and shall not exceed three months.

C. The following services are covered in the Medically Needy Program for non-1915(i) recipients:

1. inpatient and outpatient hospital services;
2. intermediate care facilities for persons with intellectual disabilities (ICF/ID) services;
3. intermediate care and skilled nursing facility (ICF and SNF) services;
4. physician services, including medical/surgical services by a dentist;
5. nurse midwife services;
6. certified registered nurse anesthetist (CRNA) and anesthesiologist services;
7. laboratory and x-ray services;
8. prescription drugs;
9. Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services;
10. rural health clinic services;
11. hemodialysis clinic services;
12. ambulatory surgical center services;
13. prenatal clinic services;
14. federally qualified health center services;
15. family planning services;
16. durable medical equipment;
17. rehabilitation services (physical therapy, occupational therapy, speech therapy);
18. nurse practitioner services;
19. medical transportation services (emergency and non-emergency);
20. home health services for individuals needing skilled nursing services;
21. chiropractic services;
22. optometry services;
23. podiatry services;
24. radiation therapy; and
25. behavioral health services.

D. The following behavioral health services are covered for LBHP 1915(i) MNP recipients:

1. inpatient and outpatient hospital services;
2. emergency medical services;
3. physician/psychiatrist services;

4. treatment by a licensed mental health professional;
5. community psychiatric support and treatment;
6. psychosocial rehabilitation;
7. crisis intervention;
8. case conference [1915(b) services];
9. treatment planning [1915(b) services]; and
10. prescription drugs.

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:

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

Kathy H. Kliebert
Secretary

1412#089

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Medical Transportation Program
Emergency Aircraft Transportation
Rotor Winged Ambulance Services Rate Increase
(LAC 50:XXVII.353)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXVII.353 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In anticipation of a budgetary shortfall in state fiscal year 2013 as a result of the reduction in the state's disaster recovery Federal Medical Assistance Percentage (FMAP) rate, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing emergency medical transportation services to reduce the reimbursement rates (*Louisiana Register*, Volume 40, Number 7). The department promulgated an Emergency Rule which amended the provisions governing reimbursement for emergency medical aircraft transportation in order to increase the rates for services originating in rural areas (*Louisiana Register*, Volume 40, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 1, 2014 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to emergency medical aircraft transportation services.

Effective December 31, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for emergency medical aircraft transportation services to increase the reimbursement rates for rural areas.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXVII. Medical Transportation Program
Chapter 3. Emergency Medical Transportation
Subchapter C. Aircraft Transportation
§353. Reimbursement

A. - H. ...

I. Effective for dates of service on or after September 1, 2014, the reimbursement rates for rotor winged emergency air ambulance services, which originate in areas designated as rural and/or super rural by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, shall be increased to the following rates:

l. base rate, $4,862.72 per unit; and
2. mileage rate, $33.65 per unit.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 35:70 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2594 (November 2010), amended LR 37:3029 (October 2011), LR 39:1285 (May 2013), LR 40:1379 (July 2014), LR 41:

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

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

Kathy H. Kliebert
Secretary

1412#090

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Nursing Facilities
Licensing Standards
(LAC 48:I.9704, 9707, and Chapter 99)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 48:I.9704, §9707 and Chapter 99 in the Medical Assistance Program as authorized by R.S. 36:254. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:953(B)(1)et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the licensing standards governing nursing

facilities in order to clarify the provisions for Alzheimer's special care disclosure, and to revise the provisions governing approval of plans and physical environment (*Louisiana Register*, Volume 40, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2014 Emergency Rule. This action is being taken to promote the health and well-being of Louisiana residents in nursing facilities.

Effective January 17, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the licensing standards for nursing facilities.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 97. Nursing Facilities
Subchapter A. General Provisions
§9704. Alzheimer's Special Care Disclosure

A. - D.5....

E. The provider's Alzheimer's special care disclosure documentation shall contain the following information:

1. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.121-1300.125.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 27:312 (March 2001), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9707. Approval of Plans

A. Plans and specifications for new construction of, or to, a nursing facility, and for any major alterations or renovations to a nursing facility, shall be submitted for approval to the Department of Public Safety, Office of the State Fire Marshal for review in accordance with R.S. 40:1563(L), R.S.40:1574 and LAC 55:V:Chapter 3.

1. Plans and specifications for new construction, major alterations, and major renovations shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer where required by the Louisiana architecture and engineering licensing laws of R.S. 37:141, et seq., R.S. 37:681 et seq. and respective implementing regulations.

2. No residential conversions shall be considered for a nursing facility license.

B. The plans and specifications shall comply with all of the following:

1. DHH nursing facility licensing requirements and the Office of Public Health's (OPH) nursing home regulations (see LAC 51:XX); and

2. the Office of the State Fire Marshal's requirements for plan submittals and compliance with all codes required by that office.

2.a - 3. Repealed.

C. Notice of satisfactory review from the department and the Office of the State Fire Marshal constitutes compliance with this requirement, if construction begins within 180 days of the date of such notice. This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes, or rules of any responsible agency.

C.1 - E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:46 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:2630 (September 2011), amended LR 41:

Chapter 99. Nursing Facilities
Subchapter A. Physical Environment
§9901. General Provisions

A. The nursing facility shall be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.

B. The nursing facility shall provide a safe, clean, orderly, homelike environment.

C. If the nursing facility determines that a licensing provision of this Subchapter A prohibits the provision of a culture change environment, the nursing facility may submit a written waiver request to the Health Standards Section (HSS) of the Department of Health and Hospitals, asking that the provision be waived and providing an alternative to the licensing provision of this subchapter. The department shall consider such written waiver request, shall consider the health and safety concerns of such request and the proposed alternative, and shall submit a written response to the nursing facility within 60 days of receipt of such waiver request.

D. Any construction-related waiver or variance request of any provision of the Public Health Sanitary Code (LAC 51) shall be submitted in writing to the State Health Officer for his/her consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9903. Nurse/Care Team Work Areas

A. Each floor and/or household of a nursing facility shall have a nurse/care team work area in locations that are suitable to perform necessary functions. These nurse/care team work areas may be in centralized or decentralized locations, as long as the locations are suitable to perform necessary functions.

1. Each centralized nurse/care team area shall be equipped with working space and accommodations for recording and charting purposes by nursing facility staff with secured storage space for in-house resident records.

a. Exception. Accommodations for recording and charting are not required at the central work area where decentralized work areas are provided.

2. Each decentralized work area, where provided, shall contain working space and accommodations for recording and charting purposes with secured storage space for administrative activities and in-house resident records.

3. The nurse/care team work areas shall be equipped to receive resident calls through a communication system from resident rooms, toileting and bathing facilities.

a. In the case of an existing centralized nurse/care team work area, this communication may be through audible or visible signals and may include wireless systems.

b. In those facilities that have moved to decentralized nurse/care team work areas, the facility may

utilize other electronic systems that provide direct communication from the resident to the staff.

B. There shall be a medicine preparation room or area. Such room or area shall contain a work counter, preparation sink, refrigerator, task lighting and lockable storage for controlled drugs.

C. There shall be a clean utility room on each floor designed for proper storage of nursing equipment and supplies. Such room shall contain task lighting and storage for clean and sterile supplies.

D. There shall be a separate soiled utility room designed for proper cleansing, disinfecting and sterilizing of equipment and supplies. At a minimum, it shall contain a clinical sink or equivalent flushing-rim sink with a rinsing hose or bed pan sanitizer, hand washing facilities, soiled linen receptacles and waste receptacle. Each floor of a nursing facility shall have a soiled utility room.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9905. Resident Rooms

A. ...

B. Each resident's bedroom shall have a floor at or above grade level, shall accommodate a maximum of two residents, and be so situated that passage through another resident's bedroom is unnecessary.

1. Exception. Resident bedrooms in existing nursing facilities shall be permitted to accommodate no more than four residents unless the cost of renovations to the existing nursing facility exceeds the values stipulated by R.S. 40:1574.

C. Private resident bedrooms shall measure at least 121 square feet of bedroom area, exclusive of wardrobes, closet space, vestibules or toilet rooms, and shall have a clear width of not less than 11 feet.

D. Double occupancy resident bedrooms containing two beds shall measure at least 198 square feet of bedroom area, exclusive of wardrobes, closet space, vestibules or toilet rooms, and shall have a clear width of not less than 11 feet.

E. In existing nursing facilities, or portions thereof, where plans were approved by the department and the Office of State Fire Marshal prior to January 20, 1998, there shall be at least three feet between the sides and foot of the bed and any wall, other fixed obstruction, or other bed, unless the furniture arrangement is the resident's preference and does not interfere with service delivery.

F. Each resident's bedroom shall have at least one window to the outside atmosphere with a maximum sill height of 36 inches. Windows with sills less than 30 inches from the floor shall be provided with guard rails.

1. Each resident's bedroom window shall be provided with shades, curtains, drapes, or blinds.

2. Operable windows shall be provided with screens.

G. - H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:62 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9907. Resident Room Furnishings

A. ...

1. a clean supportive frame in good repair;

2. - 5. ...

B. Screens or noncombustible ceiling-suspended privacy curtains which extend around the bed shall be provided for each bed in multi-resident bedrooms to assure resident privacy. Total visual privacy without obstructing the passage of other residents either to the corridor, closet, lavatory, or adjacent toilet room nor fully encapsulating the bedroom window shall be provided.

C. Each resident shall be provided with a call device located within reach of the resident.

D. Each resident shall be provided a bedside table with at least two drawers. As appropriate to resident needs, each resident shall have a comfortable chair with armrests, waste receptacle, and access to mirror unless medically contraindicated.

1. Each resident who has tray service to his/her room shall be provided with an adjustable overbed table positioned so that the resident can eat comfortably.

E. Each resident shall be provided an individual closet that has minimum dimensions of 1 foot 10 inches in depth by 2 feet 6 inches in width. A clothes rod and shelf shall be provided that is either adjustable or installed at heights accessible to the resident. Accommodations shall be made for storage of full-length garments. The shelf may be omitted if the closet provides at least two drawers. The following exceptions may apply.

1. Individual wardrobe units having nominal dimensions of 1 foot 10 inches in depth by 2 feet 6 inches in width are permitted. A clothes rod and shelf shall be provided that is either adjustable or installed at heights accessible to the resident. Accommodations shall be made for storage of full-length garments. The shelf may be omitted if the unit provides at least two drawers.

2. In existing nursing facilities, or portions thereof, where plans were approved by the department and the State Fire Marshal prior to January 20, 1998, each resident shall be provided an individual wardrobe or closet that has nominal dimensions of 1 foot 10 inches in depth by 2 feet in width.

F. Each resident shall be provided with a bedside light or over-the-bed light capable of being operated from the bed.

1. Nursing facilities, or portions thereof, where plans were approved by the department and the State Fire Marshal prior to May 1, 1997 shall be exempt from this provision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9909. Locked Units, Restraints and Seclusion

A. Locked Units

1. Nursing facilities may have specific locked units for housing residents suffering from severe dementia or Alzheimer's disease. The locked units may only house, limit and restrict free access of those residents suffering from

severe dementia or Alzheimer's who may be a danger to themselves or others.

2. Nursing facilities providing locked units shall develop admission criteria. There shall be documentation in the resident's record to indicate the unit is the least restrictive environment possible, and placement in the unit is needed to facilitate meeting the resident's needs.

3. Guidelines for admission shall be provided to the resident, his/her family and his/her authorized representative.

4. Locked units are designed and staffed to provide the care and services necessary for the resident's needs to be met.

a. The locked unit shall have designated space for dining and/or group and individual activities that is separate and apart from the resident bedrooms and bathrooms;

b. The dining space shall contain tables for eating within the locked unit.

c. The activities area(s) shall contain seating, and be accessible to the residents within the locked unit.

5. There shall be sufficient staff to respond to emergency situations in the locked unit at all times.

6. The resident on the locked unit has the right to exercise those rights which have not been limited as a result of admission to the unit.

7. Care plans shall address the reasons for the resident being in the unit and how the nursing facility is meeting the resident's needs.

8. All staff designated to provide care and services on locked units shall have training regarding unit policies and procedures, admission and discharge criteria, emergency situations and the special needs of the residents on the unit.

9. Admission to a locked unit shall be in compliance with R.S. 40:1299.53 and 40:2010.8.

B. Restraints. The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms.

C. Seclusion. The resident has the right to be free from verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.

D. - G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9911. Hand-Washing Stations, Toilet Rooms and Bathing Facilities

A. A hand-washing station shall be provided in each resident room.

1. Omission of this station shall be permitted in a single-bed or two-bed room when a hand-washing station is located in an adjoining toilet room that serves that room only.

B. Each resident shall have access to a toilet room without having to enter the corridor area. In nursing facilities built prior to August 26, 1958, each floor occupied by residents shall be provided with a toilet room and hand-washing station.

1. One toilet room shall serve no more than two residents in new construction or no more than two resident rooms in renovation projects. In nursing facilities built prior to August 26, 1958, toilets and hand-washing stations shall each be provided at a rate of 1 per 10 beds or fraction thereof.

2. Toilet rooms shall be easily accessible, conveniently located, well lighted and ventilated to the outside atmosphere. Fixtures shall be of substantial construction, in good repair and of such design to enable satisfactory cleaning.

3. Separate male and female toilet rooms for use by staff and guests shall be provided.

4. Each toilet room shall contain a toilet, hand-washing station and mirror.

5. Doors to single-use resident toilet rooms shall swing out of the room.

6. Doors to single-use resident toilet rooms shall be permitted to utilize privacy locks that include provisions for emergency access.

7. In multi-use toilet rooms provisions shall be made for resident privacy.

C. Each floor occupied by residents shall be provided with a bathing facility equipped with a toilet, hand-washing station, and bathing unit consisting of a bathtub, shower, or whirlpool unit.

Table. Repealed.

1. A minimum of one bathtub, shower, or whirlpool unit shall be provided for every 10 residents, or fraction thereof, not otherwise served by bathing facilities in resident rooms. In nursing facilities built prior to August 26, 1958, showers or tubs shall each be provided at a rate of 1 per 15 beds or fraction thereof.

2. Bathing facilities shall be easily accessible, conveniently located, well lighted and ventilated to the outside atmosphere. Fixtures shall be of substantial construction, in good repair, and of such design to enable satisfactory cleaning.

3. Tub and shower bottoms shall be of nonslip material. Grab bars shall be provided to prevent falling and to assist in maneuvering in and out of the tub or shower.

4. Separate bathing facilities shall be provided for employees who live on the premises.

5. In multi-use bathing facilities provisions shall be made for resident privacy.

6. Wall switches for controlling lighting, ventilation, heating or any other electrical device shall be so located that they cannot be reached from a bathtub, shower, or whirlpool.

D. - H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:63 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9913. Dining and Resident Activities

A. The nursing facility shall provide one or more areas designated for resident dining and activities.

B. Smoking is not permitted in the dining room and other public areas as specified by R.S. 40:1300.256(B)(11).

C. Dining room(s) or dining area(s) shall be sufficient in space and function to accommodate the needs of the residents without restriction. Dining areas shall be adequately furnished, well lighted, and well ventilated. Dining areas shall be sufficient in space to comfortably accommodate the persons who usually occupy that space, including persons who utilize walkers, wheelchairs and other ambulating aids or devices.

D. There shall be at least one well lighted and ventilated living/community room with sufficient furniture.

E. There shall be sufficient space and equipment to comfortably accommodate the residents who participate in group and individual activities. These areas shall be well lighted and ventilated and be adequately furnished to accommodate all activities.

F. Areas used for corridor traffic or for storage of equipment shall not be considered as areas for dining or activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9915. Linen and Laundry

A. The nursing facility shall have available, at all times, a quantity of bed and bath linen essential for proper care and comfort of residents.

B. - G. ...

H. Clean linen shall be transported and stored in a manner to prevent its contamination.

I. Nursing facilities providing in-house laundry services shall have a laundry system designed to eliminate crossing of soiled and clean linen.

J. Nursing facilities that provide in house laundry services and/or household washers and dryers shall have policies and procedures to ensure safety standards, infection control standards and manufacturer's guidelines are met.

K. There shall be hand washing facilities available for use in any designated laundry area.

L. Provisions shall be made for laundering personal clothing of residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9917. Equipment and Supplies

A. The nursing facility shall maintain all essential mechanical, electrical, and resident care equipment in safe operating condition.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§9919. Other Environmental Conditions

A. A hard surfaced off-the-road parking area to provide parking for one car per five licensed beds shall be provided. This is a minimum requirement and may be exceeded by local ordinances. Where this requirement would impose an unreasonable hardship, a written request for a lesser amount may be submitted to the department for waiver consideration.

B. The nursing facility shall make arrangements for an adequate supply of safe potable water even when there is a loss of normal water supply. Service from a public water supply must be used, if available. Private water supplies, if used, shall meet the requirements of the LAC Title 51 *Public Health—Sanitary Code.*

C. An adequate supply of hot water shall be provided which shall be adequate for general cleaning, washing and sanitization of cooking and food service dishes and other utensils and for bathing and laundry use. Hot water supply to the hand washing and bathing faucets in the resident areas shall have automatic control to assure a temperature of not less than 100˚F, nor more than 120˚F, at the faucet outlet. Supply system design shall comply with the Louisiana State Plumbing Code and shall be based on accepted engineering procedures using actual number and types of fixtures to be installed.

D. The nursing facility shall be connected to the public sewerage system, if such a system is available. Where a public sewerage is not available, the sewerage disposal system shall conform to the requirements of the LAC Title 51 *Public Health—Sanitary Code*.

E. The nursing facility shall maintain a comfortable sound level conducive to meeting the need of the residents.

F. All plumbing shall be properly maintained and conform to the requirements of the LAC Title 51 *Public Health—Sanitary Code*.

G. All openings to the outside atmosphere shall be effectively screened. Exterior doors equipped with closers in air conditioned buildings need not have screens.

H. Each room used by residents shall be capable of being heated to a minimum of 71˚F in the coldest weather and capable of being cooled to a maximum of 81˚F in the warmest weather.

I. Lighting levels in all areas shall be adequate to support task performance by staff personnel and independent functioning of residents. A minimum of 6' to 10' candelas over the entire stairway, corridors, and resident rooms measured at an elevation of 30 inches above the floor and a minimum of 20' to 30' candelas over areas used for reading or close work shall be available.

J. Corridors used by residents shall be equipped on each side with firmly secured handrails, affixed to the wall. Handrails shall comply with the requirements of the state adopted accessibility guidelines.

K. There shall be an effective pest control program so that the nursing facility is free of pest and rodent infestation.

L. - R. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 24:64 (January 1998), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1412#091

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Nursing Facilities—Reimbursement Methodology
Supplemental Payments (LAC 50:II.20029)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:II.20029 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption if the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Medicaid reimbursement to non-state, government-owned or operated nursing facilities for long-term care services provided to Medicaid recipients. The department now proposes to amend the provisions governing the reimbursement methodology for nursing facilities to adopt provisions for supplemental Medicaid payments to qualifying non-state, government-owned or operated nursing facilities that enter into an agreement with the department. This action is being taken to promote the health and welfare of Medicaid recipients, ensure sufficient provider participation in the Nursing Facilities Program, and maintain adequate recipient access to nursing facility services. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately $1,813,075 for FY 2014-2015.

Effective November 22, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to establish supplemental Medicaid payments for non-state, government-owned and operated nursing facilities.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20029. Supplemental Payments

A. Effective for dates of service on or after November 22, 2014, any nursing facility that is owned or operated by a non-state governmental entity may qualify for a Medicaid supplemental payment adjustment, in addition to the uniform Medicaid rates paid to nursing facilities.

B. The supplemental Medicaid payment to a non-state, government-owned or operated nursing facility shall not exceed the facility's upper payment limit (UPL) pursuant to 42 CFR 447.272.

C. Payment Calculations. The Medicaid supplemental payment adjustment shall be calculated as follows. For each state fiscal year (SFY), the Medicaid supplemental payment shall be calculated as the difference between:

1. the amount that the department reasonably estimates would have been paid to nursing facilities that are owned or operated by a non-state governmental entity using the Medicare resource utilization groups (RUGs) prospective payment system. For each Medicaid resident that is in a nursing facility on the last day of a calendar quarter, the minimum data set (MDS) assessment that is in effect on that date is classified using the Medicare RUGs system. The Medicare rate applicable to the Medicare RUG, adjusted by the Medicare geographic wage index, equals the Medicaid resident's estimated Medicare rate. A simple average Medicare rate is determined for each nursing facility by summing the estimated Medicare rate for each Medicaid resident in the facility and dividing by total Medicaid residents in the facility; and

2. the Medicaid per diem rate for nursing facilities that are owned or operated by a non-state governmental entity. The Medicaid rate shall be adjusted to include laboratory, radiology, and pharmacy services to account for program differences in services between Medicaid and Medicare. The statewide average of laboratory, radiology, and pharmacy services is calculated using Medicaid cost report data.

D. Each participating nursing facility's upper payment limit (UPL) gap shall be determined as the difference between the estimated Medicare rate calculated in §20029.C.1 and the adjusted Medicaid rate calculated in §20029.C.2.

1. Each facility's UPL gap is multiplied by the Medicaid days to arrive at its supplemental payment amount. Medicaid days are taken from the Medicaid cost report.

E. Frequency of Payments and Calculations

1. For each calendar quarter, an estimated interim supplemental payment will be calculated as described in this Section utilizing the latest Medicare RUGs and payment rates and Medicaid cost reports and available Medicaid payment rates. Payments will be made to each nursing facility that is owned or operated by a non-state governmental entity and that has entered into an agreement with the department to participate in the supplemental payment program.

2. Following the completion of the state's fiscal year, the final supplemental payment amount for the state fiscal year just ended will be calculated. These calculations will be based on the final Medicare RUGs and payment rates and the most recently reviewed Medicaid cost reports and Medicaid payment rates that cover the just ended state fiscal year period. The final supplemental payment calculations will be compared to the estimated interim supplemental payments and the difference if positive will be paid to the

non-state governmental entity, and if negative, collected from the non-state governmental entity.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

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

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

Kathy H. Kliebert
Secretary

1412#001

DECLARATION OF EMERGENCY

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

Personal Care Services—Long-Term
Freedom of Choice and Service Delivery
(LAC 50:XV.12901 and 12913)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend LAC 50:XV.12901 and §12913 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing provides Long-Term Personal Care Services (LT-PCS) under the Medicaid State Plan. The department promulgated an Emergency Rule which amended the provisions governing LT-PCS in order to restrict the number of participants an individual can concurrently represent, and to adopt provisions for the removal of service providers from the waiver freedom of choice list when certain departmental proceedings are pending against the provider, and to offer freedom of choice to the provider's waiver participants. This Emergency Rule also clarifies the provisions governing service delivery (*Louisiana Register*, Volume 40, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2014 Emergency Rule. This action is being taken to promote the health and well-being of waiver participants to assure that these individuals are safely maintained in their homes and communities.

Effective January 17, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amend the provisions governing long-term personal care services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 9. Personal Care Services
Chapter 129. Long Term Care
§12901. General Provisions

A. - F.2.b. …

3. No individual may concurrently serve as a responsible representative for more than two participants in OAAS-operated Medicaid home and community-based service programs. This includes but is not limited to:

a. the Program of All-Inclusive Care for the Elderly;

b. Long-term Personal Care Services;

c. the Community Choices Waiver; and

d. the Adult Day Health Care Waiver.

G. The Department of Health and Hospitals may remove an LT-PCS service provider from the LT-PCS provider freedom of choice list and offer freedom of choice to LT-PCS participants when:

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

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

b. exclusion from the Medicaid Program;

c. termination from the Medicaid Program; or

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

2. the service provider fails to timely renew its home and community-based services license as required by the home and community-based services providers licensing standards Rule (LAC 48:I.Chapter 50); or

3. the service provider's assets have been seized by the Louisiana Attorney General's Office.

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 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2450 (November 2009), LR 39:2506 (September 2013), LR 41:

§12913. Service Delivery

A. - B. …

C. Participants are not permitted to receive LT-PCS while living in a home or property owned, operated, or controlled by an owner, operator, agent, or employee of a licensed provider of long-term care services, and providers are prohibited from providing and billing for services under these circumstances. Participants may not live in the home of a direct support worker unless the direct support worker is related by blood or marriage to the participant.

1. The provisions of §12913.C may be waived with prior written approval by OAAS or its designee.

D. - F. ...

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

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

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

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

Kathy H. Kliebert
Secretary

1412#092

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Professional Services Program
Physicians Services
Reimbursement Methodology
(LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to reduce the reimbursement rates and discontinue reimbursement for certain procedures (*Louisiana Register*, Volume 39, Number 12). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to adopt a manual pricing payment methodology for covered services that do not have Medicare established rates (*Louisiana Register*, Volume 40, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2014 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to Medicaid covered services.

Effective January 17, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for physician services covered in the Professional Services Program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 15. Reimbursement
Chapter 151. Reimbursement Methodology
Subchapter B. Physician Services
§15113. Reimbursement

A. - I.3. ...

J. - J.4. Reserved.

K. ...

L. The reimbursement for newly payable services not covered by Medicare, when there is no established rate set by Medicare, shall be based on review of statewide billed charges for that service in comparison with set charges of a similar service.

1. If there is no similar procedure or service, the reimbursement shall be based upon a consultant physicians' review and recommendations.

2. For procedures which do not have established Medicare fees, the Department of Health and Hospitals, or its designee, shall make determinations based upon a review of statewide billed charges for that service in comparison with set charges for similar services.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), amended LR 37:904 (March 2011), LR 39:3301 (December 2013), LR 41:

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

Kathy H. Kliebert
Secretary

1412#093

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Professional Services Program
Physicians Services
Reimbursement Methodology
(LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254

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

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to increase the reimbursement rates for obstetric delivery services (*Louisiana Register*, Volume 37, Number 3).

As a result of a budgetary shortfall in state fiscal year 2013, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to reduce the reimbursement rates and discontinue reimbursement for certain procedures (*Louisiana Register*, Volume 38, Number 7). The department subsequently amended the provisions of the July 1, 2012 Emergency Rule in order to revise the formatting to ensure that these provisions are promulgated in a clear and concise manner (*Louisiana Register*, Volume 38, Number 10).

The Patient Protection and Affordable Care Act (PPACA) requires states to reimburse certain primary care services at an increased rate. In compliance with PPACA and federal regulations, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services in order to increase the reimbursement rates (*Louisiana Register*, Volume 39, Number 1).

The department promulgated an Emergency Rule which amended the provisions of the January 1, 2013 Emergency Rule in order to revise the payment methodology and to correct the formatting of these provisions as a result of the promulgation of the October 20, 2012 Emergency Rule governing the reimbursement methodology for physician services (*Louisiana Register*, Volume 39, Number 2). The department promulgated an Emergency Rule which amended the provisions of the February 20, 2013 Emergency Rule in order to revise the formatting of these provisions (*Louisiana Register*, Volume 40, Number 9). This will ensure that these provisions are appropriately incorporated into the *Louisiana Administrative Code* in a clear and concise manner. This action is being taken to avoid federal sanctions and to secure enhanced federal funding. This Emergency Rule is being promulgated to continue the provisions of the September 20, 2014 Emergency Rule.

Effective January 19, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for physician services covered in the Professional Services Program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 15. Reimbursement
Chapter 151. Reimbursement Methodology
Subchapter B. Physician Services
§15113. Reimbursement Methodology

A. - I.3. …

J. Effective for dates of service on or after January 1, 2013 through December 31, 2014, certain physician services shall be reimbursed at payment rates consistent with the methodology that applies to such services and physicians under Part B of Title XVIII of the Social Security Act (Medicare).

1. The following physician service codes, when covered by the Medicaid Program, shall be reimbursed at an increased rate:

a. evaluation and management codes 99201 through 99499; or

b. their successor codes as specified by the U.S. Department of Health and Human Services.

2. Qualifying Criteria. Reimbursement shall be limited to specified services furnished by or under the personal supervision of a physician, either a doctor of osteopathy or a medical doctor, who attests to a specialty or subspecialty designation in family medicine, general internal medicine or pediatrics, and who also attests to meeting one or more of the following criteria:

a. certification as a specialist or subspecialist in family medicine, general internal medicine or pediatric medicine by the American Board of Medical Specialists (ABMS), the American Board of Physician Specialties (ABPS), or the American Osteopathic Association (AOA); or

b. specified evaluation and management and vaccine services that equal at least 60 percent of total Medicaid codes paid during the most recently completed calendar year, or for newly eligible physicians the prior month.

3. Payment Methodology. For primary care services provided in calendar years 2013 and 2014, the reimbursement shall be the lesser of the:

a. Medicare Part B fee schedule rate in calendar years 2013 or 2014 that is applicable to the place of service and reflects the mean value over all parishes (counties) of the rate for each of the specified codes or, if greater, the payment rates that would be applicable in those years using the calendar year 2009 Medicare physician fee schedule conversion factor multiplied by the calendar year 2013 and 2014 relative value units in accordance with 42 CFR 447.405. If there is no applicable rate established by Medicare, the reimbursement shall be the rate specified in a fee schedule established and announced by the Centers for Medicare and Medicaid Services (CMS); or

b. provider's actual billed charge for the service.

4. The department shall make payment to the provider for the difference between the Medicaid rate and the increased rate, if any.

K. ...

L. - L.3. Reserved

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010), LR 37:904 (March 2011), LR 39:3300, 3301 (December 2013), LR 41:

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O.

Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to all inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1412#094

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

State Children's Health Insurance Program
LaCHIP Affordable Plan Benefits Administration
(LAC 50:III.Chapter 205)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:III.20501 and §§20505-20507 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XXI of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to implement phase five of the Louisiana Children's Health Insurance Program (LaCHIP) as a stand-alone program under Title XXI provisions to provide coverage to uninsured children whose family income is from 200 percent up to 250 percent of the Federal Poverty Level (*Louisiana Register*, Volume 34, Number 4).

The department promulgated an Emergency Rule which amended the April 2008 Rule in order to transfer the administration of health care services covered under the LaCHIP Affordable Plan (Phase 5) to the health plans participating in the BAYOU HEALTH Program, and the administration of behavioral health services to the Statewide Management Organization in the Louisiana Behavioral Health Partnership (*Louisiana Register*, Volume 38, Number 12).

This Emergency Rule also revised the cost sharing provisions in order to remove the co-payment, co-insurance, and deductible requirements since they will no longer be attributable to the LaCHIP Affordable Plan Program. Only the monthly premium per household shall apply. This Emergency Rule is being promulgated to continue the provisions of the January 1, 2013 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance programs, and to promote the health and welfare of LaCHIP Affordable Plan recipients.

Effective December 28, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the LaCHIP Affordable Plan in order to transfer the administration of these services to the BAYOU HEALTH Program and the Louisiana Behavioral Health Partnership.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 11. State Children's Health Insurance Program
Chapter 205. Louisiana Children's Health Insurance Program (LaCHIP) – Phase V

§20501. General Provisions

A. …

B. The Department retains the oversight and management of this LaCHIP expansion with health care benefits provided through the BAYOU HEALTH Program and behavioral health services provided through the Louisiana Behavioral Health Partnership (LBHP).

C. Phase five is a cost-sharing program. Families who are enrolled in phase five of LaCHIP will be responsible for paying premiums.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§20505. Covered Services

A. Children covered in phase five of the LaCHIP expansion shall receive health care benefits through an array of covered services offered by health plans participating in the BAYOU HEALTH Program, and behavioral health services administered by the Statewide Management Organization under the LBHP. The following services shall be included:

1. - 8. …

9. inpatient and outpatient behavioral health services other than those listed in any other provisions of §20503:

9.a. - 10. …

11. nursing care services;

a. Repealed.

12. …

13. inpatient substance abuse treatment services, including residential substance abuse treatment services:

a. Inpatient admissions must be pre-certified. Emergency services are covered if, upon review, presentation is determined to be life-threatening, resulting in admission to inpatient, partial hospital or intensive outpatient level of care;

b. …

14. outpatient substance abuse treatment services:

a. All services must be pre-certified;

b. …

15. case management services;

a. Repealed.

16. - 16.a. …

17. hospice care:

a. Repealed.

18. medical transportation; and

a. Repealed.

19. …

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:660 (April 2008), amended by the

Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§20507. Cost Sharing

A. Phase five of LaCHIP is a cost-sharing program with premiums limited to no more than 5 percent of the family's annual income.

B. The following cost-sharing criteria shall apply.

1. – 1.a. …

2. – 3.e. Repealed.

C. Non-payment of premiums may result in disenrollment from LaCHIP. Recipients shall be allowed a 60-day grace period prior to disenrollment for non-payment.

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

HISTORICAL NOTE: Repromulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:661 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

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

Kathy H. Kliebert
Secretary

1412#095

DECLARATION OF EMERGENCY

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

Therapeutic Group Homes
(LAC 50:XXXIII.12101 and 12501)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXXIII.12101 and §12501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to implement a coordinated behavioral health services system under the Medicaid Program to provide behavioral health services to children with emotional/behavioral disorders in therapeutic group homes (TGHs) (*Louisiana Register*, Volume 38, Number 2).

The department promulgated an Emergency Rule which amended the provisions governing TGHs to increase the number of beds allowed and revise the provider responsibilities (*Louisiana Register*, Volume 40, Number 9). This Emergency Rule is being promulgated to continue the provisions of the September 20, 2014 Emergency. This action is being taken to promote the health and welfare of TGH residents by ensuring sufficient provider participation and continued access to TGH services.

Effective January 18, 2015, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health amend the provisions governing therapeutic group homes.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXXIII. Behavioral Health Services
Subpart 13. Therapeutic Group Homes

Chapter 121. General Provisions

§12101. Introduction

A. - B. ...

C. A therapeutic group home provides a community-based residential service in a home-like setting of no greater than 10 beds under the supervision and program oversight of a psychiatrist or psychologist.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:427 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

Chapter 125. Provider Participation

§12501. Provider Responsibilities

A. - F. ...

G. A TGH must ensure that youth are receiving appropriate therapeutic care to address assessed needs on the child's treatment plan.

1. Therapeutic care may include treatment by TGH staff, as well as community providers.

2. Treatment provided in the TGH or in the community should incorporate research-based approaches appropriate to the child's needs, whenever possible.

H. ...

I. A TGH must incorporate at least one research-based approach pertinent to the sub-populations of TGH clients to be served by the specific program. The specific research-based model to be used should be incorporated into the program description. The research-based models must be approved by OBH.

J. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:428 (February 2012), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 41:

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

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

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

Kathy H. Kliebert
Secretary

1412#096

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission

National Fire Protection Association
Pamphlet Numbers 54 and 58
(LAC 55:IX.181)

The Department of Public Safety and Corrections, Public Safety Services, Liquefied Petroleum Gas Commission, has exercised the emergency provision in accordance with R.S. 49:953(B) of the Administrative Procedure Act, to adopt LAC 55:IX:181.F as authorized by R.S. 40:1846(A)-(C). The Department of Public Safety and Corrections, Public Safety Services, Liquefied Petroleum Gas Commission has found a need to supplement and expand a provision of the rules relative to Chapter 1, Subchapter I, Section 181 entitled "National Fire Protection Association Pamphlet Numbers 54 and 58". Specifically, clarification is necessary pursuant to the guidelines found in section 11.7.4.3 of the NFPA 58-2008 edition, entitled "Main Shutoff Valves on a Container".

The public welfare dictates that emergency action is necessary, particularly when a liquefied petroleum gas system is used as a motor fuel system on any school bus or mass transit vehicle, either public or private. Main shutoff valves on a container for liquid and vapor should be readily accessible, without the use of tools, or other equipment, to shut off the valve in the event of an emergency. A recent design of some containers has a plate over the fuel shut off valves which requires a tool to remove the plate. However, the valves are equipped with electrical devices that allow the valves to be closed in the driver compartment. The location of the valve is not limited as long as the use of tools is not required.

These changes shall be implemented immediately to prevent a threat to the health, safety, and welfare of the citizens of the state of Louisiana. This Emergency Rule shall become effective upon the signature of the executive director on November 20, 2014 and be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Title 55
PUBLIC SAFETY
Part IX. Liquefied Petroleum Gas
Chapter 1. General Requirements
Subchapter I. Adoption of Standards
§181. National Fire Protection Association Pamphlet Numbers 54 and 58

A. - E.15. …

F. Pursuant to 11.7.4.3, NFPA 58-2008 edition, main shut off valves on a container, the provisions shall be considered compliant in the state of Louisiana if the main shutoff valves are equipped with a code compliant electrical system which allows the valves to be closed from a control in the driver's compartment.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:470 (March 1998), LR 25:1263 (July 1999), LR 25:2412 (December 1999), LR 27:2257 (December 2001), LR 31:2568 (October 2005), LR 37:913 (March 2011), LR 38:1269 (May 2012), LR 41:

John W. Alario
Executive Director

1412#010

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Large and Small Coastal Shark Commercial Season Opening

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:6(25)(a) and R.S. 56:326.3 which provide that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its rule LAC 76:VII.357.M.2 which allows the secretary to establish seasons, the secretary of the Department of Wildlife and Fisheries hereby declares:

Effective 12:01 a.m., January 1, 2015, the commercial fishery for small coastal sharks, (bonnethead shark, Atlantic sharpnose shark, blacknose shark, and finetooth shark) in Louisiana waters as described in LAC 76:VII.357.B.2 will open and remain open until December 31, 2015, or the federally established quota is harvested or expected to be harvested, or the federal season for a species or species group in the Gulf of Mexico is closed, and the secretary is requested by NOAA Fisheries to take action to enact consistent seasonal regulations. The small coastal shark group consists of includes the commercial fisheries for blacknose and non-blacknose sharks, both of which are managed under separate quotas within the group.

Effective 12:01 a.m., January 1, 2015, the commercial fishery for non-sandbar large coastal sharks (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, silky shark, spinner shark, and tiger shark) in Louisiana waters as described in LAC 76:VII.357.B.2 will open and remain open until the federally established quota is harvested or expected to be harvested, or the federal season for a species or species group in the Gulf of Mexico is closed, and the secretary is requested by NOAA Fisheries to take action to enact consistent seasonal regulations.

Louisiana has a fixed closed season for the commercial and recreational harvest of all sharks from April 1 through June 30 of each year for protection of pupping and nursery areas, which we believe appropriate to maintain for conservation purposes.

Effective with these openings, properly licensed and permitted persons may commercially harvest, possess, and sell small coastal sharks and non-sandbar large coastal sharks whether taken from within or without Louisiana

waters in compliance with the rules as set forth by the National Marine Fisheries Service for federal waters, and by the Louisiana Wildlife and Fisheries Commission. Only properly licensed and permitted dealers may purchase small coastal sharks and non-sandbar large coastal sharks during the open season. The fishery for both small coastal sharks and non-sandbar large coastal sharks in Louisiana state waters will be closed from April 1 through June 30.

The secretary has been notified by the National Marine Fisheries Service that the season for commercial harvest of small coastal sharks in the federal waters of the Gulf of Mexico will open on January 1, 2015 and that the commercial fishery for non-sandbar large coastal sharks in the federal waters of the Gulf of Mexico will open on January 1, 2015.

Robert Barham
Secretary

1412#082

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Partial Closure of State Outside Waters to Shrimping

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of R.S. 56:497, which provides that the Wildlife and Fisheries Commission shall have the authority to open or close state outside waters to shrimping by zone each year as it deems appropriate and; may delegate to the secretary of the Department of Wildlife and Fisheries this authority, the Wildlife and Fisheries Commission hereby authorizes the secretary to close to shrimping all or parts of state outside waters where significant numbers of small, sublegal size white shrimp are found in biological samples conducted by the department and to reopen any area closed to shrimping when the closure is no longer necessary following notification to the chairman of the Wildlife and Fisheries Commission. The commission also hereby authorizes the secretary of the Department of Wildlife and Fisheries to open and close special shrimp seasons in any portion of state inside waters where such a season would not detrimentally impact developing brown shrimp populations following notification to the chairman of the Wildlife and Fisheries Commission.

R.S. 56:498 provides that the possession count on saltwater white shrimp for each cargo lot shall average no more than 100 (whole specimens) count per pound except during the time period from October 15 through the third Monday in December. Historical data indicate that significant numbers of smaller size white shrimp occupying coastal lakes and bays migrate into these waters as water temperatures drop in conjunction with the onset of winter. This action is being taken to protect these small white shrimp and provide them the opportunity to grow to a larger and more valuable size.

This Emergency Rule is effective on the third Monday in December.

Billy Broussard
Chairman

1412#080

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Reopenings

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to adopt rules on an emergency basis when delay would result in imminent peril to the public health, safety, or welfare and a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on June 5, 2014 which grants authority to the secretary to open, close, reopen-reclose, broaden or otherwise modify the areas closed and opened to fishing if biological, environmental and technical data indicate the need to do so, the secretary hereby opens commercial fishing and recreational fishing in the following portions of state waters:

Commercial Fishing:

That portion of state outside waters extending seaward a distance of one-quarter mile from the shoreline from the southwestern shore of Grand Terre Island 2 (East Grand Terre) at -89 degrees 54 minutes 04 seconds west longitude; thence eastward along the shoreline to the southeastern shore of Grand Terre Island 2 at -89 degrees 51 minutes 39 seconds west longitude; thence eastward along 29 degrees 18 minutes 46 seconds north latitude to -89 degrees 51 minutes 19 seconds west longitude; and, that portion of state outside waters extending seaward a distance of one-quarter mile from the shoreline from the eastern shore of Grand Terre Island westward to the western shore of Grand Terre Island; and, that portion of state outside waters extending seaward a distance of one-quarter mile from the western shore of Caminada Pass at -90 degrees 02 minutes 46.597 seconds west longitude westward to the eastern shore of Belle Pass at -90 degrees 13 minutes 30 seconds west longitude.

Recreational Fishing:

These waters were previously closed to all recreational fishing except for recreational and charterboat angling.

That portion of state outside waters extending seaward a distance of one-quarter mile from the shoreline from the southwestern shore of Grand Terre Island 2 (East Grand Terre) at -89 degrees 54 minutes 04 seconds west longitude; thence eastward along the shoreline to the southeastern shore of Grand Terre Island 2 at -89 degrees 51 minutes 39 seconds west longitude; thence eastward along 29 degrees 18 minutes 46 seconds north latitude to -89 degrees 51 minutes 19 seconds west longitude; and, that

portion of state outside waters extending seaward a distance of one-quarter mile from the shoreline from the eastern shore of Grand Terre Island westward to the western shore of Grand Terre Island; and, that portion of state outside waters extending seaward a distance of one-quarter mile from the western shore of Caminada Pass at -90 degrees 02 minutes 46.597 seconds west longitude westward to the eastern shore of Belle Pass at -90 degrees 13 minutes 30 seconds west longitude.

This Declaration of Emergency shall become effective one-half hour before sunrise December 10, 2014 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, or until rescinded by the secretary.

Robert Barham
Secretary

1412#083

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.301, 515, 519, 703, 705, 707, 3901, 3903, 3905, and 4310)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 111—The Louisiana School, District and State Accountability System*: §301, School Performance Score Goal; §515, State Assessments and Accountability; §519, Inclusion of Schools; §703, Inclusion of Students in the Subgroup Component; §705, AMO; §707, Safe Harbor; §3901, Assessment of Students with Disabilities; §3903, LEAP Alternate Assessment Participation Criteria; §3905, Inclusion of Alternate Assessment Results; and §4310, Subgroup Component AYP (Adequate Yearly Progress). The proposed revisions remove the use of the Louisiana Alternate Assessment 2 (LAA 2) results in the district and school accountability formula.

Title 28
EDUCATION
Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 3. School Performance Score Component

§301. School Performance Score Goal

A. - B. …

C. Preliminary school performance scores shall be released in the summer for schools that receive a letter grade of F. Final accountability results shall be issued by the fall semester of each year and all accountability reports will reflect the configuration of the school as it existed the prior spring semester.

1. For K-7 schools, the school performance score will consist entirely of one index based on assessments and progress points listed in the table below.

2. For K-8 schools, the school performance score will consist of an assessment index, dropout/credit accumulation index, and progress points.

K-8 School Performance Score Indices and Weights		
LEAP, iLEAP, and LAA 1	Grades K-7	100 percent
	Grades K-8	95 percent
Dropout/Credit Accumulation Index	Grade 8	5 percent
Progress Points	Grades 3-8	Up to 10 points

C.3. - D.4.a. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034, 2035 (November 2006), LR 33:424 (March 2007), LR 33:2349 (November 2007), LR 33:2593 (December 2007), LR 34:430 (March 2008), LR 35:639 (April 2009), LR 36:1987 (September 2010), LR 38:3105 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 39:2441 (September 2013), LR 40:1313 (July 2014), LR 40:2507 (December 2014).

Chapter 5. Inclusion in Accountability

§515. State Assessments and Accountability

A. Louisiana students in grades 3-8 will participate in at least one of the following state assessments on an annual basis:

1. LEAP; or
2. iLEAP; or
3. LEAP Alternate Assessment Level 1 (LAA 1).

B. Louisiana students in grades 9, 10, 11, and 12 will participate in at least one of the following state assessments on an annual basis:

1. EOC (when they are enrolled in the course for which a test is available);
2. GEE (only for repeating testers);
3. LEAP Alternate Assessment Level 1 (LAA 1);
4. EXPLORE in grade 9;
5. PLAN in grade 10;
6. ACT in grade 11 or 12.

C. - G. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:2422 (October 2005), LR 32:1022 (June 2006), LR 33:253 (February 2007), LR 36:1990 (September 2010), LR 37:2119 (July 2011), LR 38:1212 (May 2012), LR 38:3107 (December 2012), LR 39:2443 (September 2013), LR 40:2507 (December 2014).

§519. Inclusion of Schools

A. All K-8 schools shall have a minimum of 40 testing units in any combination of LEAP, iLEAP, or LAA 1 assessments.

B. All 9-12 and combination schools shall have a minimum number of 40 units in any combination of graduation cohort membership and LEAP, iLEAP, LAA 1, or EOC assessments.

C. - D. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:1512 (July 2005), LR 32:1022 (June 2006), LR 34:431 (March 2008), LR 36:1991 (September 2010), LR 38:3108 (December 2012), LR 40:2507 (December 2014).

Chapter 7. Subgroup Component

§703. Inclusion of Students in the Subgroup Component

A. - B. …

C. Each subgroup (African American, American Indian/Alaskan Native, Asian, Hispanic, white, multi-racial, Pacific Islander, economically disadvantaged, limited English proficient, students with disabilities, and all students) within each school shall be evaluated separately on ELA and mathematics. Students who are identified as Hispanic in one or more subgroup categories will be included in the Hispanic subgroup.

1. In calculating the subgroup component for a school:

a. the alternate academic achievement standards for students participating in LAA 1 will be used, provided that the percentage of proficient LAA 1 students at the district level does not exceed 1.0 percent of all students in the grades assessed. If the district exceeds the 1.0 percent proficient cap, the district shall request a waiver. The students exceeding the cap shall be assigned a zero on the assessment and be considered non-proficient if:

i. the district fails to request the waiver; or

ii. if the district requests the waiver but it is determined by LDE that ineligible students were administered LAA 1;

b. - b.ii. Repealed.

c. when calculating the 1 percent cap for alternate assessment purposes, all decimals in results shall be rounded to the next highest whole number;

i. 1.0 percent of 628 students is 6.28 students. The 1.0 percent cap, in this instance, is 7 students.

2. Students participating in LAA 1 shall be included in the special education subgroup.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 30:1619 (August 2004), repromulgated LR 30:1996 (September 2004), amended LR 30:2256 (October 2004), amended LR 30:2445 (November 2004), LR 31:912 (April 2005), LR 31:2762 (November 2005), LR 33:253 (February 2007), LR 34:428 (March 2008), LR 34:867 (May 2008), LR 36:1991 (September 2010), LR 37:2119 (July 2011), LR 38:3110 (December 2012), LR 40:2507 (December 2014).

§705. AMO

A. The annual measurable objective (AMO) is the percent of students required to reach the proficient level in a given year on the standards-based assessments. Beginning in 2015, English language arts and mathematics test results from grades 3-8 LEAP, *i*LEAP, high school EOC algebra I and English II, and LAA 1 will be used to calculate the percent proficient for the subgroup component (for schools and districts).

B. As required in NCLB, the AMOs have been established based on the baseline percent proficient score (proficient = CRT level of basic, mastery, or advanced) in English-language arts and mathematics in the 20th percentile school, using the 2002 CRT test scores in ELA and mathematics for grades 4, 8, and 10.

1. For proficiency levels see chart below.

Proficiency	
LEAP/iLEAP	Basic, Mastery, Advanced
EOC	Good, Excellent
LAA 1	Meets or Exceeds Standard

C. - E. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 33:253 (February 2007), LR 38:2357 (September 2012), LR 40:2508 (December 2014).

§707. Safe Harbor

A. - D. …

E. English language arts and mathematics test results from grades 3-8 and 10 LEAP, *i*LEAP, and LAA 1 will be used to calculate the reduction of non-proficient students in safe harbor.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2743 (December 2003), amended LR 32:1025 (June 2006), LR 33:253 (February 2007), LR 33:2594 (December 2007), LR 38:1213 (May 2012), LR 38:2357 (September 2012), LR 38:3110 (December 2012), LR 40:2508 (December 2014).

Chapter 39. Inclusion of Students with Disabilities

§3901. Assessment of Students with Disabilities

A. All students, including those with disabilities, shall participate in Louisiana's testing program. The scores of all students who are eligible to take the LEAP, iLEAP, EOC assessments, ACT, PLAN, EXPLORE, or LAA 1 shall be included in the calculation of the SPS. Most students with disabilities shall take the assessments with accommodations, if required by their individualized education program (IEP).

1. Only students with significant cognitive disabilities are eligible to participate in LEAP Alternate Assessment Level 1 (LAA 1) as defined by the LEAP Alternate Assessment Level 1 participation criteria.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 31:2763 (November 2005), LR 36:1994 (September 2010), LR 38:3115 (December 2012), LR 40:2508 (December 2014).

§3903. LEAP Alternate Assessment Participation Criteria

A. A student participating in LEAP Alternate Assessment Level 1 shall progress toward a certificate of achievement.

B. Students with disabilities participating in the LEAP Alternate Assessment Level 1 (LAA 1) must meet specific participation criteria as stated in *Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities*.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 31:2763 (November 2005), LR 40:2508 (December 2014).

§3905. Inclusion of Alternate Assessment Results

A. All SPS shall include LAA 1 scores.

B. Each LAA 1 exam will be assigned one of three performance levels (exceeds standard, meets standard, working toward standard) and each performance level will be assigned points for use in assessment index calculations as follows.

LAA 1 Performance Level	Assessment Points
Exceeds Standard	150
Meets Standard	100
Working Toward Standard	0

1. Students scoring meets standard or exceeds standard on a LAA 1 exam will be considered proficient in subgroup component calculations.

2. Students taking LAA 1 exams shall be included in accountability calculations at the grade level in which they are enrolled in the student information system (SIS).

C. Students participating in LEAP Alternate Assessment Level 1 (LAA 1) will be assigned scores of zero in SPS component calculations and scores of non-proficient in subgroup component calculations if they do not meet the specific participation criteria as stated in *Bulletin 1530—Louisiana's IEP Handbook for Students with Disabilities*.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2754 (December 2003), amended LR 30:767 (April 2004), LR 31:2763 (November 2005), LR 33:254 (February 2007), LR 35:2031 (October 2008), LR 35:640 (April 2009), LR 35:641 (April 2009), LR 38:3115 (December 2012), LR 40:2508 (December 2014).

Chapter 43. District Accountability

§4310. Subgroup Component AYP (Adequate Yearly Progress)

A. - B.2. …

3. Each subgroup (African American, American Indian/Alaskan Native, Asian, Hispanic, white, economically disadvantaged, limited English proficient, students with disabilities, and all students) within each district shall be evaluated separately on ELA and mathematics. In calculating the subgroup component for a district:

a. the alternate academic achievement standards for students participating in LAA 1 will be used, provided that the percentage of proficient LAA 1 students does not exceed 1.0 percent of all students in the grades assessed. If the district exceeds the 1.0 percent proficient cap, the district shall request a waiver. The students exceeding the cap shall be assigned a zero on the assessment and be considered non-proficient if:

i. the district fails to request the waiver; or

ii. the district requests the waiver but it is determined by LDE that ineligible students were administered LAA 1;

b. students participating in LAA 1 shall be included in the special education subgroup;

c. LEP students shall participate in the statewide assessments;

i. scores shall not be included in AMO or improvement in percent proficient calculations for LEP students who have not been enrolled in an English-speaking school for one full school year;

d. when calculating the 1 percent cap for alternate assessment purposes, all decimals in results shall be rounded to the next highest whole number;

i. 1.0 percent of 1341 students is 13.41 students. The 1.0 percent cap, in this instance, is 14 students.

4. Subgroups shall consist of:

a. at least 10 students in order to be evaluated for the subgroup component;

b. at least 40 students in order to be evaluated for the 95 percent participation rate.

5. Subgroups shall pass the participation rate test and either the AMO status test; or the safe harbor test in order to be considered as having passed the subgroup/component.

C. - E.2.b. …

* * *

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:1447 (July 2004), amended LR 30:2446 (November 2004), LR 31:424 (February 2005), LR 31:633 (March 2005), LR 31:913 (April 2005), LR 32:1029 (June 2006), amended LR 33:635 (April 2007), LR 34:429 (March 2008), LR 34:868 (May 2008), LR 36:1994 (September 2010), LR 40:2509 (December 2014).

Kimberly Tripeaux
Interim

1412#019

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices (LAC 28: CXI.107, 303, 305, 309, 312, 313, 316, 319, 701, 1301, 1803, 2000, 2001, 2003, 2011, 2012, 2013, 2014, 2015, 2016, 2035, 2037, 2039, 2501, 2901, 3303, and 3501)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 118—Statewide Assessment Standards and Practices* §107. Assessment Programs, §303. Definitions; §305. Test Security Policy; §309. Erasure Analysis; §312. Administrative Error §313. Viewing Answer Documents; §316. Cell Phones and Other Electronic Devices; §319. E-mail Addresses for Nonpublic and Public School Test Coordinators; §701. Overview of Assessment Programs in Louisiana; §1301. Introduction; §1803. Introduction; §2000. Sunset Provision; §2001. Introduction; §2003. Participation Criteria; §2011. Grade 4 Achievement Level Descriptors; §2012. Grade 5 Achievement Level Descriptors; §2013. Grade 6 Achievement Level Descriptors; §2014. Grade 7 Achievement Level Descriptors; §2015. Grade 8 Achievement Level Descriptors; §2016. Grade 9 Achievement Level Descriptors; §2035. LAA 2 Administration Rules; §2037. Summer Retest Administration; §2039. LAA 2 Transfer Students; §2501. General Provisions; §2901. General Provisions; §3303. Special Education Students; and §3501. Approved Home Study Program Students. The proposed revisions update security and other testing policies. The proposed revisions also sunset the administration of the Louisiana Alternate Assessment 2 (LAA 2) in grades 4-8 and phase out the LAA 2 assessment in high school.

Title 28

EDUCATION

Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

Chapter 1. General Provisions

§107. Assessment Programs

A. - E. …

F. LEAP Alternate Assessment; Level 2 (LAA 2). The LAA 2 is a criterion-referenced assessment; which is based on modified academic achievement standards that allow students with persistent academic disabilities who are served under the Individuals with Disabilities Education Improvement Act (IDEA) to participate in academic assessments that are sensitive to measuring progress in their learning. The last administration of LAA 2 assessment in grades 3-8 will occur in the academic year 2013-2014.

G. - N. …

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).

Chapter 3. Test Security

§303. Definitions

Access—access to secure test materials means physically handling the materials, not reading, reviewing, or analyzing test items or student responses, either before, during, or after testing, except where providing approved accommodations.

Secure Materials—test materials that contain test items or student responses and to which access is restricted. Secure test materials include:

1. student test booklets;
2. student answer documents;
3. student log-in information; and
4. any other materials that contain test items or student responses.

Testing Irregularity—any incident in test handling or administration that leads to a question regarding the security of the test or the accuracy of the test data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81.6 et seq., R.S. 416 et seq., and R.S. 441 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 34:65 (January 2008), LR 40:2510 (December 2014).

§305. Test Security Policy

A. The state Board of Elementary and Secondary Education holds the test security policy to be of utmost importance and deems any violation of test security to be serious. The test security policy follows.

1. - 2.d.…

e. type 2 and type 5 charter schools;

f. Louisiana School for Math, Science, and the Arts; and

g. participating nonpublic/other schools that utilize tests administered through the SBESE or the LDE.

3. It shall be a violation of test security for any person to do any of the following:

a. - c. …

d. at any time, copy, reproduce, record, store electronically, discuss or use in a manner inconsistent with test regulations all or part of any secure test item, test booklet, answer document, or supplementary secure materials;

e. - g. …

h. fail to follow security regulations for distribution and return of secure test booklets, answer documents, student log-in information, supplementary secure materials as well as overages as directed; or fail to account for and secure test materials before, during, or after testing;

i. conduct testing in environments that differ from the usual classroom environment (excluding computer labs used for online testing) without prior written permission from the LDE, Division of Standards, Assessments, and Accountability except for the purpose of providing accommodations;

j. - k. …

4. Each school district as described in this policy shall develop and adopt a district test security policy and procedures for handling emergencies during online testing that is in compliance with the state's test security policy. A copy of the policy and a Statement of Assurance regarding the LEA's test security policy must be submitted annually to the LDE, Division of Assessments and Accountability. This statement must include the name of the individual designated by the district superintendent or institution to procure test material. The policy shall provide:

a. for the security of the test materials during testing, including test booklets, answer documents, student log-in information, supplementary secure materials, videotapes, and completed observation sheets;

b. - f. …

g. procedures for the investigation of any missing test booklets, answer documents, student log-in information, or supplementary secure material;

h. - i. …

j. starting with the 2014–2015 school year, procedures to code testing materials at no more than two secure central locations and to house the testing materials at the central locations until no more than three working days prior to test administration, to the extent practicable;

k. procedures for monitoring of test sites to ensure that appropriate test security procedures are being followed and to observe test administration procedures.

5. - 7. …

8. Test materials, including all test booklets, answer documents, student log-in information, and supplementary secure materials containing secure test questions, shall be kept secure and accounted for in accordance with the procedures specified in the test administration manuals and other communications provided by the LDE. Secure test materials include test booklets, answer documents, student log-in information, and any supplementary secure materials.

9. Procedures described in the test manuals shall include, but are not limited to, the following.

a. All test booklets, answer documents, student log-in information, and supplementary secure materials must be kept in a designated locked secure storage area prior to and after administration of any test.

i. …

b. All test booklets, answer documents, student log-in information, and supplementary secure materials must be accounted for and written documentation kept by test administrators and proctors for each point at which test materials are distributed and returned.

c. - h. …

10. The LDE shall establish procedures to identify:

a. improbable achievement of test score gains;

b. - d. …

e. any violation to written composition or open-ended responses (including electronic submissions) that involves plagiarism;

10.f. - 14.…

a. The LEAP*data* Query system is designed for teachers and contains students' private information, including state test scores and state identification numbers. The system is password protected and requires a user ID and an assigned password for access. The system is not for public use, and any student information from the system must not be disclosed to anyone other than a state, district, or school official as defined by the Family Educational Rights and Privacy Act of 1974 (FERPA). A state, district, or school official is a person employed by the state, district, or school as an administrator, supervisor, district test coordinator, school test coordinator, principal, teacher, or principal's designated office staff. Such a user must have a legitimate educational purpose to review an educational record in order to fulfill his/her professional responsibility. Curiosity does not qualify as a right to know. State, district and school officials who are granted a password to these systems must abide by FERPA law. Disclosure of passwords to anyone other than those authorized is prohibited. Disclosure of a student's data to their parent or guardian must be in accordance with FERPA. For more information on FERPA, see the U.S. Department of Education web page at http://www.ed.gov /offices/OM/fpco/ferpa/.

i. LEAP*data* Query System User Access. Principals should contact their DTC or backup DTC for assistance in training teachers. After training, all school users (e.g., teachers, counselors, test coordinators) must read and sign the confidentiality agreement and return it to the principal. Signed confidentiality agreements are valid until the DTC receives notification that the confidentiality agreement available online has been revised. A new confidentiality agreement should be signed by all users each year after the *new* password letters for schools and districts are automatically generated in August. If a breach in security occurs, principals should immediately contact the DTC or the backup DTC for a replacement password. Principals should always contact their DTC or backup DTC for assistance and training.

b. The LEAP*web* Reporting System and the End-of-Course Tests Online Assessment System are designed for administrators only and contains students' private information, including state test scores and state identification numbers. The system is password protected and requires a user ID and an assigned password for access. The systems are not for public use and any student information from the system must not be disclosed to anyone other than a state, district, or school official as defined by the Family Educational Rights and Privacy Act of 1974 (FERPA). A state, district, or school official is a person employed by the state, district, or school as an administrator, supervisor, district test coordinator, school test coordinator, principal, and the principal's designated office staff. Such a user must have a legitimate educational purpose to review an educational record in order to fulfill his/her professional responsibility. Curiosity does not qualify as a right to know. State, district, and school users who are granted a password to this system must read and abide by Family and Educational Rights Privacy Act (FERPA). Disclosure of passwords to anyone other than those authorized is prohibited. Disclosure of a student's data to their parent or guardian must be in accordance with FERPA. For more information on FERPA, see the U.S. Department of Education web page at http://www.ed.gov/offices/ OM/fpco/ferpa/.

i. LEAP*web* Reporting System User Access. At the school level, only principals (not teachers) and their designated school personnel (test coordinators, counselors, or office staff with whom the principal shares his/her PIN) should have access to the system and must sign a confidentiality agreement. Signed confidentiality agreements are valid until the DTC receives notification that the confidentiality agreement available online has been revised. A new confidentiality agreement should be signed by all users each year after the *new* password letters for schools and districts are automatically generated in August. If a breach in security occurs, principals should immediately contact the DTC or the backup DTC for a replacement password. Principals should always contact their DTC or backup DTC for assistance and training.

ii. EOC Tests Online Assessment System User Access. At the school level, only school test coordinators, teachers, and test administrators participating in a given administration should have access to the system and must sign a confidentiality agreement. A new confidentiality agreement shall be signed by all users each year after the *new* password letters for schools and districts are automatically generated in August. If a breach in security involving access to secure test systems occurs, principals should immediately contact the DTC or the backup DTC for a replacement password. Principals should always contact their DTC or backup DTC for assistance and training.

iii. Confidentiality agreements must also be signed by DTCs for the LEAP*web* Reporting, EOC Tests Online Assessment System, and LEAP*data* Query Systems and returned to the LDE. New signed agreements should be submitted to LDE when personnel changes are made within the district. Log-in information will not be issued until a signed agreement is on file with the LDE.

c. …

i. EAGLE System User Access. Principals should contact their district designee, DTC, backup DTC, or district curriculum supervisor for assistance in training teachers. All users (e.g., teachers, counselors, test coordinators) must read and sign the confidentiality agreement and return it to the principal. Signed confidentiality agreements are valid until the DTC receives notification that the confidentiality agreement available online has been revised. A new confidentiality agreement should be signed by all users each year after the new password letters for schools and districts are automatically generated in August. Keep copies signed by all school users on file at the school. If a breach in security occurs, principals should immediately contact the district designee, district test coordinator, or backup district designee for a replacement password. Principals should always contact their district designee, DTC, backup DTC, or district curriculum supervisor for assistance and training.

d. All users who have access to these systems and leave their positions at a district or school site must not use or share the password.

15. - 17. …

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

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

§309. Erasure Analysis

A. - A.5. …

6. A summary report of erasure analysis irregularities will be presented to the SBESE after each test administration.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:257 (February 2007), LR 35:217 (February 2009), LR 35:443 (March 2009), LR 40:2512 (December 2014).

§312. Administrative Error

A. - H. …

I. 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 32:390 (March 2006), amended LR 33:257 (February 2007), LR 34:66 (January 2008), LR 34:1351 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010), LR 38:33 (January 2012), amended LR 38:748 (March 2012), LR 38:2358 (September 2012), LR 40:2512 (December 2014).

§313. Viewing Answer Documents

A. …

B. The district test coordinator must send a written request to view the answer document to the LDE, Division of Assessments and Accountability. The request must include:

1. …

2. the student's state identification number;

3. …

4. the type of assessment and the content area of the answer document or documents requested; and

B.5. - G. …

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 31:1532 (July 2005), amended LR 32:234 (February 2006), LR 33:258 (February 2007), LR 33:218 (February 2007), LR 40:2512 (December 2014).

§316. Cell Phones and Other Electronic Devices

A. If district and school policy allows for students and personnel to carry cell phones or other similar technological devices with imaging or text-messaging capability, test administrators must make certain that the devices are in the off position while test booklets and answers documents are in the vicinity.

1. Except for devices required for approved accommodations or online assessments, if a student is in possession of and/or uses a cell phone or electronic device in any manner during the administration of a statewide test, the phone or electronic device will be confiscated until assurance can be evidenced that all traces of information, in print, image, or verbal form, have been removed from all local and cloud storage and that no such traces remain on the device.

2. If evidence exists on the cell phone or other electronic device that indicates the device was used during the test administration and/or test material was recorded and/or transmitted, the student's score is voided.

3. Violation of the no cell phone or electronic device Rule may result in discipline by the district in accordance with local policy.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:391 (March 2006), LR 40:2512 (December 2014).

§319. E-mail Addresses for Nonpublic and Public School Test Coordinators

A. All designated school test coordinators for nonpublic and public schools are required to provide the department with a valid work email address. Personal email addresses (Yahoo! Hotmail, Google, etc.) will not be accepted.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 39:74 (January 2013), LR 40:2512 (December 2014).

Chapter 7. Assessment Program Overview

§701. Overview of Assessment Programs in Louisiana

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

Name of Assessment Program	Assessment Population	Administered
Kindergarten Screening		
Kindergarten Developmental Readiness Screening Program (KDRSP)	Kindergarten	fall 1987-
Norm-Referenced Tests (NRTs)		
California Achievement Test (CAT/F)	grades 4, 6, and 9	spring 1988-spring 1992 (no longer administered)
California Achievement Test (CAT/5)	grades 4 and 6 grade 8	spring 1993-spring 1997 spring 1997 only (no longer administered)
Iowa Tests of Basic Skills (ITBS) (form L) and Iowa Tests of Educational Development (ITED) (form M)	grades 4, 6, 8, 9, 10, and 11	spring 1998 (no longer administered)
ITBS ITED (form M)	grades 3, 5, 6, and 7 grade 9	spring 1999-spring 2002 (no longer administered)
ITBS ITED (form B)	grades 3, 5, 6, and 7 grade 9	spring 2003-spring 2005 (no longer administered)
ITBS	grade 2	spring 2012-spring 2013 (no longer administered)

Name of Assessment Program	Assessment Population	Administered
Criterion-Referenced Tests (CRTs)		
National Assessment of Educational Progress (NAEP)	grades 4, 8, and 12	spring 1990-
Louisiana Educational Assessment Program (LEAP)	grades 3, 5, and 7	spring 1989-spring 1998 (no longer administered)
Graduation Exit Examination (“old” GEE)	grades 10 and 11	spring 1989-spring 2003 (state administered) fall 2003- (district administered)
Louisiana Educational Assessment Program (LEAP) (ELA and Mathematics)	grades 4 and 8	spring 1999-
LEAP (Science and Social Studies)	grades 4 and 8	spring 2000–
Graduation Exit Examination (GEE) (ELA and Mathematics)	grade 10	spring 2001-fall 2014 (district administered)
GEE (Science and Social Studies)	grade 11	spring 2002-fall 2014 (district administered)
End-Of-Course Tests (EOCT)	Algebra I	fall 2007-
EOCT	English II	fall 2008-
EOCT	Geometry	fall 2009-
EOCT	Biology	fall 2010-
EOCT	Applied Algebra I form	spring 2011-summer 2013
EOCT	English III	fall 2011-
EOCT	U. S. History	fall 2012-
EXPLORE	grades 8 and 9	spring 2013
PLAN	grade 10	spring 2013
ACT	grade 11	spring 2013
Integrated NRT/CRT		
Integrated Louisiana Educational Assessment Program (iLEAP)	grades 3, 5, 7, and 9	spring 2006-
*i*LEAP	grade 9	spring 2010 (last administration of grade 9 *i*LEAP)
Special Population Assessments		
Louisiana Alternate Assessment, Level 1 (LAA 1)	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3–11	spring 2000-2007
LAA 1	ELA and Mathematics (grade spans 3-4; 5-6; 7-8; 9-10); Science (grades 4, 8, and 11)	Revised spring 2008-
LAA 1 ELA and Mathematics	grade 9	spring 2010 (last administration of grade 9 LAA 1)
Louisiana Alternate Assessment, Level 2 (LAA 2) ELA and Mathematics (Grades 4 and 8	grades 4, and 8	spring 2006-spring 2014 (no longer administered)
LAA 2 ELA and Mathematics (Grade 10) Science and Social Studies (Grade 11)	grades 10 and 11	spring 2006- (available for students who have entered a high school cohort in 13-14 or prior)
LAA 2 ELA and Mathematics	grades 5, 6, and 7	spring 2007-spring 2014 (no longer administered)
LAA 2 ELA and Mathematics	grade 9	spring 2010 (last administration of grade 9 LAA 2)
LAA 2 Science and Social Studies	grades 4 and 8	spring 2008–spring 2014 (no longer administered)
Louisiana Alternate Assessment-B (LAA-B) ["out-of-level" test]	Students with Individualized Education Programs (IEPs) who met eligibility criteria in grades 3-11.	spring 1999–spring 2003 (no longer administered)
English Language Development Assessment (ELDA)	Limited English Proficient (LEP) students in grades K-12	spring 2005-
Academic Skills Assessment (ASA) and ASA LAA 2 form	Students pursuing a State-Approved Skills Certificate (SASC) or GED	spring 2012 (one administration only, spring 2012)

B. …

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

HISTORICAL NOTE: Promulgated by the 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 40:2512 (December 2014).

Chapter 13. Graduation Exit Examination

Subchapter A. General Provisions

§1301. Introduction

A. …

B. The last statewide administration was in the summer of 2014. The testing program then became the responsibility of the school districts, with the tests to be administered by the district.

C. The GEE tests are to be administered by the district test coordinators each year in October and April, as indicated on the statewide testing schedule, to former high school students who have earned Carnegie units but still need to pass the GEE to earn a high school diploma. Students are required to take only those parts of the GEE in which they did not attain the required performance standards.

D. All students who were enrolled in tenth grade for the first time in 2001-2002 through the 2010-2011 may be administered the test twice a year. There is no age limit for students who request a retest with GEE, nor is there a limit on the number of times the student may retake the test.

E. If the student was issued a GED or HISET and later passes the GEE, the student may surrender the GED or HISET diploma and be issued a standard high school diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (F) (1)(c).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1548 (July 2005), amended LR 32:236 (February 2006), LR 40:2513 (December 2014).

Chapter 18. End-of-Course Tests

Subchapter B. General Provisions

§1803. Introduction

A. …

B. EOCT will assess student learning in the high school courses:

1. algebra I;

B.2. - G.5. …

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 35:214 (February 2009), LR 36:477 (March 2010), amended LR 38:35 (January 2012), LR 40:2514 (December 2014).

Chapter 20. LEAP Alternate Assessment, Level 2

Subchapter A. Background

§2000. Sunset Provision

A. …

B. Beginning with the academic year 2014-2015, the LAA 2 will no longer be administered in grades 4 through 8. Students who have entered a high school cohort prior to the 2014-2015 academic year may participate in the high school LAA 2 assessments for graduation purposes.

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, LR 37:821 (March 2011), LR 40:2514 (December 2014).

§2001. Introduction

A. …

B. - D. repealed

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, LR 32:239 (February 2006), amended LR 33:269 (February 2007), LR 40:2514 (December 2014).

Subchapter B. Target Population

§2003. Participation Criteria

Repealed

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, LR 33:270 (February 2007), repealed LR 40:2514 (December 2014).

Subchapter D. Achievement Level Descriptors

§2011. Grade 4 Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:271 (February 2007), amended LR 34:2558 (December 2008), repromulgated LR 35:59 (January 2009), amended LR 35:219 (February 2009), LR 36:978 (May 2010), repealed LR 40:2514 (December 2014).

§2012. Grade 5 Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, State Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:2033 (October 2007), amended by the Board of Elementary and Secondary Education, LR 36:978 (May 2010), repealed LR 40:2514 (December 2014).

§2013. Grade 6 Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, State Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:2035 (October 2007), amended by the Board of Elementary and Secondary Education, LR 36:979 (May 2010), repealed LR 40:2514 (December 2014).

§2014. Grade 7 Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, State Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:2036 (October 2007), amended by the Board of Elementary and Secondary Education, LR 36:979 (May 2010), repealed LR 40:2514 (December 2014).

§2015. Grade 8 Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 33:273 (February 2007), amended by the Board of Elementary and Secondary Education, LR 33:2037 (October 2007), LR 34:2555 (December 2008), repromulgated LR 35:60 (January 2009), amended LR 36:980 (May 2010), repealed LR 40:2514 (December 2014).

§2016. Grade 9 Achievement Level Descriptors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, State Board of Elementary and Secondary Education, Office of Student and School Performance, LR 33:2038 (October 2007), by the Board of Elementary and Secondary Education, LR 36:980 (May 2010), repealed LR 40:2514 (December 2014).

Subchapter F. LAA 2 Assessment Structure

§2035. LAA 2 High School Assessment Administration Rules

A. The LAA 2 high school assessments shall only be available for students entering a high school cohort prior to the 2014-2015 school year. Students who are transferring into a Louisiana public school district from an out-of-state school, nonpublic school, or approved home study program who meet LAA 2 Participation Criteria may participate in the LAA 2 high school assessments if they entered the ninth grade in 2013-2014 or prior.

B. Students shall take the Algebra I or Geometry EOCT to be eligible for the LAA 2 mathematics exam, the English II or English III EOCT to be eligible for the LAA 2 English Language Arts exam, the Biology EOCT for the LAA 2 Science exam, and the U.S. History EOCT for the LAA 2 Social Studies exam.

C. If a district holds "graduation" prior to the release of spring test scores, the LEA must have in place a policy for graduation without the test scores.

D. There is no ending age limit for students to retest in LAA 2, nor is there a limit on the number of times the student may retake the test. Students who no longer reside in the school district where he/she completed Carnegie units may test in the current school district of residence. The DTC shall forward the passing test scores to the high school where the Carnegie units reside.

E. If a student was issued a GED diploma and subsequently meets the requirements of the LAA 2, the student may surrender the GED diploma and be issued a standard high school diploma.

F. When administrative errors are made in testing, the state superintendent of education may determine how to remedy the error.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:981 (May 2010), LR 40:2514 (December 2014).

§2037. Summer Retest Administration

A. Students who were enrolled in grades 10, 11, or 12 during the spring test administration and did not score approaching basic in the required LAA 2 tests are eligible for the summer retest administration.

B. Students who were enrolled in grades 10, 11, or 12 in public schools during the spring test administration but who were absent during testing are eligible for the summer retest administration.

C. Students who enrolled in and attended grades 10, 11, or 12 after the spring test administration and before the close of the regular academic year are eligible for the summer retest administration.

D. Students who enroll in grades 10, 11, or 12 after the close of the regular academic year but did not attend public schools during the academic year are not eligible for the summer retest administration. They must test during the fall retest administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:982 (May 2010), LR 40:2515 (December 2014).

§2039. LAA 2 Transfer Students

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.4(A).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 36:982 (May 2010), repealed LR 40:2515 (December 2014).

Chapter 25. Field Testing

§2501. General Provisions

A. The purpose of field testing is to obtain data on test items that have been developed for a particular assessment. In Louisiana, test items are developed and field tests conducted for the following assessments:

1. …
2. *Integrated* LEAP (*i*LEAP);
3. End-of-Course Tests (EOCT).

B. LEAP field tests are conducted annually in designated content areas.

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 31:1557 (July 2005), amended LR 32:239 (February 2006), LR 34:1353 (July 2008), LR 40:2515 (December 2014).

Chapter 29. Graduation Exit Examination ("Old" GEE)

§2901. General Provisions

A. - B. …

C. The GEE tests are to be administered by the district test coordinators each year in October and April, as indicated on the official statewide testing schedule, to former high school students who have earned Carnegie units but still need to pass the GEE to earn a high school diploma. Students are required to take only those parts of the GEE in which they did not attain the required performance standards.

D. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 (4) (a) and R.S. 17.7.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1558 (July 2005), LR 40:2515 (December 2014).

Chapter 33. Assessment of Special Populations

§3303. Special Education Students

A. All special education students must participate in statewide assessments. Students are to take the test that corresponds to the grade in which they are enrolled. Special education students who meet specific participation criteria as stated in Bulletin 1530 Louisiana IEP Handbook for Students with Disabilities and whose Individualized Education Plans (IEPs) indicate they will participate in an alternate assessment may participate in the LEAP Alternate Assessment, Level 1 (LAA 1). 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. New accommodations or changes to an accommodation for a statewide assessment shall, to the extent practicable, be recorded on a student's IEP form 30 days prior to the start of testing.

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

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

Chapter 35. Assessment of Students in Special Circumstances

§3501. Approved Home Study Program Students

A. Fourth grade students from state-approved home study programs who are seeking to enroll in grade 5 must meet promotion standards on the grade 4 LEAP English Language Arts or the Mathematics test enroll in grade 5.

B. Eighth grade students from state-approved home study programs who are seeking to enroll in grade 9 must meet promotion standards on the grade 8 LEAP English Language Arts or the Mathematics test enroll in grade 9.

C. Students from state-approved home study programs have the option of taking the grades 4 and 8 LEAP Science and Social Studies tests.

D. Students from state-approved home study programs may take the *i*LEAP tests in grades 3, 5, 6, and 7.

E. Approved home study program students shall take the test which is designated for the enrolled grade.

F. A fee of up to $35, which covers actual costs of administering, scoring, and reporting the results of statewide assessment, may be charged. For students testing to enter the public school system, this fee shall be refunded upon the student's enrollment in that public school system the semester immediately following testing. The DTC shall return results to parents when results are returned to the public schools.

G. Students enrolled in state-approved home study programs or non-public/non-scholarship schools are not eligible to participate in LAA 1, LAA 2, ELDA, EOC, or the state administration of EXPLORE, PLAN, WorkKeys or ACT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.236.1-17.236.2, R.S. 17:6(A)(10)(11)(15), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-17.391.10, 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 40:2515 (December 2014).

Kimberly Tripeaux
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1412#021

RULE

Board of Elementary and Secondary Education

Bulletin 119—Louisiana School
Transportation Specifications and Procedures
(LAC 28:CXIII.301, 303, 2303, and Chapter 25)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 119—Louisiana School Transportation Specifications and Procedures*: §301, Employment Requirements; §303, Certification of School Bus Drivers; §2303, Federal Motor Vehicle Safety Standards (FMVSS); §2503, Purchase of School Buses; §2509, Used School Buses; and §2511, Life of a School Bus. These revisions align policy with requirements of Act 257 of the 2014 Regular Legislative Session. The revisions also include technical edits and clarify policy.

Title 28
EDUCATION
Part CXIII. Bulletin 119—Louisiana School Transportation Specifications and Procedures
Chapter 3. Selection and Employment of School Bus Drivers and Attendants (Aides)

§301. Employment Requirements

A. Any person hired or contracted to transport or assist in the transportation of students to and from school or school-related activities must meet certain requirements. This applies to full-time school bus drivers, substitute drivers, activity bus drivers, and bus attendants. Mechanics, supervisors, or other personnel who are licensed to drive school buses but do not actually transport students must fulfill the requirements of the commercial driver's license (CDL) statutes. They may not otherwise be required to fulfill all requirements specified in this section.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:168, and R.S. 32:52.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:628 (April 1999), amended LR 36:1467 (July 2010), LR 40:2516 (December 2014).

§303. Certification of School Bus Drivers

A. - C.4. …

5. Drivers must pass a physical and eye examination meeting current CDL requirements annually. A copy of the examination record must be filed with the LEA transportation office before the beginning of each school year. More extensive and/or more frequent exams may be required by the LEA, Head Start or private employer. All school bus drivers must be certified as having normal use of both hands, both arms, both feet, both legs and must possess normal or corrected vision of 20/40 in both eyes, with a field of vision of at least 150 degrees. They must have corrected or normal hearing, be free of communicable disease and of mental, emotion or functional disorders.

a. After a heart attack or other serious illness, a certificate of health and permission to return to work from a licensed physician must be presented and filed with the transportation office and maintained in the driver's record. Local school boards may require such certification, as well as all annual physical examinations, to be approved by board-appointed physicians, who also may be required to meet requirements of the Federal Motor Carrier Safety Administration.

6. Drivers must pass initial drug and alcohol screening requirements and United States Department of Transportation-directed random testing, as specified by the Federal Motor Carrier Safety Administration. More stringent requirements may be imposed by individual LEAs and/or private contractors.

C.7. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:492, and 17:493.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999), amended LR 36:1468 (July 2010), LR 39:80 (January 2013), LR 40:2516 (December 2014).

Chapter 23. Bus Body Standards for School Buses

§2303. Federal Motor Vehicle Safety Standards (FMVSS)

A. - B. …

C. In addition to FMVSS regulations, school buses used to transport students to and from school and school-related activities must meet the school bus body, chassis or equipment that meet the latest revised minimum standards for school buses adopted and recommended by the National Conference on School Transportation, sponsored by the National Council of Chief State School Officers, the American Association of School Administrators, NEA, the Department of Rural Education, and the U.S. Office of Education. Copies of the current National Congress on School Transportation Specifications and Procedures can be obtained through the website: www.ncstonline.org.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:643 (April 1999), amended LR 36:1478 (July 2010), LR 37:2124 (July 2011), LR 40:2517 (December 2014).

Chapter 25. Purchase, Sale, Lease, and Repair of School Buses

§2503. Purchase of School Buses

A. - B. …

C. It is mandatory that the seller of any new or used school bus shall complete a school bus purchase form verifying that the purchased vehicle meets all state and federal school bus specifications applicable at the time of manufacture.

D. LEAs must keep current records of purchases of school buses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, and R.S. 17:494.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 36:1479 (July 2010), LR 37:2125 (July 2011), LR 40:2517 (December 2014).

§2509. Used School Buses

A. …

B. All replacement school buses used on daily routes, at the time they are acquired by the owner, must be 10 or less model years old for all owners/operators and school districts. The number of years shall be reckoned from the date of the model year (see Calculating the Age of School Buses, §3103).

C. Any school bus used as an activity or backup bus, at the time it is acquired by the owner and placed in service, shall be 15 or fewer model years old. The number of years shall be reckoned from the date of the model year (see §3103, Calculating the Age of School Buses).

D. Any school bus used as an activity or backup bus that is older than 15 model years shall not be used more than 60 consecutive school days in a school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:158.2, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999), amended LR 26:639 (April 2000), LR 27:187 (February 2001), LR 36:1479 (July 2010), LR 37:3204 (November 2011), LR 40:2517 (December 2014).

§2511. Life of a School Bus

A. School buses shall not exceed the age of 25 model years (see Calculating the Age of School Buses, §3103). LEAs must be in compliance with this standard by January 2011.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:1480 (July 2010), amended LR 40:2517 (December 2014).

Heather Cope
Executive Director

1412#020

RULE

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools (LAC 28:CXXXIX.309)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 126—Charter Schools* §309, Charter Authorizer Reporting Requirements. These revisions align policy with the provisions of Act 729 of the 2014 Regular Legislative Session regarding reporting requirements for all types of charter school authorizers. The proposed revisions establish reporting timelines regarding when authorizers receive charter applications and proposals, and when those applications and proposals are either approved or denied.

Title 28
EDUCATION
Part CXXXIX. Bulletin 126—Charter Schools

Chapter 3. Charter School Authorizers

§309. Charter Authorizer Reporting Requirements

A. All charter authorizers including BESE, local school boards and local charter authorizers shall notify state legislators regarding initial charter school proposals and applications according to the following requirements:

1. At the time a chartering group submits its initial proposal or application to operate a charter school, the chartering authority shall notify each state senator and state representative in whose district the charter school is to be located that such proposal or application has been submitted.

2. Such notification shall be limited to the date the proposal or application was submitted, the charter authorizer to which the proposal or application was submitted, the type of charter school the chartering group seeks to operate, and the location of the proposed school.

3. The charter authorizer shall also notify each state senator and state representative in whose district the charter school is to be located whether the proposal or application to operate a charter school was approved or denied.

4. The notifications shall be sent by both postal mail and electronic mail to each legislator's district office.

5. This section shall not apply to renewals of the charter of an existing charter school.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 40:2517 (December 2014).

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RULE

Board of Elementary and Secondary Education

Bulletin 132—Louisiana Course Choice Program
(LAC 28:CLI.103, 301, 303, 501, 503, 505, 507, 701, 1101, and 1301)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted revisions to *Bulletin 132—Louisiana Course Choice Program*: §103, Definitions; §301, Course Choice Program Authorization; §303, BESE Duties Relating to Course Choice Program; §501, General Provisions; §503, Course Provider Curriculum; §505, Course Provider Instructional Staff; §507, Online Course Providers; §701, Local Educational Authority (LEA) Duties; §1101, Program Funding; and §1301, Provider Evaluation. These revisions align policy with requirements of Act 482 of the 2014 Regular Legislative Session. The legislation and policy redefine criteria for eligible funded students and eligible participating students, and provide for disbursement and reallocation of Course Choice Program funds to public school systems.

Title 28
EDUCATION
Part CLI. Bulletin 132—Louisiana Course Choice Program

Chapter 1. General Provisions

§103. Definitions

Course Provider—an entity that offers individual courses in person or online, including but not limited to online or virtual education providers, postsecondary education institutions, including any postsecondary institution under the management of the Board of Supervisors of Community and Technical Colleges, "educational entrepreneurs" (teachers or groups of teachers) with proven track records of successful instruction, and business and industry that offer vocational or technical course work in their fields, and have been authorized to provide such courses by the State Board of Elementary and Secondary Education (BESE).

Eligible Funded Student—any student who resides in Louisiana and meets one of the following criteria:

1. is attending a public elementary or secondary school; and

2. has obtained approval from the local superintendent or other person designated by the governing authority of the school which he attends to enroll in a course in this program.

Eligible Participating Student—any student who resides in Louisiana and meets one of the following criteria:

1. is a scholarship recipient as defined in R.S. 17:4013 attending a participating school in accordance with R.S. 17:4011 through 4025;

2. is attending a nonpublic school that is approved, provisionally approved, or probationally approved by the state board pursuant to R.S. 17:11; or

3. is enrolled in a home study program approved by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17.4002.2.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:3124 (December 2012), amended LR 40:2518 (December 2014).

Chapter 3. Course Choice Authorizers

§301. Course Choice Program Authorization

A. BESE shall authorize the operation and eligibility of course providers to participate in the Course Choice Program. BESE shall determine:

A.1. - B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 4002.3.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:3124 (December 2012), amended LR 40:2518 (December 2014).

§303. BESE Duties Relating to Course Choice Program

A. - A.2. …

3. proposed courses offered, alignment of the courses by the course provider with the requirements of R.S. 17:24.4, and the designated length of each course offered within a window established by the Louisiana Department of Education (LDE);

4. - 6. …

B. BESE shall maintain a course catalog for all courses offered and shall timely update the catalogue, a minimum of once a year, prior to the beginning of each school year.

C. BESE shall provide for common course numbering of all courses listed in the course catalog and for determining whether courses are in compliance with R.S. 17:24.4. For courses offered by postsecondary education institutions that are authorized course providers, the state board shall consult with the Board of Regents.

1. BESE shall include in the course catalog any course offered for dual enrollment by a Louisiana public institution of postsecondary education with no requirement for course approval by BESE or the LDE, provided the course meets the Carnegie unit requirements for graduation.

D. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 4002.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:3124 (December 2012), amended LR 40:2518 (December 2014).

Chapter 5. Course Providers

§501. General Provisions

A. - C.6. …

D. All Course Choice Program course providers must agree to and have a plan to service students with special needs through instruction, materials, and/or technology. All eligible participating students with an individual education plan (IEP) will be entitled to special education services

through the school in which he/she is enrolled including, but not limited to, assisting course providers in implementing the accommodations within the IEP.

E. All Course Choice Program providers will adhere to the uniform grading policy established in Bulletin 741, §2302 for students enrolled in all grades K-12 for which letter grades are used. Business and industry providers will provide for credits for students seeking to obtain the career diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 4002.2-4002.6.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:3124 (December 2012), amended LR 40:2518 (December 2014).

§503. Course Provider Curriculum

A. All course providers shall:

1. - 3. …

4. ensure all students enrolled in a course are provided the necessary course materials related to the course content by the provider; and

5. ensure that all courses offered for dual enrollment post-secondary credit meet the standards and grade-level expectations of the high school course for which the student is receiving credit and meet the standards for college credit as established by the Louisiana Board of Regents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7, R.S. 17:24.4, and R.S. 17: 4002.2-4002.6.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:3124 (December 2012), amended LR 40:2519 (December 2014).

§505. Course Provider Instructional Staff

A. Each course provider shall establish by regulation, requirements and procedures consistent with R.S. 17:15 and R.S. 15:587.1, through which it may request information from the Louisiana Bureau of Criminal Identification and Information necessary to ascertain whether an employee, or applicant for employment as a teacher, substitute teacher, bus driver, substitute bus driver, or janitor, or as a temporary, part-time, or permanent employee of any kind, including any person employed to provide cafeteria, transportation, or janitorial or maintenance services by any person or entity that contracts with a course provider to provide such services, has been arrested for, convicted of, or pled nolo contendere to, any criminal offense.

1. The regulation shall include the requirement and the procedure for the submission of a person's fingerprints on a form acceptable to the bureau.

2. The request for information necessary to determine whether a person has been arrested for, convicted of, or pled nolo contendere to, any criminal offense must be on a form prepared by the bureau and must be signed by a responsible officer or official of the provider making the request.

3. It must include a statement signed by the person about whom the request is made which gives permission for such information to be released and must include the person's fingerprints in a form acceptable to the bureau.

~~4~~. A person whose fingerprints have been submitted to the bureau may be temporarily hired pending the report from the bureau.

B. No person who has been convicted of or has pled nolo contendere to a crime listed in R.S. 15:587.1(C) shall be allowed to instruct/interact with students as a teacher, substitute teacher, bus driver, substitute bus driver, janitor, or as a temporary, part-time, or permanent employee of any kind, including any person employed to provide cafeteria, transportation, or janitorial or maintenance services by any person or entity that contracts with a school or school system to provide such services unless approved in writing by a district judge of the parish and the district attorney.

1. This statement of approval shall be kept on file at all times by the course provider and shall be produced upon request to any law enforcement officer, BESE, or LDE staff member.

2. Not later than 30 days after its being placed on file with the course provider, the course provider shall submit a copy of the statement of approval to the state superintendent of education.

C. Instructional staff for Course Choice course providers must hold a baccalaureate degree from an accredited university in the subject area in which they are offering instruction. Course providers may also use industry personnel to provide instruction as long as these industry personnel meet CTTIE (career and technical trade industrial education) guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.1, R.S. 17:15, R.S. 17.7, R.S. 17.1, and R.S. 17:4002.4.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:3124 (December 2012), amended LR 40:2519 (December 2014).

§507. Online Course Providers

A. - C. …

D. The course provider must have a staff/instructor acceptable use policy for technology that complies with R.S. 17:3996(21).

E. The course provider must provide an electronic communication policy that complies with the federal Child Internet Protection Act and R.S. 17:100.7, including information on internet safety practices and policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:4002.2-4002.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3126 (December 2012), amended LR 40:2519 (December 2014).

Chapter 7. Local Educational Authority Duties

§701. Local Educational Authority (LEA) Duties

A. Each LEA shall establish policies and procedures whereby each eligible funded student may be granted approval to enroll in a course in this program, and which shall also provide for the following:

1. determination of whether a requested course is academically appropriate for the student;

2. credits earned through the course provider shall appear on each such student's official transcript and count fully towards the requirements of any approved Louisiana diploma;

3. BESE state assessments as required by the school and district accountability system shall be administered to each student;

4. all services to which each student would be entitled if attending the school in which he is enrolled full time for all courses, including but not limited to special education services pursuant to the student's individual education plan, shall be provided; and

5. each LEA that provides transportation for students within their jurisdiction shall also provide students participating in course choice transportation services within the same jurisdiction during normal school business hours.

B. Each LEA shall make available to all students the course catalog as provided by BESE during the annual course enrollment process for that LEA.

C. No LEA shall actively discourage, intimidate, or threaten an eligible funded student or an eligible participating student during the course enrollment process or at any time for that LEA.

D. The aggregate test scores of students identified in R.S. 17:4002.3(2)(a)-(b) and (3)(a) who are enrolled in a course shall be counted in the school performance score for the school in which the student is enrolled full time. The test scores shall be reported to and published by the state Department of Education for each course provider in an easy to understand format and on the department's website.

E. Each student identified in R.S. 17:4002.3(2)(a) and (b) and (3)(a) shall enroll in at least one course at the school in which the student is enrolled full time.

F. Enrollment of children in course work offered by course providers is in compliance with the objectives of Louisiana's compulsory attendance law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7, R.S. 17:24.4, and R.S. 17: 4002.2-4002.6.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:3124 (December 2012), LR 40:2519 (December 2014).

Chapter 11. Course Choice Program Funding

§1101. Program Funding

A. The following guidelines shall be used to establish funding procedures for the Course Choice Program.

1. The course provider shall receive a course amount for each eligible funded student as approved by BESE.

B. The course provider may charge tuition to any eligible participating student in an amount approved by the LDE.

C. The following guidelines shall be used in regards to the payments made to the course provider.

1. Fifty percent of the course amount or tuition to be paid to the course provider shall be paid upon student enrollment in a course and fifty percent shall be paid upon course completion according to the published course length.

2. After the initial payment, if a student does not complete a course according to the published course length, and the course provider has received the first payment pursuant to Paragraph 1 of this Subsection, the course provider shall receive an additional 40 percent of the course amount as provided in Subsections A and B of this Section, provided the student completes the course and receives credit for the course prior to leaving school pursuant to R.S. 17:221 or graduating from high school.

a. The state shall disburse any funds allocated, appropriated, or otherwise made available for the purposes of this program to each city and parish public school system and other public school.

b. Any such funds below 90 percent of each LEA's allocated funds that are not committed for use by the school system or other public school shall be subject to reallocation to another public school system or other public school for the purposes of this program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:4002.6

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:3124 (December 2012), amended LR 40:2520 (December 2014).

Chapter 13. Provider Evaluation

§1301. Provider Evaluation

A. BESE shall monitor and evaluate the course provider in a manner in which student achievement is the predominant criterion.

1. The initial authorization of the course provider shall be for a period of three years. After the second year of the initial authorization period, the state board shall conduct a thorough review of the course provider's activities and the academic performance of the students enrolled in courses offered by the course provider in accordance with the school and district accountability system. If the performance of the students enrolled in courses offered by the course provider pursuant to the school and district accountability system does not meet performance standards set by BESE. BESE shall place the course provider on probation.

2. After the initial three-year authorization period, BESE may reauthorize the course provider for additional periods of not less than three years nor more than five years after thorough review of the course provider's activities and the achievement of students enrolled in courses offered by the course provider.

3. - 3.c. …

4. Providers must show positive student academic gain with proven assessment methods for each course offering.

Type of Course	Proven Assessment Methods
Core Academic	Standard Louisiana-approved EOC (end-of-course) exams, if available other end-of-course exams tied to applicable Louisiana-approved course guidelines
Career and Technical	Recognized state/ national IBCs (industry-based certifications) based on proven methods Example: NCCER (National Center for Construction Education and Research)
College Credit	Successful AP/IB examination performance Approved assessment method using a proven college-level EOC exam/exercise

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:4002.6

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 38:3124 (December 2012), amended LR 40:2520 (December 2014).

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1412#023

RULE

Board of Elementary and Secondary Education

Bulletin 133—Scholarship Programs
(LAC 28:CLIII.101, 301, 501, and 1101)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 133—Scholarship Programs*: §101, Definitions; §301, School Registration

Process; §501, Finance; and §1101, Reporting. The proposed revisions to *Bulletin 133—Scholarship Programs*, will effectuate the provisions of Acts 467, 728, and 779 of the 2014 Regular Legislative Session regarding funding for the Louisiana Scholarship Program, procedures for the separation of scholarship funds for participating schools, and modified LDE reporting requirements.

Title 28
EDUCATION
Part CLIII. Bulletin 133—Scholarship Programs
Chapter 1. General Provisions
§101. Definitions

* * *

Eligible Nonpublic School—a non-public school that meets the following criteria:

1. is approved by the state Board of Elementary and Secondary Education as either an accredited approved school, a non-accredited approved school, a Louisiana Montessori accredited approved school, or a Louisiana Montessori provisionally accredited approved school pursuant to R.S. 17:11; and

2. is approved according to Brumfield, et al. v. Dodd, et al. 425 F. Supp. 528.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR: 38:3129 (December 2012), amended LR 40:2521 (December 2014).

Chapter 3. Registration
§301. School Registration Process

A. - A.3. …

B. Participating schools shall:

1. submit an annual notice of intent with the following information:

a. the number of available seats per grade. Enrollment of scholarship recipients in a participating school that has been approved for less than two years shall not exceed 20 percent of the school's total student enrollment.

b. - e. …

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3129 (December 2012), amended LR 40:2521 (December 2014).

Chapter 5. Finance
§501. Finance

A. The LDE shall allocate annually from funds appropriated or otherwise available for the program an amount per pupil to each participating school equal to the amount allocated per pupil as provided in the minimum foundation program formula, inclusive of the calculations of both the local and state per pupil allocations, to the local school system in which the scholarship recipient resides, considering all student characteristics.

B. For a participating school that charges tuition, if the maximum amount of tuition plus incidental or supplementary fees that are charged to non-scholarship students enrolled in such school and any costs incurred in administering the tests required pursuant to R.S. 17:4023 is less than the amount allocated per pupil to the local school system in which the student resides, then the amount allocated per pupil to the school shall be equal to the sum of such maximum tuition amount, such incidental or supplementary fees charged to non-scholarship students, and such testing costs.

C. - E.3. …

F. If a participating nonpublic school charges a higher tuition for students receiving special education services and meets the criteria set forth below, the LDE shall allocate funds appropriated or otherwise available to the program an amount per pupil to each participating nonpublic school equal to a special education tuition amount based on the cost of providing special education services identified for that student to the participating nonpublic school. This amount shall be in addition to the participating nonpublic schools' maximum scholarship payment, but the total of the payment and the special education tuition shall not exceed the amount that would be allocated for that student to the local school system if the student otherwise would be attending public school.

F.1. - G.2. …

3. The participating school shall account for all scholarship funds separately from other funds by maintaining funds in a separate account or by using accounting procedures that allow the legislative auditor to identify the separate funds. Such accounting shall allow for thorough auditing of the receipt and expenditure of state scholarship funds allocated through the LDE.

4. The participating school shall return to the state any funds that the legislative auditor determines were expended in a manner inconsistent with state law or program regulations.

5. The participating school shall pay the cost of such audit unless funds are appropriated by the legislature for such purpose, in which case the department shall pay the cost of such audit.

H. - H.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3130 (December 2012), amended LR 40:498 (March 2014), LR 40:2521 (December 2014).

Chapter 11. Reporting
§1101. Reporting

A. The department shall annually report to the Senate Committee on Education, the House Committee on Education, the Joint Legislative Committee on the Budget, and each individual legislator regarding the implementation of the program. The report, at a minimum, shall include the following information:

1. the total number of students receiving scholarships;

2. a list of all schools participating in the program;

3. a list of all schools participating in the program grouped by legislative district;

4. the total enrollment of each participating school, the number of scholarship recipients enrolled in each school, and the percentage of the total enrollment of each school represented by scholarship recipients; and

5. aggregate test result data for the scholarship recipients enrolled in each participating school.

B. No later than April 30 of each year, the department shall send a printed copy of the report required by this Section to each legislative committee as provided in

Subsection A of this Section and to each member of the Legislature.

C. The department shall annually publish the following information for all schools participating in the program:

1. the most recent aggregate average proficiency rates on state assessments for scholarship recipients enrolled at each participating school;

2. a list of all public schools with a letter grade of "C", "D", or "F", or any variation thereof;

3. the rate at which scholarship recipients finish the highest grade level offered at a participating school, by entering cohort;

4. the retention rate for scholarship recipients;

5. the percentage of parents or legal guardians of scholarship recipients who are satisfied with the participating school; and

6. the rate at which all participating schools admit and serve students with special education needs.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:6 and R.S. 17:4025.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3132 (December 2012), amended LR 40:2521 (December 2014).

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Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Career Diploma and Promotion of Students with Exceptionalities
(LAC 28: CXV.901, 2319, and 2397)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §901, Scheduling; §2319, The Career Diploma; and §2397, Career Options. The revisions are to align policies with Act 643 of the 2014 Regular Legislative Session which provides for changes to the career diploma. Both Act 643 and Act 833, which relates to promotion for students with exceptionalities, require revisions to policies related to the individual graduation plan. The policy revisions also provide for the phasing out of the Louisiana Alternate Assessment Level 2 (LAA 2).

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 9. Scheduling

§901. Scheduling

A. …

B. Prior to student scheduling each year, each middle, junior, or high school shall provide the parent/legal custodian with a listing of course offerings including the course choice catalog, the content of each course, and high school graduation requirements where appropriate.

1. By the end of the eighth grade, each student shall begin to develop, with the input of his parent(s) or other legal custodians and school counselor, an individual graduation plan. Such a plan shall guide the next academic year's course work. For a student with an exceptionality, except a student identified as gifted or talented and who has no other exceptionality, the student's IEP team, if applicable, shall assist in developing the individual graduation plan.

2. The individual graduation plan will assist the student in exploring educational and career opportunities and in making appropriate secondary and postsecondary education decisions as part of an overall postsecondary plan.

3. By the end of the eighth grade each student's individual graduation plan or the student's IEP, if applicable, shall list the required core courses to be taken through the tenth grade and shall identify the courses taken in the first year of high school.

4. Students who fail to meet the standard for promotion to the ninth grade shall have any necessary remedial courses included in their individual graduation plan.

5. By the end of the tenth grade, each student's individual graduation plan or the student's IEP, if applicable, shall outline the school graduation requirements relevant to the student's chosen postsecondary goals based on the student's academic record, talents, and interests.

6. Each student, with the assistance of his parent or other legal custodian and school counselor shall choose the high school curriculum framework and related graduation requirements that best meet his postsecondary goals.

7. The individual graduation plan or the IEP, if applicable, shall be reviewed annually and updated as necessary to identify the courses to be taken each year until all required courses are completed.

C. Student scheduling shall be individually appropriate and flexible to allow entry into and exit from courses and course sequences that are available for meeting curricular requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:175 and R.S. 17:183.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1271 (June 2005), amended LR 36:1498 (July 2010), LR 39:2204 (August 2013), LR 40:2522 (December 2014).

Chapter 23. Curriculum and Instruction
Subchapter A. Standards and Curricula

§2319. The Career Diploma

A. Curriculum and Entrance Requirements

1. The 23 units required for the career diploma shall include academic credits and a sequence of seven credits in career and technical education for incoming freshmen prior to 2014-2015 or participation in approved training programs that lead to an approved industry-based credential for incoming freshmen in 2014-15 and beyond.

2. Students with exceptionalities who meet certain requirements may attain a career diploma by meeting the requirements of their IEP. See *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities.*

B. Assessment Requirements

1. …

a. Only students with disabilities eligible under IDEA who meet the LAA 2 participation criteria and entered high school during or prior to the 2013-2014 school year may take the LAA 2.

1.b. - 2.a.iii. …

b. Students with disabilities identified under IDEA that entered high school during or prior to the 2013-2014 school year and meet the LAA 2 participation criteria may meet the assessment requirements by passing the English language areas and mathematics components of the LAA 2 and either the science or social studies component of LAA 2.

3. - 4. …

5. Remediation and retake opportunities will be provided for students who do not pass the GEE or, or the end-of-course tests. Students shall be offered 50 hours of remediation each year in each content area they do not pass on the GEE. Students shall be offered 30 hours of remediation each year in each EOC test they do not pass. Refer to *Bulletin 1566*, guidelines for pupil progression, and the addendum to *Bulletin 1566*, regulations for the implementation of remedial education programs related to the LEAP/CRT Program, regular school year.

6. - 6.a.ii. …

7. Prior to or upon the student's entering the tenth grade, all LEAs shall notify each student and his/her parents or guardians of the requirement of passing GEE or the end-of-course tests.

a. Upon their entering a school system, students transferring to any high school of an LEA shall be notified by that system of the requirement of passing GEE or the end-of-course tests.

C. Minimum Course Requirements

1. The minimum course requirements for a career diploma for incoming freshmen prior to 2014-2015 shall be the following.

a. - h. …

2. The minimum course requirements for a career diploma for incoming freshmen in 2014-2015 and beyond shall be the following:

a. English—4 units:

i. English I;

ii. English II;

iii. the remaining units shall come from the following:

(a). technical reading and writing;

(b). business English;

(c). English III;

(d). English IV;

(e). any AP or IB English course; or

(f). comparable Louisiana technical college courses offered by Jump Start regional teams as approved by BESE;

b. mathematics—4 units:

i. algebra I, applied algebra I, or algebra I-Pt. 2 (the elective course algebra I-Pt. 1 is a pre-requisite);

ii. The remaining units shall come from the following:

(a). geometry;

(b). financial literacy (formerly financial math);

(c). math essentials;

(d). algebra II;

(e). advanced math-functions and statistics;

(f). advanced math-pre-calculus;

(g). algebra III;

(h). pre-calculus;

(i). comparable Louisiana technical college courses offered by Jump Start regional teams as approved by BESE;

(j). integrated mathematics I, II, and III may be substituted for algebra I, geometry, and algebra II and shall count as 3 math credits;

c. science—2 units:

i. 1 unit of Biology;

ii. 1 unit from the following:

(a). chemistry I;

(b). physical science;

(c). earth science;

(d). agriscience II;

NOTE: Agriscience I is a prerequisite for Agriscience II and is an elective course.

(e). environmental science;

(f). any AP or IB science course;

d. social studies—2 units:

i. 1 of the following:

(a). U.S. history;

(b). AP U.S. history;

(c). IB history of the Americas I;

ii. civics or:

(a). 1/2 unit of:

(i). government; or

(ii). AP U.S. government and politics: comparative; or

(iii). AP U.S. government and politics: US; and

(b). 1/2 unit of:

(i). economics; or

(ii). AP macroeconomics; or

(iii). AP microeconomics;

e. health education—1/2 unit:

i. JROTC I and II may be used to meet the health education requirement. Refer to §2347;

f. physical education—1 1/2 units:

i. shall be physical education I; and

ii. 1/2 unit from among the following:

(a). physical education II;

(b). marching band;

(c). extracurricular sports;

(d). cheering; or

(e). dance team;

iii. ROTC may be substituted;

iv. adaptive PE for eligible special education students may be substituted;

g. at least 9 credits in Jump Start course sequence, workplace experiences and credentials;

h. total—23 units.

3. To complete a career area of concentration for the career diploma, students shall meet the minimum requirements for graduation including four elective primary credits in the career major and two related elective credits, including one computer/technology course. Areas of concentration are identified in the career options reporting system with each LEA designating the career and technical education areas of concentration offered in their school system each year. The following computer/technology applications courses can be used to meet this requirement.

Course	Credit
Computer/Technology Literacy	1
Computer Applications or Business Computer Applications	1
Computer Architecture	1
Computer Science I, II	1 each
Computer Systems and Networking I, II	1 each
Desktop Publishing	1
Digital Graphics & Animation	1/2
Multimedia Presentations	1/2 or 1
Web Mastering or Web Design	1/2
Independent Study in Technology Applications	1
Word Processing	1
Telecommunications	1/2
Introduction to Business Computer Applications	1
Technology Education Computer Applications	1
Advanced Technical Drafting	1
Computer Electronics I, II	1 each
Database Programming with PL/SQL	1
Java Programming	1
Database Design and Programming	1/2
Digital Media I, II	1 each

4. Courses developed by the LEAs and submitted to BESE for approval as substitutes for core course requirements must meet state content standards for the subject area at the ninth grade level or higher.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, R.S. 17:183.3, R.S. 17:274, R.S. 17:274.1, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014).

§2397. Career Options

A. Preparation for Choosing an Area of Concentration

1. To prepare students for choosing a career option at the high school level, at least six activities which expose students to career and technical and academic fields of study shall be conducted at each grade level in grades six through eight during each school year. Such activities shall include career interest inventories and information to assist students in the career decision-making process and may include job shadowing, job mentoring, and job internships. The activities may also include field trips, guest speakers, community service activities, and other activities designed to introduce students to occupations in demand in Louisiana.

2. School counselors or others designated by the school principal, or both, shall be responsible for the completion of the individual graduation plan. The school counselors and others shall counsel each student with regard to high school graduation requirements and shall assist the student in developing his plan. For a student with exceptionalities, except a student identified as gifted or talented and who has no other exceptionality, the student's IEP team, if applicable, will assist the student in developing the individual graduation plan.

3. During the ninth and tenth grades, each student shall pursue the rigorous core curriculum required by his school for his chosen major. The core curriculum shall include required coursework as established by BESE and appropriate elective courses.

B. Career Major (Jump Start Pathway)

1. Students shall complete a regionally-designed, district-implemented series of career and technical education Jump Start coursework and workplace-based learning experiences leading to a statewide or regional Jump Start credential. Each student's Jump Start graduation pathway shall include courses and workplace experiences specific to the credential, courses related to foundational career skills requirements, and other courses (including career electives) that the Jump Start regional determines are appropriate for the career pathway.

2. Each Jump Start graduation pathway shall consist of at least nine CTE credits selected from courses approved for the graduation pathway that the student pursues to obtain a Jump Start career diploma.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:183.1 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1303 (June 2005), amended LR 36:1996 (September 2010), LR 40:2524 (December 2014).

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Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction
(LAC 28:CXV.Chapter 23)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2318, The TOPS University Diploma; §2333, Art; §2337, Dance; §2341, English; §2345, Foreign Languages; §2353, Mathematics; §2355, Music; §2361, Science; §2363, Social Studies; and §2369, Theatre Arts. The revisions are required by Act 566 of the 2014 Regular Legislative Session, which adjusts the civics requirement for graduation and for the Taylor Opportunity Program for Students (TOPS) core curriculum, and Act 733 2014 Regular Legislative Session, which gives BESE the authority to approve necessary name changes for advanced placement (AP) and international baccalaureate (IB) courses, as prescribed by the College Board and the International Baccalaureate Foundation. The policy revisions also provide for the phasing out of the Louisiana Alternate Assessment 2 (LAA 2).

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 23. Curriculum and Instruction
Subchapter A. Standards and Curricula
§2318. The TOPS University Diploma

A. Curriculum Requirements

1. …

2. For incoming freshmen in 2008-2009 through 2013-2014, all ninth graders in the college and career diploma pathway will be enrolled in the Louisiana Core 4 Curriculum.

B. Assessment Requirements

1. …

a. Only students with disabilities eligible under IDEA who meet the LAA 2 participation criteria and entered high school during or prior to the 2013-2014 school year may take the LAA 2.

1.b. - 2.a.iii. …

b. Students with disabilities identified under IDEA who meet the LAA 2 participation criteria and entered high school during or prior to the 2013-2014 school year may meet the assessment requirements by passing the English language areas and mathematics components of the LAA 2 and either the science or social studies component of LAA 2.

3. - 4. …

5. Remediation and retake opportunities will be provided for students who do not pass the GEE or the end-of-course tests. Students shall be offered 50 hours of remediation each year in each content area they do not pass on the GEE. Students shall be offered 30 hours of remediation each year in each EOC test they do not pass. Refer to Bulletin 1566, guidelines for pupil progression and the addendum to Bulletin 1566, regulations for the implementation of remedial education programs related to the LEAP/CRT program, regular school year.

6. - 6.a.ii. …

7. Prior to or upon the student's entering the tenth grade, all LEAs shall notify each student and his/her parents or guardians of the requirement of passing GEE, LAA 2, or the end-of-course tests.

a. Upon their entering a school system, students transferring to any high school of an LEA shall be notified by that system of the requirement of passing GEE or the end-of-course tests.

C. Minimum Course Requirements

1. - 2.j. …

3. For incoming freshmen in 2014-2015 and beyond who are completing the TOPS university diploma, the minimum course requirements shall be the following:

a. English—four units:
i. English I;
ii. English II;
iii. one of the following:
(a). English III;
(b). AP English language arts and composition;
(c). IB literature;
(d). IB language and literature;
(e). IB literature and performance;
iv. one of the following:
(a). English IV;
(b). AP English literature and composition;
(c). IB literature;
(d). IB language and literature;
(e). IB literature and performance;

b. mathematics—four units:
i. algebra I;
ii. geometry;
iii. algebra II;

NOTE: Integrated Mathematics I, II, and III may be substituted for the Algebra I, Geometry, and Algebra II sequence.

iv. one of the following:
(a). algebra III;
(b). advanced math—functions and statistics;
(c). advanced math—pre-calculus;
(d). pre-calculus;
(e). IB math studies (math methods);
(f). calculus;
(g). AP calculus AB;
(h). IB mathematics SL;
(i). AP calculus BC;
(j). AP statistics;
(k). IB further mathematics HL;
(l). IB mathematics HL;

c. science—four units:
i. biology I;
ii. chemistry I;
iii. two units chosen from the following
(a). Earth science;
(b). environmental science;
(c). physical science;
(d). agriscience II—the elective course agriscience I is a pre-requisite;
(e). one of:
(i). chemistry II;
(ii). AP chemistry;
(iii). IB chemistry I;
(iv). IB chemistry II;
(f). one of:
(i). AP environmental science;
(ii). IB environmental systems;
(g). one of:
(i). physics I;
(ii). IB physics I;
(h). one of:
(i). AP physics C: electricity and magnetism;
(ii). AP physics C: mechanics;
(iii). IB physics II;
(i). AP physics I and AP physics II:
(j). one of:
(i). biology II;
(ii). AP biology;
(iii). IB biology I;
(iv). IB biology II;

d. social studies—four units:
i. one unit chosen from:
(a). U.S. history;
(b). AP U.S. history;

(c). IB history of the americas I;

ii. one unit chosen from:

(a). civics with a section on free enterprise;

(b). government; or

(c). AP U.S. government and politics: comparative; or

(d). AP U.S. government and politics: United States;

iii. two units chosen from:

(a). one of:

(i). European history;

(ii). AP European history;

(iii). western civilization;

(b). one of:

(i). world geography;

(ii). AP human geography;

(iii). IB geography;

(c). one of:

(i). world history;

(ii). AP world history;

(iii). IB history of the Americas II;

(d). IB economics;

(e). economics;

(f). AP macroeconomics;

(g). AP microeconomics.;

e. foreign Language—two units:

i. two units from the same language (§2345);

f. art—one unit chosen from the following:

i. - vi. …

vii. drafting;

g. - j. …

4. High School Area of Concentration

a. All high schools shall provide students the opportunity to complete an area of concentration with an academic focus and/or a career focus.

i. …

ii. Incoming freshmen in 2008-2009 through 2013-2014 can complete an academic area of concentration by completing the course requirements for the LA Core 4 curriculum.

iii. …

* * *

5. Academic Endorsement

a. Graduating seniors who entered the 9th grade prior to 2014-2015 and satisfy the following performance indicators shall be eligible for an academic endorsement to the college and career diploma.

i. Students graduating in 2011-2012 through 2016-2017 shall complete the following curriculum requirements or the TOPS core curriculum.

NOTE: For courses indicated with *, an Advanced Placement (AP) or International Baccalaureate (IB) course designated in §2325 may be substituted.

(a). - (i). …

ii. Assessment Performance Indicator

(a). - (a).ii. …

(b). Students graduating in 2013-2014 through 2016-2017 shall achieve a score of *good* or *excellent* on each of the following EOC tests:

(i). English II and English III;

(ii). algebra I and geometry;

(iii). biology and U.S. history.

NOTE: Transfer students need only meet this requirement for the EOC tests they are required to take according to the transfer rules found in §1829 of Bulletin 118.

iii. - v. …

6. Career/Technical Endorsement

a. Students who entered the 9th grade prior to 2014-2015 and satisfy the following performance indicators shall be eligible for a career/technical endorsement to the college and career diploma.

i. Students graduating prior to 2011-2012 shall meet the current course requirements for the TOPS Opportunity Award or the TOPS Tech Award. Students graduating in 2011-2012 through 2016-2017 shall meet the course requirements for the Louisiana Core 4 Curriculum.

ii. - iii.(a).(ii). …

(b). Students graduating in 2013-2014 through 2016-2017 shall achieve a score of *good* or *excellent* on each of the following EOC tests:

(i). English II and English III;

(ii). algebra I and geometry;

(iii). biology and U.S. history.

NOTE: Transfer students need only meet this requirement for the EOC tests they are required to take according to the transfer rules found in §1829 of Bulletin 118.

iv. - vi. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:183.2; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:2525 (December 2014).

§2333. Art

A. Art course offerings shall be as follows.

Course Title(s)	Units
Art I, II, III, IV	1 each
AP Art History	1
Talented Art I, II, III, IV	1 each
AP Studio Art: 2-D Design	1
AP Studio Art: 3-D Design	1
AP Studio Art: Drawing	1
IB Visual Arts	1

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 31:3069 (December 2005), LR 37:2132 (July 2011), LR 40:998 (May 2014), LR 40:2526 (December 2014).

Subchapter B. Academic Programs of Study

§2337. Dance

A. Dance course offerings shall be as follows.

Course Title(s)	Units
Dance I, II, III, IV	1 each
IB Dance	1

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 37:2133 (July 2011), LR 40:2526 (December 2014).

§2341. English

A. The English course offerings for the college diploma shall be as follows.

Course Title(s)	Units
English I, II, III, and IV	1 each
Business English (for incoming freshmen prior to 2008-2009)	1
Senior Applications in English	1
Reading I (elective credit)	1
Reading II (elective credit)	1
English as a Second Language (ESL) I, II, III, and IV (elective credit)	1 each
AP English Language Arts and Composition	1
AP English Literature and Composition	1
IB Literature	1
IB Language and Literature	1
IB Literature and Performance	1

B. The English course offerings for the career diploma shall be as follows.

Course Title(s)	Units
English I, II, III, and IV	1 each
Senior Applications in English	1
Technical Reading and Writing	1
Business English	1
Business Communications	1
Using Research in Careers	1/2 unit
American Literature	1/2 unit
Film in America	1/2 unit
AP English Language Arts and Composition	1
AP English Literature and Composition	1
IB Literature	1
IB Language and Literature	1
IB Literature and Performance	1
Reading I (elective credit)	1
Reading II (elective credit)	1
English as a Second Language (ESL) I, II, III, and IV (elective credit)	1 each
Course(s) developed by the LEA and approved by BESE	1

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 33:2605 (December 2007), LR 36:1492 (July 2010), LR 40:998 (May 2014), LR 40:2527 (December 2014).

§2345. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title(s)	Units
French I, II, III, IV, V	1 each
German I, II, III, IV, V	1 each
Italian I, II, III, IV, V	1 each
Latin I, II, III, IV, V	1 each
Russian I, II, III, IV, V	1 each
Spanish I, II, III, IV, V	1 each
American Sign Language I, II, III, IV	1 each
Greek I, II, III, IV	1 each
Chinese I, II, III, IV	1 each
Japanese I, II, III, IV	1 each
Hebrew I, II, III, IV	1 each
Arabic I, II, III, IV	1 each
IB Language ab initio: Arabic	1
IB Language B: Arabic	1
AP Chinese Language and Culture	1
AP French Language and Culture	1
AP German Language and Culture	1
AP Italian Language and Culture	1
AP Japanese Language and Culture	1
AP Latin	1
AP Spanish Language and Culture	1
IB Language ab initio: French	1
IB Language B: French	1
IB Language ab initio: Spanish	1
IB Language B: Spanish	1
IB Language ab initio: German	1
IB Language B: German	1
IB Language ab initio: Chinese	1
IB Language B: Chinese	1
IB Language ab initio: Italian	1
IB Language B: Italian	1
IB Language ab initio: Japanese	1
IB Language B: Japanese	1
IB Classical Language	1

B. - B.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 273, and R.S. 17:284.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1295 (June 2005), amended LR 36:1996 (September 2010), LR 38:759 (March 2012), LR 38:2364 (September 2012), LR 39:2220 (August 2013), LR 40:998 (May 2014), LR 40:2527 (December 2014).

§2353. Mathematics

A. The mathematics course offerings for the college diploma shall be as follows.

Course Title(s)	Units
Advanced Math—Pre-Calculus	1
Advanced Math—Functions and Statistics	1
Algebra I, II	1 each
Applied Algebra I	1
Algebra I—Part 1	1
Algebra I—Part 2	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics (Literacy)	1
Geometry	1
Applied Geometry	1
Integrated Mathematics I, II, III	1 each
Pre-Calculus	1
Probability and Statistics	1
Math Essentials	1
AP Calculus BC	1
AP Calculus AB	1
AP Statistics	1
IB Math Studies (Math Methods)	1
IB Mathematics SL	1
IB Further Mathematics HL	1
IB Mathematics HL	1

B. The mathematics course offerings for the career diploma shall be as follows.

Course Title(s)	Units
Algebra I	1
Algebra I—Part 1	1
Algebra I—Part 2	1
Applied Algebra I	1
Geometry	1
Applied Geometry	1
Financial Mathematics (Literacy)	1
Technical Math	1
Medical Math	1
Applications in Statistics and Probability	1
Algebra II	1
Advanced Math—Pre-Calculus	1
Discrete Mathematics	1
Math Essentials	1
Course(s) developed by the LEA and approved by BESE	1

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:2605 (December 2007), LR 34:1609 (August 2008), LR 35:2322 (November 2009), LR 36:1493 (July 2010), LR 38:760 (March 2012), LR 40:999 (May 2014), LR 40:2527 (December 2014).

§2355. Music

A. The music course offerings shall be as follows.

Course Title(s)	Units
Applied Music	1
Beginning Band	1
Beginning Choir	1
Sectional Rehearsal	1
Studio Piano I, II, III	1 each
Studio Strings I, II, III	1 each
Intermediate Band	1
Intermediate Choir	1
Advanced Band	1
Advanced Choir	1
Beginning Orchestra	1
Intermediate Orchestra	1
Advanced Orchestra	1
Small Vocal Ensemble	1
Wind Ensemble	1
Jazz Ensemble	1
Guitar Class	1
Piano Class	1
Music Theory I, II	1 each
Music and Media	1
Music and Technology	1
Talented Music I, II, III, IV	1 each
AP Music Theory	1
IB Music	1
Marching Band	1/2

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 31:3069 (December 2005), LR 33:2354 (November 2007), LR 37:2133 (July 2011), LR 39:2221 (August 2013), LR 40:999 (May 2014), LR 40:2528 (December 2014).

§2361. Science

A. The science course offerings for the college diploma shall be as follows.

Course Title(s)	Units
Aerospace Science	1
Agriscience II	1
Anatomy and Physiology	1
Biology I, II	1 each
Chemistry I, II	1 each
Earth Science	1
Environmental Science	1
Integrated Science	1
Physical Science	1
Physics I, II	1 each
Physics of Technology I, II	1 each
Approved IBC-related courses for those students who meet the requirement	1 each
AP Chemistry	1
IB Chemistry I	1
IB Chemistry II	1
AP Environmental Science	1
IB Environmental Systems	1
IB Physics I	1
AP Physics C: Electricity and Magnetism	1
AP Physics C: Mechanics	1
IB Physics II	1
AP Physics I and II	1/2 each
AP Biology	1
IB Biology I	1
IB Biology II	1

B. The science course offerings for the career diploma shall be as follows.

Course Title(s)	Units
Aerospace Science	1
Agriscience II	1
Anatomy and Physiology	1
Biology	1
Chemistry	1
Earth Science	1
Environmental Science	1
Integrated Science	1
Physical Science	1
Physics	1
Physics of Technology I, II	1 each
Food Science	1
Forensic Science	1
Allied Health Science	1
Basic Body Structure and Function	1
Basic Physics with Applications	1
Animal Science	1
Biotechnology in Agriculture	1
Environmental Studies in Agriculture	1
Health Science II	1
EMT—Basic	1
Any AP or IB science course	1
Course(s) developed by the LEA and approved by BESE	1 each

C. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1297 (June 2005), amended LR 33:2605 (December 2007), LR 36:1494 (July 2010), LR 40:1000 (May 2014), LR 40:2528 (December 2014).

§2363. Social Studies

A. The social studies course offerings for the college diploma shall be as follows.

Course Title(s)	Units
American Government	1
U.S. History	1
Civics	1
Economics	1
Free Enterprise	1/2
Law Studies	1
Psychology	1
Sociology	1
AP European History	1
African American Studies	1
Approve IBC-related courses for those students who meet the requirement	1 each
AP U.S. History	1
IB History of the Americas I	1
AP US Government and Politics: Comparative	1
AP US Government and Politics: United States	1
AP Macroeconomics	1
AP Microeconomics	1
AP Human Geography	1
IB Geography	1
AP World History	1
IB History of the Americas II	1
IB Economics	1

B. The social studies course offerings for the career diploma shall be as follows.

Course Title(s)	Units
American Government	1
U.S. History	1
AP U.S. History	1
IB History of the Americas I	1
Civics	1
AP US Government and Politics: Comparative	1
AP US Government and Politics: United States	1
Economics	1
AP Macroeconomics	1
AP Microeconomics	1
Free Enterprise	1/2
Law Studies	1
Psychology	1
Sociology	1
African American Studies	1
Child Psychology and Parenthood Education	1
Course(s) developed by the LEA and approved by BESE	1

C. - D.4. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.3, R.S. 17:274, R.S. 17:274.1, and R.S. 17:274-274.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 31:3072 (December 2005), LR 33:431 (March 2007), LR 33:2606 (December 2007), LR 36:1495 (July 2010), LR 37:1131 (April 2011), LR 40:1000 (May 2014), LR 40:2529 (December 2014).

§2369. Theatre Arts

A. The theatre arts course offerings shall be as follows.

Course Title(s)	Units
Theatre I, II, III, IV	1 each
Technical Theatre	1
Theatre Design and Technology	1
Talented Theatre I, II, III, IV	1 each
IB Film Study I	1
IB Theatre	1

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1298 (June 2005), amended LR 31:3070 (December 2005), LR 37:2133 (July 2011), LR 40:1001 (May 2014), LR 40:2529 (December 2014).

Kimberly Tripeaux
Interim

1412#026

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Dating Violence and Student Code of Conduct
(LAC 28:CXV.1129 and 1302)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §1129. Dating Violence and §1302. Student Code of Conduct. The revisions are required by Act 506 of the 2014 Regular Legislative Session, which directs Local Educational Agencies to collect data and to provide training for employees on dating violence.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 11. Curriculum and Instruction
§1129. Dating Violence

A. At the beginning of each school year, each LEA shall provide all school employees having contact with students in grades 7 through 12 instruction relative to:

1. the definition of dating violence;
2. dating violence warning signs; and
3. how to properly address suspected or reported dating violence involving students including but not limited to counseling and notification of law enforcement.

B. Each LEA shall also provide information relative to dating violence to the parents of students in grades 7 through 12.

C. In the spring of each school year, each local superintendent or CEO shall make an oral report at a meeting of the local governing authority that shall include

1. the compliance of each school with the requirements of this section;
2. aggregate data relative to dating violence; and
3. any recommendations for reducing data violence among students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:2529 (December 2014).

Chapter 13. Discipline

§1302. Student Code of Conduct

A. Each LEA shall adopt a student code of conduct for the students in the schools under its jurisdiction.

1. – 2. …

3. Each LEA shall include in its student code of conduct the definition of dating violence, data violence warning signs and instructions for reporting or seeking help relative to dating violence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81, R.S. 17:223-224, R.S. 17:416, and R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:477 (March 2013), LR 40:2530 (December 2014).

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RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—High Schools (LAC 28:CXV.2317)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2317. High Schools. The revisions are required by Act 99 of the 2014 Regular Legislative Session, which provides policy for the optional Biliteracy Seal for graduating seniors.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2317. High Schools

A. - I.4. …

J. State Seal of Biliteracy

1. LEAs are encouraged but not required to participate in the state seal of biliteracy program.

a. A participating school governing authority shall maintain appropriate records in order to identify students who have earned the seal and affix the seal to the transcript and diploma of each student who earns the seal.

2. The state seal of biliteracy certifies that a student meets all of the following criteria:

a. has completed of all English language arts requirements for graduation;

b. has passed the Reading and English parts of the ACT series with a score of nineteen or above; and

c. has demonstrated proficiency in one or more languages other than English through one of the methods below.

i. Passing a world language advanced placement examination with a score of 3 or higher or a world language International Baccalaureate examination with a score of 4 or higher.

(a). For languages in which an advanced placement test is not available, school systems may use an equivalent summative test as approved by the state superintendent of education.

ii. Successful completion of a four-year high school course of study in a world language or successful completion of 7 Carnegie units or more in language or content courses in a world language immersion setting.

iii. Passing a foreign government's approved language examination and receiving a receipt of a certificate of competency from the authorizing government agency at

(a). the European B2 level;

(b). American Council on the Teaching of Foreign Languages Advanced Low level; or

(c). equivalent measures.

3. If the primary language of a student in grades 9 through 12 is other than English, he shall do both of the following to qualify for the State Seal of Biliteracy:

a. attain the Early Advanced proficiency level on the English Language Development Assessment; and

b. meet the requirements of Paragraph 2 of this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:154, R.S. 17:1944, and R.S. 17:1945.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 36:1485 (July 2010), LR 37:1137 (April 2011), LR 38:754 (March 2012), LR 39:1038 (April 2013), LR 39:2216 (August 2013), LR 40:2530 (December 2014).

Kimberly Tripeaux
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1412#027

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Instruction in Cardiopulmonary Resuscitation and Automated External Defibrillators (LAC 28:CXV.337, 2305, and 2347)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §337. Written Policies and Procedures, §2305. Ancillary Areas of Instruction, and §2347. Health Education. The revisions are required by Act 517 and Act 525 of the 2014 Regular Legislative Session. Act 517 requires instruction in cardiopulmonary resuscitation and automated external defibrillators for students taking high school health. Act 525 requires LEAs to provide grade-appropriate and age-appropriate instruction to all students regarding child assault awareness and prevention. Act 517 and Act 525 also require LEAs to develop local policy related to these acts.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§337. Written Policies and Procedures

A. …

B. Each LEA shall have policies and procedures that address, but are not limited to, the following:

1. - 27. …

28. the reporting of school bus operator arrests for violations of R.S. 14:98, 98.1, or any other law or ordinance that prohibits operating a vehicle while under the influence of alcohol or any abused substance or controlled dangerous substance set forth in the schedules provided in R.S. 40:964;

29. in the student code of conduct, the prohibition against bullying as defined in §1303;

30. instruction regarding cardiopulmonary resuscitation and automated external defibrillators in Health Education (refer to §2347); and

31. instruction regarding child abuse and assault awareness and prevention (refer to §2305.K.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7(29), R.S. 17:81, R.S. 17:240, and R.S. 17:100.8.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:1224 (June 2010), LR 37:1141 (April 2011), LR 37:1380, 1380 (May 2011), LR 37:2134 (July 2011), LR 38:40, 41 (January 2012), LR 39:2197 (August 2013), LR 40:2530 (December 2014).

Chapter 23. Curriculum and Instruction

§2305. Ancillary Areas of Instruction

A. - J. …

K. Each LEA shall provide age- and grade-appropriate classroom instruction to all students relative to child assault awareness and prevention.

1. Such instruction shall be limited to:

a. education on what constitutes abuse or an assault; and

b. how students may safely and confidentially report to a school official the circumstances surrounding any such abuse or assaults.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154, R.S. 17:261 et seq., R.S. 17:280, R.S. 17:281 et seq., R.S.17:404, R.S. 17:405 et seq., 36 USCS §106, R.S. 17:263, and R.S. 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 33:2353 (November 2007), LR 39:2214 (August 2013), LR 39:3259 (December 2013), LR 40:2531 (December 2014).

§2347. Health Education

A. The health education course offerings shall be as follows.

Course Title(s)	Units
Health Education	1/2

B. Cardiopulmonary resuscitation (CPR) shall be taught.

1. Instruction shall be provided relative to cardiopulmonary resuscitation and the use of an automated external defibrillator.

2. The instructional program shall be one that is nationally recognized and based on the most current national evidence-based emergency cardiovascular care guidelines.

3. The CPR training for students shall be required to perform hands-on practice to support cognitive learning.

4. The teacher shall not be required to be CPR certified.

5. The training shall not result in certification of students in CPR.

6. The physical presence of an automated external defibrillator is not required.

C. JROTC I and II may be used to meet the health education requirement provided the following requirements are met.

1. - 2. …

3. JROTC I and JROTC II shall include instruction in CPR, automated external defibrillators, and content relative to dating violence as required by state law.

D. - D.3.…

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, and R.S. 17:81.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1296 (June 2005), amended LR 33:817 (May 2007), LR 36:1493 (July 2010), LR 37:1135 (April 2011), LR 39:2220 (August 2013), LR 39:3260 (December 2013), LR 40:2531 (December 2014).

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1412#028

RULE

Board of Elementary and Secondary Education

Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities
(LAC 28:XCVII.Chapter 4)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted revisions to *Bulletin 119—Louisiana School Transportation Specifications and Procedures*: §401, Eligible Students and IEP Team Responsibilities; §403, Requirements for Promotion; and §405, Requirements for Graduation. These revisions align policy with requirements of Act 833 of the 2014 Regular Legislative Session. The policies provide for alternate pathways for certain students with disabilities to be promoted and to graduate with a diploma. The policies also expand the role of the IEP team in promotion and graduation decisions.

Title 28
EDUCATION
Part XCVII. Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities
Chapter 4. Alternative Pathways to Promotion and Graduation

§401. Eligible Students and IEP Team Responsibilities

A. Beginning with the 2014-2015 school year, IEP teams shall determine promotion and may establish an alternative pathway for fulfilling graduation requirements, pursuant to regulations set forth in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, R.S. 17:183.2, R.S. 17:183.3, R.S. 17:1941 et seq., and R.S. 17:2925.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:2531 (December 2014).

§403. Requirements for Promotion

A. Beginning in spring 2015 and in accordance with procedures set forth by the LDE, IEP teams shall determine promotion to the next grade level for a student with a disability who fails to meet state or local established performance standards on any assessment for purposes of promotion. Such determination shall be made only if, in the

school year immediately prior to each grade level in which the student would otherwise be required to demonstrate certain proficiency levels in order to advance to the next grade level, the student has not otherwise met the local requirements for promotion or has not scored at or above the basic achievement level on the English language arts or mathematics components of the required state assessment and at or above the approaching basic achievement level on the other.

B. If an IEP team determines that the student is not required to meet state or local established performance standards on any assessment for purposes of promotion, it shall:

1. identify rigorous educational goals for the student;

2. include diagnostic information, appropriate monitoring and intervention, and other evaluation strategies;

3. include an intensive instructional program;

4. provide innovative methods to promote the student's advancement including flexible scheduling, alternative learning environments, online instruction, or other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability; and

5. identify a course of study that promotes college or workforce readiness, or both, career placement and advancement, and transition from high school to postsecondary education or work placement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, R.S. 17:183.2, R.S. 17:183.3, R.S. 17:1941 et seq., and R.S. 17:2925.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:2531 (December 2014).

§405. Requirements for Graduation

A. Beginning with the 2014-2015 school year, by the end of eighth grade, the IEP team of a student with a disability shall begin to develop an individual graduation plan pursuant to Bulletin 741 and the provisions of this Chapter.

B. Beginning with the 2014-2015 school year, if a student with a disability has not met state-established benchmarks on state assessments for any two of the three most recent school years prior to high school, or for the two most recent administrations of any state-established assessments required for graduation, the IEP team may determine if the student is required to meet state or local established performance standards on any assessment for purposes of graduation.

C. Students with disabilities shall be afforded the same opportunities to pursue a standard diploma and to exit with all course credits, honors, and financial awards as other students. A student is not guaranteed a diploma and shall meet either the standard requirements for graduation or those established by his IEP team to be awarded a diploma.

D. Pursuant to the Elementary and Secondary Education Act (ESEA), the state academic content standards shall apply to all public schools and public school students in the state and include the same knowledge and skills expected of all students and the same level of achievement expected of all students, with the exception of students with the most significant cognitive disabilities who may access alternate academic achievement standards and achievement levels. Only diplomas earned by students who have pursued the regular academic state standards and who have earned all state-required Carnegie credits shall be considered regular diplomas in the state and district accountability system, pursuant to federal laws and regulations.

E. If an IEP team determines that state-established benchmarks on the required state assessments are no longer a condition for graduation for a student, it shall:

1. within 30 days of the start of the next school year or course, establish minimum performance requirements in the student's IEP relevant to graduation requirements. The LDE shall make available a list of multiple appropriate assessments and guidance for use in establishing minimum score requirements on the assessments that an IEP team may, but shall not be required to, use for this purpose. The IEP team shall consider establishing minimum performance requirements for annual academic and functional goals designed to meet the student's needs that result from the student's disability and that will enable the student to be involved in and make progress in the general education curriculum, and to meet other educational needs of the student that result from the student's disability, including the student's postsecondary goals related to training, education, employment, and where appropriate, independent living skills;

2. provide the student and his parent or legal guardian with information related to how requirements that vary from standard expectations may impact future educational and career options;

3. require the student to successfully complete IEP goals and requirements and to ensure that the student meets at least one of the following conditions, consistent with the IEP:

a. employment in integrated, inclusive work environments, based on the student's abilities and local employment opportunities, in addition to sufficient self-help skills to enable the student to maintain employment without direct and continuous educational support from the school district;

b. demonstrated mastery of specific employability skills and self-help skills that indicate that he does not require direct and continuous educational support from the school district; or

c. access to services that are not within the legal responsibility of public education or employment or education options for which the student has been prepared by the academic program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4, R.S. 17:183.2, R.S. 17:183.3, R.S. 17:1941 et seq., R.S. 17:2925, 20 U.S.C. 6301 et seq., and 20 U.S.C. 1400 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:2532 (December 2014).

Kimberly Tripeaux
Interim Executive Director

1412#015

RULE

Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression Policies and Procedures
(LAC 28:XXXIX.503 and 705)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted revisions to *Bulletin 1566—Pupil Progression Policies and Procedures*: §503, Regular Placement; and §705, Supports for Students. The revisions require local pupil progression plans to include promotion requirements for students with disabilities aligned to the new policies as required by Act 833 of the 2014 Regular Legislative Session and removes the promotion policy for Louisiana alternate assessment, level 2 (LAA 2) eligible students. The revisions include the elimination of the LAA 2.

Title 28
EDUCATION
Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures
Chapter 5. Placement Policies—General Requirements
§503. Regular Placement

A. Promotion—Grades K-12

1. Promotion from one grade to another for regular students and students with disabilities shall be based on the following statewide evaluative criteria.

a. Each plan shall include the school attendance requirements.

b. Each plan shall include the course requirements for promotion by grade levels.

c. Each plan shall include promotion requirements for LEAP alternate assessments, level 1 (LAA 1) eligible students aligned to policy contained in this bulletin.

d. Each plan shall include promotion requirements for students with disabilities aligned to policies included in *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*.

e. Each plan shall include other applicable requirements, including the high stakes policy requirements for entering students in fifth or ninth grade.

B. - E.1.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 2000), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:407 (March 2004), LR 31:1974 (August 2005), LR 31:3103 (December 2005), LR 33:2063 (October 2007), LR 34:2389 (November 2008), LR 36:2003 (September 2010), LR 40:2533 (December 2014).

Chapter 7. High Stakes Testing Policy
§705. Supports for Students

A. Remediation

1. - 4. …

5. Repealed.

B. - B.2.c. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2005 (September 2010), amended LR 40:2533 (December 2014).

Kimberly Tripeaux
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1412#016

RULE

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act (LAC 28:XLIII.133)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted revisions to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*: §133, Expenditures. The revisions will effectuate the provisions of Act 272 of the 2014 Regular Legislative Session regarding the School Choice Program for Students with Disabilities concerning scholarship eligibility, eligible service plans, and removal of the sunset clause of the program.

Title 28
EDUCATION
Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act
Subpart 1. Students with Disabilities
Chapter 1. State Eligibility
Subchapter F. Students with Disabilities Enrolled by their Parents in Private Schools
§133. Expenditures

A. - D. …

E. School Choice Program for Certain Students with Exceptionalities

1. Introduction

a. The purpose of the school choice program for certain students with exceptionalities, hereafter referred to as the "program," shall be to provide certain students with exceptionalities the opportunity to attend schools of their parents' choice that provide educational services specifically tailored to address said students' specific needs.

2. Definitions

a. *Approved Non-public School*—

i. non-public school that meets the following criteria:

(a). approved by the state Board of Elementary and Secondary Education pursuant to R.S. 17:11 and according to Brumfield, et al. v. Dodd, et al. 425 F. Supp. 528.

b. - h.i. …

i. *Services Plan*—a plan that provides the basis for services programming for students with exceptionalities as specified in Bulletin 1530; or

j. *Nonpublic School Created Plan*—a plan that is created by the nonpublic school that the student will attend that clearly identifies the services provided by the school and specifies how those services adequately address the student's needs.

3. Eligibility

a. Student Eligibility

i. A student shall be eligible to participate in the program after submission of an application to the Louisiana Department of Education on a timeline established by the department and in accordance with the following requirements:

(a). - (a).(vii). …

(b). having an individual education plan or a services plan for any service in accordance with title 34 of the *Code of Federal Regulations* part 300.37 or a nonpublic school created plan;

(c). eligibility to attend public school and enter into kindergarten or grades 1-12.

ii. An eligible student may be expelled from the school in accordance with the school's discipline policies or may be disqualified from enrollment if the student is no longer eligible for the program as determined by the department.

b. School Eligibility

i. A non-public school shall be eligible to enroll students through the program if it:

(a). is an approved non-public school, as determined by the state Board of Elementary and Secondary Education pursuant to R.S. 17:11 and has been so approved for the school year prior to the school's participation in the program; and

(b). has provided needed educational services to students with exceptionalities, as defined in R.S. 17:1942, excluding students deemed to be gifted or talented, for at least two years;

(c). has provided needed services to students by teachers holding appropriate special education certification or other appropriate education and training as defined in Bulletin 1706; and

(d). provides services and instruction in accordance with a student's individual education plan and/or services plan; and

(e). operates in a parish having a population in excess of 190,000 persons according to the most recent federal decennial census.

ii. A non-public school seeking eligibility for this program shall provide the Louisiana Department of Education with the following documents in accordance with timelines determined by the Louisiana Department of Education:

(a). a list of student exceptionalities that the school is able and willing to serve, as defined in R.S. 17:1942;

(b). an itemized tuition calculation including all costs for special education services and all mandatory fees for the upcoming year, as well as the previous year.

iii. Any non-public school that does not meet these requirements shall not receive approval for program participation.

c. Eligible School Obligations

i. Once a non-public school is determined to be eligible for the program it shall provide the following assurances and information, as well as meet the following deadlines in order to retain eligibility:

(a). - (e). …

4. Finances

a. Parental Obligations

i. Parents of eligible students shall be responsible for paying any outstanding tuition obligations regardless of the educational certificate award, except for undisbursed educational certificate funds.

b. School Obligations

i. Any eligible school shall not increase tuition above itemized calculations provided to the Louisiana Department of Education by the school during eligibility determination.

ii. Any eligible school shall not require parents to pay for undisbursed educational certificate funds, unless student becomes ineligible for the program but remains at the school.

iii. Any eligible school shall be subject to an audit of educational certificate funds by the Department of Education.

c. Louisiana Department of Education Obligations

i. The Louisiana Department of Education shall determine the total amount of the educational certificate.

ii. The Louisiana Department of Education shall disburse educational certificate funds in four separate payments to the eligible school in the months of September, November, February, and May.

iii. Payments shall be based on per pupil count dates as determined by the Louisiana Department of Education. The count dates used are the fifteenth of September, November, February, and the fifth of May.

iv. Should any of the count dates occur on a weekend, the count shall take place no later than the next business day.

v. Should an eligible student begin attending an eligible non-public school after the start of the school year, the Louisiana Department of Education shall determine the method of disbursing the appropriate educational certificate amount.

5. Notifications of Change

a. School Notification Requirements

i. Any participating school shall notify the Louisiana Department of Education in writing within 10 days when there are changes in eligibility requirements including but not limited to: tuition, enrollment status, transfer, IEP, continuous attendance, and other types of financial aid as defined in this bulletin.

6. Student Records

a. Any participating school shall make all program participants' records available upon request by the Louisiana Department of Education.

7. Re-enrollment

a. Each eligible school and student shall submit a re-enrollment application to continue participation in the program the following school year. If either the school or student loses eligibility, another initial application for the program may be submitted to the Louisiana Department of Education.

8. Lottery

a. The Louisiana Department of Education shall hold a lottery for eligible, non-continuing students prior to the start of the school year, if demand for the program exceeds available slots.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:4031 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2041 (October 2008), amended LR 38:1401 (June 2012), LR 40:2533 (December 2014).

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1412#017

RULE

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators
(LAC 28:LXXIX.2109 and Chapter 23)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2109, High School Graduation Requirements; §2305, Art; §2309, Dance; §2313, English; §2317, Foreign Languages; §2323, Mathematics; §2325, Music; §2329, Science; §2331, Social Studies; and §2337. The revisions update graduation requirements to align with Taylor Opportunity Program for Students (TOPS) core courses as stated in Act 566 of the 2014 Regular Legislative Session and Act 359 of the 2013 Regular Legislative Session and with the graduation requirements for public schools. Also, the revisions provide the option of the career diploma for nonpublic school students and the State Biliteracy Seal as proposed in Act 99 of the 2014 Regular Legislative Session. Lastly, graduation requirements for students entering ninth grade prior to 2008-2009 have been deleted.

Title 28
EDUCATION
Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators
Chapter 21. Curriculum and Instruction
Subchapter C. Secondary Schools
§2109. High School Graduation Requirements

A. For incoming freshmen in 2009-2010 and beyond, the 24 units required for graduation shall include 16 required units and 8 elective units for the Louisiana Basic Core Curriculum, or 21 required units and 3 elective units for the Louisiana Core 4 Curriculum.

B. For incoming freshmen from 2009-2010 to 2013-2014 who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following:

1. English—4 units, shall be English I, II, III, and IV;
2. mathematics—4 units, shall be:
   a. algebra I (1 unit) or algebra I-Pt. 2;
   b. geometry;
   c. algebra II;
   d. the remaining unit shall come from the following: financial mathematics, math essentials, advanced mathematics-pre-calculus, advanced mathematics-functions and statistics, pre-calculus, calculus, probability and statistics, discrete mathematics, AP Calculus BC, or a locally-initiated elective approved by BESE as a math substitute;
3. science—4 units, shall be:
   a. biology;
   b. chemistry;
   c. 2 units from the following courses: physical science, integrated science, physics I, physics of technology I, aerospace science, biology II, chemistry II, earth science, environmental science, physics II, physics of technology II, agriscience II, anatomy and physiology, or a locally initiated elective approved by BESE as a science substitute;
      i. students may not take both integrated science and physical science.
      ii. agriscience I is a prerequisite for agriscience II and is an elective course;
4. social studies—4 units, shall be:
   a. 1 unit of civics or AP American government, or 1/2 unit of civics or AP American Government and 1/2 unit of free enterprise;
   b. 1 unit of U.S. history;
   c. 1 unit from the following: world history, world geography, western civilization, or AP European history;
   d. 1 unit from the following: world history, world geography, western civilization, AP European history, law studies, psychology, sociology, African American studies, economics, world religions, history of religion, or religion I, II, III, or IV;
5. health and physical education—2 units;
6. foreign language—2 units, shall be 2 units from the same foreign language or two speech courses;
7. arts—1 unit, shall be one unit of art (§2305), dance (§2309), media arts (§2324), music (§2325), theatre, or fine arts survey;

   NOTE: Students may satisfy this requirement by earning half credits in two different arts courses.

8. electives—3 units;
9. total—24 units.

C. For incoming freshmen in 2009-2010 through 2014-2015 who are completing the Louisiana Basic Core Curriculum, the minimum course requirements for graduation shall be the following.

1. English—4 units, shall be English I, II, III, and IV or senior applications in English.
2. Mathematics—4 units, shall be:
   a. algebra I (1 unit) or algebra I-pt. 1 and algebra I-pt. 2 (2 units);
   b. geometry;
   c. the remaining units shall come from the following:
      i. algebra II;
      ii. financial mathematics;
      iii. math essentials;
      iv. advanced mathematics-pre-calculus;
      v. advanced mathematics-functions and statistics;
      vi. pre-calculus;
      vii. calculus;
      viii. probability and statistics;
      ix. discrete mathematics; or
      x. a locally initiated elective approved by BESE as a math substitute.
3. Science—3 units, shall be:
   a. biology;
   b. 1 unit from the following physical science cluster:

i. physical science;
ii. integrated science;
iii. chemistry I;
iv. physics I;
v. physics of technology I;
c. 1 unit from the following courses:
i. aerospace science;
ii. biology II;
iii. chemistry II;
iv. earth science;
v. environmental science;
vi. physics II;
vii. physics of technology II;
viii. agriscience II;
ix. anatomy and physiology;
x. an additional course from the physical science cluster; or
xi. a locally initiated elective approved by BESE as a science substitute.
(a). Students may not take both integrated science and physical science.
(b). Agriscience I is a prerequisite for agriscience II and is an elective course.
4. Social Studies—3 units, shall be:
a. 1 unit of civics and/or AP American government, or 1/2 unit of civics or AP American government and 1/2 unit of free enterprise;
b. 1 unit of U.S. history;
c. 1 unit from the following: world history, world geography, western civilization, or AP European history.
5. Health and physical education—2 units.
6. Electives—8 units.
7. Total—24 units.

D. For incoming freshmen in 2014-2015 and beyond who are completing the TOPS university diploma, the minimum course requirements shall be the following:
1. English—four units:
a. English I;
b. English II;
c. one of the following:
i. English III;
ii. AP English language arts and composition;
iii. IB literature;
iv. IB language and literature;
v. IB literature and performance;
d. one of the following:
i. English IV;
ii. AP English literature and composition;
iii. IB literature;
iv. IB language and literature;
v. IB literature and performance;
2. mathematics—four units:
a. algebra I;
b. geometry;
c. algebra II;
NOTE: Integrated Mathematics I, II, and III may be substituted for the Algebra I, Geometry, and Algebra II sequence.
d. one of the following:
i. algebra III;
ii. advanced math—functions and statistics;
iii. advanced math—pre-calculus;
iv. pre-calculus;
v. IB math studies (math methods);
vi. calculus;
vii. AP calculus AB;
viii. IB mathematics SL;
ix AP calculus BC;
x. AP statistics;
xi. IB further mathematics HL;
xii. IB mathematics HL;
3. science—four units:
a. biology I;
b. chemistry I;
c. two units from the following:
i. earth science;
ii. environmental science;
iii. physical science;
iv. agriscience II—the elective course agriscience I is a pre-requisite;
v. one of:
(a). chemistry II;
(b). AP chemistry;
(c). IB chemistry I;
(d). IB chemistry II;
vi. one of:
(a). AP environmental science;
(b). IB environmental systems;
vii. one of:
(a). physics I;
(b). IB physics I;
viii. one of:
(a). AP physics C: electricity and magnetism;
(b). AP physics C: mechanics;
(c). IB physics II;
ix. AP physics I and AP physics II;
x. one of:
(a). biology II;
(b). AP biology;
(c). IB biology I;
(d). IB biology II;
4. social studies—four units:
a. one unit chosen from:
i. U.S. history;
ii. AP U.S. history;
iii. IB history of the Americas I;
b. one unit chosen from:
i. civics with a section on free enterprise;
ii. government;
iii. AP U.S. government and politics: comparative; or
iv. AP U.S. government and politics: United States;
c. two units chosen from:
i. one of:
(a). European history;
(b). AP European history;
(c). western civilization;
ii. one of:
(a). world geography;
(b). AP human geography;
(c). IB geography;
iii. one of:
(a). world history;
(b). AP world history;

(c). IB history of the Americas II;
iv. IB economics;
v. economics;
vi. AP macroeconomics;
vii. AP microeconomics;
viii. history of religion;
5. foreign language—two units:
a. two units from the same language (§2317);
6. art—one unit from the following:
a. art (§2305);
b. music (§2325);
c. dance (§2309);
d. theatre (§2337);
e. speech III and IV—one unit combined;
f. fine arts survey;
g. drafting;
7. health and physical education—2 units;
8. electives—three units;
9. total—24 units.

E. The 23 units required for the career diploma shall include academic credits and participation in an approved training program leading to an approved industry-based credential. This diploma option is available to entering freshmen in 2014-2015 and beyond.

1. The minimum course requirements for a career diploma for incoming freshmen in 2014-2015 and beyond shall be the following:

a. English—4 units:
i. English I;
ii. English II;
iii. the remaining units shall come from the following:
(a). technical reading and writing;
(b). business English;
(c). English III;
(d). English IV;
(e). any AP or IB English course; or
(f). comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by BESE;

b. mathematics—4 units:
i. algebra I, applied algebra I, or algebra I-Pt. 2 (the elective course algebra I-Pt. 1 is a pre-requisite);
ii. the remaining units shall come from the following:
(a). geometry;
(b). financial literacy (formerly financial math);
(c). math essentials;
(d). algebra II;
(e). advanced math-functions and statistics;
(f). advanced math-pre-calculus;
(g). algebra III;
(h). pre-calculus;
(i). comparable Louisiana Technical College courses offered by Jump Start regional teams as approved by BESE;
(j). integrated mathematics I, II, and III may be substituted for algebra I, geometry, and algebra II and shall count as 3 math credits;

c. science—2 units:
i. 1 unit of biology;
ii. 1 unit from the following:
(a). chemistry I;
(b). physical science;
(c). earth science;
(d). agriscience II;

NOTE: Agriscience I is a prerequisite for Agriscience II and is an elective course.

d. environmental science;
e. any AP or IB science course;
f. social studies—2 units:
i. 1 of the following:
(a). U.S. history;
(b). AP U.S. history;
(c). IB history of the Americas I;
ii. civics; or
(a). 1/2 unit of:
(i). government; or
(ii). AP U.S. government and politics: comparative; or
(iii). AP U.S. government and politics: US; and
(b). 1/2 unit of:
(i). economics; or
(ii). AP macroeconomics; or
(iii). AP microeconomics;
g. health and physical education—2 units;
h. at least nine credits in an approved Jump Start course sequence, workplace experience or credentials;
i. total—23 units.

F. State Seal of Biliteracy

1. Schools are encouraged but not required to participate in the State Seal of Biliteracy program.

a. If a school opts to participate in the state seal of Biliteracy program, its governing authority shall maintain appropriate records in order to identify students who have earned the seal and affix the seal to the transcript and diploma of each student who earns the seal.

2. The State Seal of Biliteracy certifies that a student meets all of the following criteria:

a. has completed all English language arts requirements for graduation;

b. has passed the reading and English parts of the ACT series with a score of 19 or above; and

c. has demonstrated proficiency in one or more languages other than English through one of the methods below.

i. Passing a world language advanced placement examination with a score of three or higher or a world language international baccalaureate examination with a score of four or higher.

(a). For languages in which an advanced placement test is not available, school systems may use an equivalent summative test as approved by the state superintendent of education.

ii. Successful completion of a four-year high school course of study in a world language or successful completion of seven Carnegie units or more in language or content courses in a world language immersion setting.

iii. Passing a foreign government's approved language examination and receiving a receipt of a certificate of competency from the authorizing government agency at:

(a). the European B2 level;

(b). American Council on the Teaching of Foreign Languages Advanced Low level; or

(c). equivalent measures.

3. If the primary language of a student in grades 9 through 12 is other than English, he shall do both of the following to qualify for the State Seal of Biliteracy:

a. attain the early advanced proficiency level on the English language development assessment; and

b. meet the requirements of Paragraph 2 of this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2142, 2144 (July 2011), repromulgated LR 37:2390 (August 2011), amended LR 37:2597 (September 2011), LR 38:769 (March 2012), LR 38:1008 (April 2012), LR 39:1444 (June 2013), LR 40:2535 (December 2014).

Chapter 23. High School Program of Studies

§2305. Art

A. Art course offerings shall be as follows.

Course Title	Unit(s)
Art I, II, III, IV	1 each
AP Art History	1
Talented Art I, II, III, IV	1 each
AP Studio Art:2-D Design	1
AP Studio Art:3-D Design	1
AP Studio Art: Drawing	1
IB Visual Arts	1
Fine Arts Survey	1

B. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003), amended LR 31:3085 (December 2005), LR 37:2143 (July 2011), LR 40:2538 (December 2014).

§2309. Dance

A. Dance course offerings shall be as follows.

Course Title	Unit(s)
Dance I, II, III, IV	1 each
IB Dance	1

B. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:3085 (December 2005), amended LR 40:2538 (December 2014).

§2313. English

A. The English course offerings shall be as follows.

Course Title(s)	Units
English I, II, III, and IV	1 each
Business English (for incoming freshmen prior to 2008-2009)	1
Senior Applications in English	1
Reading I (elective credit)	1
Reading II (elective credit)	1
AP English Language Arts and Composition	1
AP English Literature and Composition	1
IB Literature	1
IB Language and Literature	1
IB Literature and Performance	1
English as a Second Language (ESL) I, II, III, and IV (elective credit)	1 each

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003), amended LR 31:3085 (December 2005), LR 34:2101 (October 2008), LR 39:1448 (June 2013), LR 40:2538 (December 2014).

§2317. Foreign Languages

A. The foreign language course offerings shall be as follows.

Course Title	Unit(s)
Chinese I, II, III, IV	1 each
French I, II, III, IV, V	1 each
German I, II, III, IV, V	1 each
Greek I, II, III, IV	1 each
Hebrew I, II, III, IV	1 each
Italian I, II, III, IV, V	1 each
Latin I, II, III, IV, V	1 each
Russian I, II, III, IV, V	1 each
Spanish I, II, III, IV, V	1 each
Japanese I, II, III, IV	1 each
Hebrew I, II, III, IV	1 each
Arabic I, II, III, IV	1 each
American Sign Language I, II, III, IV	1 each
IB Language ab initio: Arabic	1
IB Language B: Arabic	1
AP Chinese Language and Culture	1
AP French Language and Culture	1
AP German Language and Culture	1
AP Italian Language and Culture	1
AP Japanese Language and Culture	1
AP Latin	1
AP Spanish Language and Culture	1
IB Language ab initio: French	1
IB Language French	1
IB Language ab initio: Spanish	1
IB Language B: Spanish	1
IB Language ab initio: German	1
IB Language B: German	1
IB Language ab initio: Chinese	1
IB Language B: Chinese	1
IB Language ab initio: Italian	1
IB Language B: Italian	1
IB Language ab initio: Japanese	1
IB Language B: Japanese	1
IB Classical Language	1

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 31:3086 (December 2005), LR 38:770 (March 2012), LR 40:2538 (December 2014).

§2323. Mathematics

A. The mathematics course offerings shall be as follows.

Course Title	Unit(s)
Advanced Mathematics I	1
Advanced Mathematics II	1

Course Title	Unit(s)
Algebra I	1
Algebra I-Part I	1
Algebra 1-Part II	1
Algebra II	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics (Literacy)	1
Geometry	1
Integrated Mathematics I	1
Integrated Mathematics II	1
Integrated Mathematics III	1
Pre-Calculus	1
Probability and Statistics	1
Math Essentials	1
AP Calculus BC	1
AP Calculus AB	1
AP Statistics	1
IB Math Studies (Math Methods)	1
IB Mathematics SL	1
IB Further Mathematics HL	1
IB Mathematics HL	1

B. Financial mathematics may be taught by the business education department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.1, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 30:2776 (December 2004), LR 31:3086 (December 2005), LR 34:2101 (October 2008), LR 36:2849 (December 2010), LR 38:771 (March 2012), LR 39:1449 (June 2013), LR 40:2538 (December 2014).

§2325. Music

A. Music course offerings shall be as follows.

Course Title	Unit(s)
Beginning Band	1
Beginning Choir	1
Beginning Orchestra	1
Guitar Class	1
Intermediate Band	1
Intermediate Choir	1
Intermediate Orchestra	1
Jazz Ensemble	1
Music Theory I, II	1 each
Piano class	1
Sectional Rehearsal	1
Studio Piano, I, II, III	1 each
Advanced Band	1
Advanced Choir	1
Advanced Orchestra	1
Applied Music	1
Small Vocal Ensemble	1
Wind Ensemble	1
Sectional Rehearsal	1
Studio Strings I, II, III	1 each
Music and Media	1
Music and Technology	1
Talented Music I, II, III, IV	1 each
AP Music Theory	1
IB Music	1
Marching Band	½

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2355 (November 2003), amended LR 31:3087 (December 2005), LR 39:1449 (June 2013), LR 40:2539 (December 2014).

§2329. Science

A. The science course offerings shall be as follows.

Course Title	Unit(s)
Aerospace Science	1
Agriscience II	1
Anatomy and Physiology	1
Biology I, II	1 each
Chemistry I, II	1 each
Earth Science	1
Environmental Science	1
Integrated Science	1
Physical Science	1
Physics I, II	1 each
AP Chemistry	1
IB Chemistry I	1
IB Chemistry II	1
AP Environmental Science	1
IB Environmental Systems	1
IB Physics I	1
AP Physics C: Electricity and Magnetism	1
AP Physics C: Mechanics	1
IB Physics II	1
AP Physics I and II	½ each
AP Biology	1
IB Biology I	1
IB Biology II	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2355 (November 2003), amended LR 31:3087 (December 2005), LR 34:2101 (October 2008), LR 39:1450 (June 2013), LR 40:2539 (December 2014).

§2331. Social Studies

A. Social studies course offerings shall be as follows.

Course Title	Unit(s)
African American Studies	1
American Government	1
U.S. History	1
Civics	1 (or 1/2)
Economics	1
Free Enterprise System	1/2
Law Studies	1
Psychology	1
Sociology	1
Western Civilization	1
World Geography	1
World History	1
AP European History	1
AP U.S. History	1
IB History of the Americas I	1
AP U.S. Government and Politics: Comparative	1
AP U.S. Government and Politics: United States	1
AP Macroeconomics	1
AP Microeconomics	1
AP Human Geography	1
IB Geography	1
AP World History	1
IB History of the Americas II	1
IB Economics	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003), amended LR 31:3088 (December 2005), LR 34:2102 (October 2008), LR 37:2144 (July 2011), LR 37:2598 (September 2011), LR 38:771 (March 2012), LR 39:1450 (June 2013), LR 40:2539 (December 2014).

§2337. Theatre Arts

A. The theatre arts course offerings shall be as follows.

Course Title(s)	Units
Theatre I, II, III, IV	1 each
Technical Theatre	1
Theater Design and Technology	1
Talented Theatre I, II, III, IV	1 each
IB Film Study I	1
IB Theatre	1

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2356 (November 2003), amended LR 31:3088 (December 2005), LR 37:2144 (July 2011), LR 40:2540 (December 2014).

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1412#018

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Incorporation by Reference
Existing Sewage Sludge Incineration Units
(LAC 33:III.3003)(AQ350ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.3003.B.9 (Table) (Log #AQ350ft).

This Rule is identical to federal regulations found in 75 CFR 54, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule is promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule incorporates into the *Louisiana Administrative Code* (LAC) Title 33, Part III, the following federal Subpart title: "Subpart MMMM, Emission Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units." In order for Louisiana to maintain equivalency with federal regulations, certain regulations in the most current *Code of Federal Regulations*, July 1, 2013, must be adopted into the *Louisiana Administrative Code* (LAC). This rulemaking is necessary to update the corresponding title in the table for the incorporated by reference Section 3003 of Title 33, Part III, of the air regulations. The basis and rationale for this Rule are to mirror the federal rules and regulations as they apply to Louisiana's affected sources. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 30. Standards of Performance for New Stationary Sources (NSPS)
Subchapter A. Incorporation by Reference
§3003. Incorporation by Reference of 40 *Code of Federal Regulations* (CFR) Part 60

A. - B.9. …

40 CFR Part 60	Subpart Heading
* * *	* * *
Subpart MMMM	Emission Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units That Commenced Construction on or before October 14, 2010 (76 FR 15429 – 15454, March 21, 2011)

B.10. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2754 (November 2012), LR 39:1039 (April 2013), LR 39:1277 (May 2013), LR 40:1335 (July 2014), LR 40:2540 (December 2014).

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1412#054

RULE

Office of the Governor
Auctioneers Licensing Board

License—Apprentice Auctioneer (LAC 46:III.Chapter 11)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3101, the Auctioneers Licensing Board has amended its existing rules and regulations to further clarify the existing rule for apprentice auctioneers.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part III. Auctioneers
Chapter 11. License of Auctioneer
§1117. Qualifications for Licensing as an Apprentice Auctioneer

A. In order to qualify as an apprentice auctioneer, the applicant must comply with the following.

1. The applicant must be at least 18 years of age and have a high school diploma or its equivalent.

2. The applicant must be a legal resident of the state of Louisiana.

3. The apprentice applicant must have worked in the auction business for a minimum of one year prior to application for an apprenticeship.

4. The applicant must submit the following:

a. an application for licensing on a form to be provided by the board;

b. an oath of office;

c. a good and sufficient surety bond executed by the applicant as principal and by a surety company qualified to do business in the state of Louisiana as surety in the amount of $10,000, which shall be delivered to the board at the time of the initial license application (see §1201);

d. a certified copy of voter registration or other appropriate proof of residency;

e. application fee in the sum of $100;

f. a form signed by the supervising Louisiana resident licensed auctioneer stating that the apprentice will be serving under him for the term of one year;

g. a copy of the rules and regulations signed by both the apprentice and the supervising auctioneer.

5. The apprentice must work under a Louisiana licensed auctioneer during his one-year training period who has qualified as a supervising auctioneer pursuant to §1118 of this Chapter.

6. The prospective apprentice and the supervising Louisiana licensed auctioneer must appear together before the Louisiana Auctioneers Licensing Board at a regularly scheduled meeting in order for the application to be considered and approved prior to being granted apprentice status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3118.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:786 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005), LR 37:2147 (July 2011), LR 40:2541 (December 2014).

§1118. Qualifications to be Supervising Auctioneer for Apprentice

A. In order to qualify as a supervising auctioneer for an apprentice, the auctioneer must comply with the following.

1. The auctioneer must be a Louisiana resident.

2. The auctioneer must have been licensed by the board for at least five consecutive years at the time of the application by the apprentice.

3. Any auctioneer who presently has an apprentice training under him may complete the year. This regulation will affect only those who begin an apprenticeship training after the approval of these regulations.

4. The auctioneer cannot have any other apprentice being supervised at the time of application. A supervising auctioneer may have only one apprentice working under his supervision at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3118.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Auctioneers Licensing Board, LR 40:2541 (December 2014).

§1119. Apprentice Auctioneer Licensing

A. The licensed Louisiana auctioneer acting as the supervisor for the apprentice auctioneer must hold the apprentice auctioneer's license. Under no circumstances is the apprentice auctioneer to have, display, or carry his license at any time.

B. When an apprentice auctioneer's employment with the supervising auctioneer is terminated for any reason, the supervising auctioneer shall immediately deliver or send by registered mail the apprentice auctioneer's license to the board. He must sign the back and indicate the termination date. Such apprentice auctioneer shall not engage in any auctioneer activity until he receives a new license (for the expired term) bearing the name and current license number of his new supervising auctioneer. No more than one license shall be issued to any apprentice auctioneer for the same period of time.

C. There will be just one licensed auctioneer supervisor at a time for an apprentice auctioneer. Should the apprentice auctioneer practice under another licensed auctioneer without a release from the first, the apprentice auctioneer’s license shall be suspended.

D. There will be an additional charge of $25 for the new license.

E. The length of time that an applicant shall work as an apprentice auctioneer shall be 12 months. During that period of time the apprentice auctioneer shall work and be directly involved in at least 80 hours over a minimum period of 12 days.

F. The apprentice auctioneer shall receive training in the following areas:

1. the establishment and use of escrow accounts;

2. bid calling;

3. pre-auction activities which will include: handling consignments, and all related matters, including but not limited to consignment contracts, the assignment of lot numbers, the establishment of conditions and reserves for consignments, and advertising;

4. auction day activities which will include: clerking at the auction, including writing sale tickets, keeping track of all sales, and any related paper work or using appropriate auction software, ringman/spotter;

5. post auction activities which will include: closing out the auction and maintaining and balancing auction account records, collecting and remitting sales taxes to the proper government entities, settlements, closeouts and payments to consignors.

G. Any person acting as an apprentice auctioneer within the meaning of these rules and regulations without a license and any person who violates these rules and regulations shall be subject to revocation of his license. The Louisiana

auctioneer serving as sponsoring supervisor is also subject to discipline of his license should his apprentice auctioneer violate these rules and regulations.

H. The license of an apprentice auctioneer shall be automatically suspended upon the revocation or suspension of the license of the Louisiana auctioneer who is his sponsoring supervisor or in the event the supervising auctioneer becomes incapacitated; however, the apprentice auctioneer may retain his license by transferring to the supervision of another Louisiana licensed auctioneer within 21 days of the effective date of such revocation or suspension. If the apprentice auctioneer does not transfer to another Louisiana licensed auctioneer within the 21 days, he must start his one-year apprentice program over.

I. This Subsection of the rules and regulations specifically prohibits the apprentice auctioneer from calling an auction unless the supervising licensed auctioneer is directly supervising the sale sight at all times. If he does call an auction outside of the presence of his supervising auctioneer, his license will be suspended.

J. Upon completion of the one-year apprentice program, the apprentice auctioneer may apply to take the Louisiana auctioneer's examination and become licensed in the state of Louisiana. He must submit the following in order to be considered for administration of the test:

1. a completed application for license as an auctioneer;
2. oath of office;
3. posting of a $10,000 surety bond, made payable to the Louisiana Auctioneers Licensing Board (see §1201);
4. a certified copy of voter registration or other appropriate proof of residency;
5. application fee in the sum of $300 (this includes the $150 license fee, the $75 application fee, and $75 examination fee);
6. a form signed by the supervising Louisiana licensed auctioneer stating that the apprentice did serve under him for the term of twelve months and during which he worked at least 80 hours over a minimum period of 12 days. Evidence of the number of days/ auctions, along with the place, date and time and the type of work done by the apprentice shall be established by completion of a form to be provided by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3112.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Auctioneer Licensing Board, LR 11:338 (April 1985), amended by the Department of Economic Development, Auctioneers Licensing Board, LR 14:786 (November 1988), amended by the Office of the Governor, Auctioneers Licensing Board, LR 31:1326 (June 2005), LR 40:2541 (December 2014).

Sandy Edmonds
Executive Assistant

1412#113

RULE

Office of the Governor
Board of Examiners of Interior Designers

Examination and Registration (LAC 46:XLIII.Chapter 9)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3171, the Board of Examiners of Interior Designers has amended its existing rules and regulations to add the definition of a registered interior designer emeritus.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIII. Interior Designers
Chapter 9. Examination and Registration
§901. Qualifications for Registration

A. A person desiring to be licensed as an interior designer shall apply to the board for licensure. Each applicant shall apply to the board on a form and in the manner prescribed by the board. To be eligible for the examination, an applicant shall submit satisfactory evidence of having successfully completed at least four years of study at the high school level, and in addition meets at least one of the following requirements:

1. is a graduate from an interior design program of five years or more and has completed one year of interior design experience;
2. is a graduate from an interior design program of four years or more and has completed two years of interior design experience;
3. has completed at least three years in an interior design curriculum and has completed three years of interior design experience;
4. is a graduate from an interior design program of at least two years and has completed four years of interior design experience.

B. All such education shall have been obtained in a program, school, or college of interior design accredited by the Council for Interior Design Accreditation (CIDA) or any direct replacement entity or in an unaccredited program, school or college of interior design approved by the board. The unaccredited program, school or college of interior design will be evaluated on a case by case basis. The board shall review and approve interior design experience on a case by case basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3177.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1076 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 34:1924 (September 2008), LR 40:2542 (December 2014).

§903. Application Procedure

A. Application must be made to the board on application forms obtained from the state Board of Examiners of Interior Designers and required fees filed. Application forms may be obtained by contacting the board office.

B. The application must request the following information:

1. name;
2. business address and telephone;
3. residential address and telephone;
4. affiliations, if any;
5. educational background;
6. employment background;
7. specialties, if recognized;
8. e-mail address;
9. volunteer status for board committees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1013 (May 2004), LR 34:1924 (September 2008), LR 40:2543 (December 2014).

§905. Reciprocal Registration

A. Persons providing evidence of registration or licensing in another state, whose requirements for registration are equivalent to Louisiana's requirements and who extend the same privilege to those registered in Louisiana, may become registered by the board upon payment by such person of the initial registration fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3174 and R.S. 37:3179.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 40:2543 (December 2014).

§907. Examination

A. The examination for purposes of the Act shall be the National Council for Interior Design Qualification (NCIDQ) examination, which shall be held at least twice a year in the state of Louisiana. Application forms for said examinations may be obtained by contacting NCIDQ directly. The applicant must pass all portions of the examination and submit proof of passage to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3177.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 34:1924 (September 2008), LR 40:2543 (December 2014).

§909. Seal and Display of License Number

A. An applicant for licensing who complies with all requirements established therefor, including the successful completion of an examination where applicable, shall be issued a certificate by the board to evidence such licensing. Each holder of a license shall secure a seal of such design as is prescribed in the rules of the board. All drawings, renderings, or specifications prepared by the holder or under his supervision shall be imprinted with his seal.

B. The seal to be used is identified in the following illustration.

C. Any licensed or registered interior designer who advertises his services through any medium, including but not limited to advertising in newspapers, magazines or on television, websites and emails, and to stationery and business cards, shall indicate in such advertisement his name, business address and registration number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Interior Designers, LR 11:340 (April 1985), amended by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1013 (May 2004), LR 34:1925 (September 2008), LR 40:2543 (December 2014).

§911. Inactive Status

A. A license which has become inactive may be reactivated pursuant to this Section upon application to the board and payment of an application fee.

B. An applicant who wishes to have his license reactivated must provide proof to the board that he has completed board-approved continuing education units of not less than five hours approved by the board for each year the license was inactive, to be cumulated at the time the applicant applies to have his license reactivated.

C. Any license which has been inactive for more than four years shall automatically expire if the licensee has not made application for reactivation. Once a license expires, it becomes null and void without any further action by the board. At least one year prior to expiration of the inactive license, the board shall give notice to the licensee at the licensee's last address of record that, unless reactivated, the license will expire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1077 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 30:1014 (May 2004), LR 40:2543 (December 2014).

§913. Application for Inactive Status

A. An applicant who wishes to apply for inactive status must file an application provided by the board which

requires all information asked of new and renewal applications. Further, the applicant must provide a good and supportable reason for inactive status. Inactive status is to be considered a status of last resort, and will only be available to a limited number of applicants. Some reasons for obtaining inactive status will be that the applicant is seriously ill; that the applicant is a full-time student; or that the applicant will be out of the country for longer than 12 months at one time. These reasons are for explanation only; other reasons may be considered.

B. Applications for inactive status will be considered on a case by case basis. Applicants may be required to produce evidence supporting their claim for inactive status.

C. During inactive status, the designer will not be able to use the term "interior design" or "interior designer" when describing his occupation or the services provided, as prohibited by statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.1.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Interior Designers, LR 17:1078 (November 1991), amended by the Office of the Governor, Board of Examiners of Interior Designers, LR 40:2543 (December 2014).

§915. Emeritus Status

A. A registrant retired from practice who has either practiced interior design for 25 years or more or who is 65 years of age or older may request emeritus status. Only a registrant who is fully and completely retired from the practice of interior design my request emeritus status. Any registrant who is presently receiving or who anticipates receiving in the future any salary, income, fees, or other compensation (other than retirement income) from an interior design client, interior design or architecture firm, architect, design professional, or any other person for the practice of interior design in ineligible for emeritus status. The annual renewal fee for an approved emeritus registrant is $5. Revocation and reinstatement rules apply to an emeritus registrant, just as they do to any other registrant.

B. Emeritus status is not available to those on inactive status.

C. Those who have been granted emeritus status pursuant to Subsection A may call themselves registered interior designer emeritus only.

D. Should the registrant decide to come out of emeritus status, the registrant would have to go through the same process as a new licensee, including license fees and testing requirements as those who are seeking initial licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3179.1.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Interior Designers, LR 40:2544 (December 2014).

Sandy Edmonds
Executive Director

1412#114

RULE

Office of the Governor
Division of Administration
Office of State Purchasing

Procurement (LAC 34:V.901, 2503, 2506, 2521, 2534, 2545-2549, 2587-2596 and 3103)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of the Governor, Division of Administration, Office of State Purchasing, has amended Chapters 1, 9, and 31, Procurement, of LAC 34:V.

Senate Bill 480 was signed by Governor Bobby Jindal and became Act 864 of the 2014 Regular Legislative Session. Act 864, which becomes effective January 1, 2015, amends and reenacts R.S.3:4(B)(1)(b), and chapter 17 of subtitle III of title 39 of the *Louisiana Revised Statutes* of 1950, to be comprised of R.S. 39:1551 through 1755, and repeals chapter 16 of subtitle III of title 39 of the *Louisiana Revised Statutes* of 1950, comprised of R.S. 39:1481 through 1526. The amended and reenacted statutes effectively combine Louisiana's procurement of services provisions (formerly chapter 16 of title 39) into the *Louisiana Procurement Code* (chapter 17 of title 39) and places all authority, duties and responsibilities under a new central purchasing agency identified as the Office of State Procurement.

The following amendments are necessary in order to bring current into compliance with Act 864.

Title 34
GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL
Part V. Louisiana Procurement Code
Chapter 25. Procurement of Professional, Personal, Consulting, Social Services, and Energy Efficiency Contracts
Subchapter A. General Provisions
§2503. Definitions and Classes of Contractual Services [Formerly LAC 34:V.103]

A. ...

1. Personal Services

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, veterinarians, architects, engineers, landscape architects, accountants, claims adjusters, and any other profession that may be added by regulations adopted by the Office of Contractual Review of the Division of Administration.

3. Consulting Service

4. ...

5. Social Service

6a. - 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), amended by the Office of State Purchasing, LR 40:2544 (December 2014).

§2506. Contracts for $10,000 or Less [Formerly LAC 34:V.106]

A. - B. ...

C. The using agency shall submit a quarterly report to the Office of Contractual Review. This report shall contain a listing of all small purchase contracts to include: the name of contractor, amount of contract, specific nature of services rendered, date of contract, and total dollar amount of all small purchase contracts entered into by the using agency for that quarter. If no such contracts have been entered into during this period, a report shall still be submitted notifying the Office of Contractual Review of same.

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 8:591 (November 1982), LR 10:455 (June 1984), LR 11:1068 (November 1985), LR 17:265 (March 1991), amended by the Office of State Purchasing, LR 40:2545 (December 2014).

§2521. Contractual Review Process [Formerly LAC 34:V.121]

A. Contracts arriving in the Office of Contractual Review will be date stamped and logged in. Contracts should be submitted prior to their effective dates and no contract shall be approved which has been submitted 60 days after its effective date unless written justification is provided by the using agency and approval granted by the director of contractual review or his designee. All submittals will be required to have a cover letter attached thereto.

B. - E.10.b.ii. ...

F. Each contract over $5,000 submitted for approval shall be accompanied by a certification letter as described in R.S. 39:1497, signed by the using agency's representative.

G. - L. ...

M. A performance evaluation for every personal, professional, consulting or social services contract shall be done by the using agency in accordance with R.S. 39:1500. This performance evaluation shall be retained by the using agency for all small purchase contracts approved under delegated authority. For all other contracts this performance evaluation shall be submitted to the Office of Contractual Review 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), amended by the Office of State Purchasing, LR 40:2545 (December 2014).

§2534. Cost Reimbursement Contracts [Formerly LAC 34:V.134]

A. - A.2. ...

3. the contract shall require the contractor to obtain a contract compliance audit of expenditures charged to the contract. This compliance audit shall be performed by a certified public accountant or the Louisiana Legislative Auditor's Office. A contract compliance audit must include an examination of reimbursed expenditures to determine if they are in accord with contract terms, not reimbursed by any other source, and in accord with any guidelines set by the using agency or other relevant authority. This examination shall be conducted in accordance with generally accepted auditing and sampling procedures, including the *Government Auditing Standards*.

a. - d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B) and 39:1521.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 15:82 (February 1989), amended by the Office of State Purchasing, LR 40:2545 (December 2014).

Subchapter B. Contracts Let Via a Request for Proposals Process

§2545. Request for Proposals [Formerly LAC 34:V.145]

A. - A.7.c. ...

8. - 12. 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), amended by the Office of State Purchasing, LR 40:2545 (December 2014).

Subchapter B. Contracts Let Via a Request for Proposals Process

§2547. Contracts for Data Processing Consulting Services [Formerly LAC 34:V.147]

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 10:460 (June 1984), amended LR 11:1073 (November 1985), LR 13:655 (November 1987), repealed by the Office of State Purchasing, LR 40:2545 (December 2014).

Subchapter C. Contracts for Data Processing Consulting Services in an Amount Greater than $100,000

§2549. Procurement Support Team [Formerly LAC 34:V.149]

A. Unless a procurement support team 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 data processing consulting services in an amount greater than $100,000. The formation of a procurement support team shall be accomplished by the Office of Contractual Review and shall include one or more representatives from each of the following: the Office of Contractual Review, 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 Contractual Review 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), amended by the Office of State Purchasing, LR 40:2545 (December 2014).

Subchapter D. Revised Statutes

§2587. Revised Statutes
[Formerly LAC 34:V.187]

A. These regulations shall be read and interpreted jointly with R.S. 39:1551-1755.

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 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), amended by the Office of State Purchasing, LR 40:2546 (December 2014).

Subchapter E. Appendices

§2589. Appendix A—Sample Contract
[Formerly LAC 34:V.189]

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 7:183 (April 1981), amended LR 8:596 (November 1982), LR 10:461 (June 1984), LR 11:1074 (November 1985), LR 15:83 (February 1989), repealed by the Office of State Purchasing, LR 40:2546 (December 2014).

§2591. Appendix B—Sample Certification
[Formerly LAC 34:V.191]

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 7:184 (April 1981), amended LR 8:596 (November 1982), LR 10:462 (June 1984), LR 11:1075 (November 1985), LR 15:84 (February 1989), repealed by the Office of State Purchasing, LR 40:2546 (December 2014).

§2592. Appendix C—Suggested Checklist for Review of Personal, Professional, Consulting and Social Services Contracts [Formerly LAC 34:V.193]

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 7:184 (April 1981), amended LR 8:596 (November 1982), LR 10:462 (June 1984) LR 11:1075 (November 1985), LR 13:655 (November 1987), repealed by the Office of State Purchasing, LR 40:2546 (December 2014).

§2593. Appendix D—Agency Transmittal Letter
[Formerly LAC 34:V.195]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 7:185 (April 1981), amended LR 8:597 (November 1982), LR 10:463 (June 1984), LR 11:1076 (November 1985), LR 15:84 (February 1989), repealed by the Office of State Purchasing, LR 40:2546 (December 2014).

§2594. Appendix E—Quarterly Report on Small Purchase Contracts
[Formerly LAC 34:V.197]

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 8:597 (November 1982), amended LR 10:463 (June 1984), LR 11:1076 (November 1985), LR 15:84 (February 1989), LR 17:266 (March 1991), repealed by the Office of State Purchasing, LR 40:2546 (December 2014).

§2595. Appendix F—Performance Evaluation
[Formerly LAC 34:V.199]

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 10:463 (June 1984), amended LR 11:1076 (November 1985), repealed by the Office of State Purchasing, LR 40:2546 (December 2014).

§2596. Appendix G—Sample Auditor's Opinion for Contract Compliance Audits
[Formerly LAC 34:V.201]

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 15:84 (February 1989), repealed by the Office of State Purchasing, LR 40:2546 (December 2014).

Chapter 9. Sole Source Procurement

§901. Application
[Formerly LAC 34:I.901]

A. These provisions shall apply to all sole source procurement unless emergency conditions exist as defined in Chapter 11 (Emergency Procurement) of these regulations.

B. Repealed.

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

HISTORICAL NOTE: Promulgated by the Office of 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 LR 40:2546 (December 2014).

Chapter 31. Protests and Appeals, Bidder Responsibility, Suspension and Debarment of Bidders, Contract Controversies

§3103. Application
[Formerly LAC 34:I.3103]

A. The following rules shall only apply to hearings held by boards of higher education and institutions under their jurisdiction in accordance with §§601, 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) 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 by the Office of State Purchasing, LR 40:1366 (July 2014), amended LR 40:2546 (December 2014).

Jan B. Cassidy
Assistant Commissioner

1412#040

RULE

Office of the Governor
Division of Administration
Office of State Purchasing

Reorganization of Procurement Regulations
(LAC 34:V.Chapters 1-27)

In order to facilitate the rule changes required by Act 864 of the 2014 Regular Legislative Session, the following Chapters have been rearranged to include all aspects of executive branch procurement. The language within the Sections has not changed and therefore was not subject to the rule-making procedure.

Title 34
GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL
Part V. Procurement

EDITOR'S NOTE: Senate Bill 480 was signed by Governor Bobby Jindal and became Act 864 of the 2014 Regular Legislative Session. Act 864, which becomes effective January 1, 2015, amends and reenacts R.S.3:4(B)(1)(b), and Chapter 17 of Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 39:1551 through 1755, and repeals Chapter 16 of Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950, comprised of R.S. 39:1481 through 1526. The amended and reenacted statutes effectively combine Louisiana's Procurement of Services provisions (formerly Chapter 16 of Title 39) into the Louisiana Procurement Code (Chapter 17 of Title 39) and places all authority, duties and responsibilities under a new central purchasing agency identified as the Office of State Procurement.

Accordingly, effective January 1, 2015, the following Revised Statutes references and citations will take place:

Any reference to R.S. 39:1595 will refer to R.S.39:1604.
Any reference to R.S. 39:1595.1 will refer to R.S. 39:1604.1.
Any reference to R.S. 39:1595.2 will refer to R.S. 39:1604.2.
Any reference to R.S. 1595.3 will refer to R.S. 39:1604.3.
Any reference to R.S. 39:1595.6 will refer to R.S. 39:1604.6.
Any reference to R.S. 39:1595.7 will refer to R.S. 39:1604.7.
Any reference to the Office of Information Technology will refer to the Office of Technology Services.
Any reference to R.S. 39:1591(7) will refer to R.S. 39:1556(48).
Any reference to R.S. 39:1601 will refer to R.S. 39:1606.
Any reference to R.S. 39:1602 will refer to R.S. 39:1607.
Any reference to R.S. 39:1595.4 will refer to R.S. 39:1604.4.
Any reference to R.S. 39:1622 will refer to R.S. 39:1629.1.

Chapter 1. General Provisions

§101. General Purpose and Policies [Formerly LAC 34:I.301]

A. Definition and Purpose

1. *Specification*—any description of the physical functional, or performance characteristics, or of the nature of a supply, service, construction or major repair item. The specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or construction item for delivery. Unless the context requires otherwise, the terms *specification* and *purchase description* are used interchangeably throughout these regulations.

2. The purpose of a specification is to serve as a basis for obtaining a supply, service, or major repair item adequate and suitable for the state's needs in a cost effective manner, taking into account, to the extent practicable, the costs of ownership and operation as well as initial acquisition costs. It is the policy of the state that specifications permit maximum practicable competition consistent with this purpose. Specifications shall be drafted with the objective of clearly describing the state's requirements.

3. All definitions as listed in R.S. 39:1556 and R.S. 39:1591 will apply.

B. Nonrestrictiveness. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply, service, or major repair item, or procurement from a sole source, unless no other manner of description will suffice. In that event, a written determination shall be made that is not practicable to use a less restrictive specification.

C. Preference for Commercially Available Products. It is the general policy of this state to procure standard commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided, to the extent practicable.

D. Escalation and De-Escalation Clauses. Bid specifications may contemplate a fixed escalation or de-escalation in accordance with a recognized escalation index.

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 40:2547 (December 2014).

§103. Availability of Documents [Formerly LAC 34:I.303]

A. Specifications and any written determination or other document generated or used in the development of a specification shall be available for public inspection pursuant to R.S. 44.1.

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 40:2547 (December 2014).

§105. Authority to Prepare Specifications [Formerly LAC 34:I.305]

A. Statutory Authority of the Chief Procurement Officer and State Agencies. The chief procurement officer is authorized to prepare specifications in accordance with R.S. 39:1652, subject to the authority granted purchasing agencies in R.S. 39:1653 of the Louisiana Procurement Code.

B. Delegation of Authority to State Agencies. The chief procurement officer may delegate in writing the authority to prepare and utilize specifications to purchasing agencies and using agencies for any type of supplies, services, or major

repairs provided such delegations may be revoked by the chief procurement officer.

C. Authority to Contract for Preparation of Specifications

1. A contract to prepare specifications for state use in procurement of supplies or services may be entered into when a written determination is made by the chief procurement officer, or the head of a purchasing agency authorized to prepare such specifications, that there will be no substantial conflict of interest involved and it is otherwise in the best interest of the state.

2. Whenever specifications are prepared by other than state personnel, the contract for the preparation of specifications shall require the specification writer to adhere to the requirements of this regulation.

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 40:2547 (December 2014).

§107. Procedures for the Development of Specifications [Formerly LAC 34:I.307]

A. Provisions of General Application

1. Application of Section. This Section applies to all persons who may prepare a specification for state use, including the chief procurement officer, the head of a purchasing agency, the head of a using agency, the designees of such officers, and also consultants, architects, engineers, designers, and other draftsmen of specifications used for public contracts.

2. Specification of Alternates May Be Included. To the extent feasible, a specification may provide alternate descriptions of supplies, services, or major repair items where two or more design, functional, or performance criteria will satisfactorily meet the state's requirements.

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).

§109. Definitions and Use [Formerly LAC 34:I.309]

A. Proprietary Specifications

1. Definition. *Proprietary Specification*—a specification that cites brand name, model number, or some other designation that identifies a specific product to be offered exclusive of others.

2. Use

a. Since use of a proprietary specification is restrictive, it may be used only when the chief procurement officer or the head of a purchasing agency makes a written determination that only the identified brand name item or items will satisfy the state's needs.

b. Some examples of circumstances which could necessitate proprietary procurement are:

i. revolving fund purchases for resale, such as groceries, canned good, packing house products, drug sundries, candy, tobacco and other similar items;

ii. revolving fund purchases of foods for cafeterias, dining halls or dormitories;

iii. standard replacement parts such as automobiles, machinery, and equipment;

iv. repairs to automobiles, machinery, equipment, etc.

3. Competition. The procurement officer shall seek to identify sources from which the designated brand name item can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Chapter 9 (Sole Source Procurement) of this Part.

4. Reports. The chief procurement officer shall submit reports to the commissioner or cabinet department head within 90 days after the end of the fiscal year stating:

a. any brand name contracts used;

b. the number of suppliers solicited;

c. the identity of these suppliers;

d. the supplier awarded the contract; and

e. the contract price.

B. Brand Name or Equal Specification

1. Definition. A specification that cites brand names, model number, or other identifications as representing quality and performance called for, and inviting bids on comparable items or products of any manufacturer.

2. Use. Some examples of circumstances which could necessitate the use of brand name or equal specifications are:

a. no specification for a common or general use item or qualified products list is available; or

b. time does not permit the preparation of another form of specification, not including a brand name specification; or

c. the nature of the product or the nature of the state's requirements makes use of a brand name or equal specification suitable for the procurement; or

d. use of a brand name or equal specification is in the state's best interest;

e. specifications shall seek to designate as many different brands as are practicable as "or equal" references and shall state that substantially equivalent products to those designated will be considered for award.

3. Competition

a. Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

b. Unless the chief procurement officer or the head of a purchasing or using agency authorized to finally approve specifications determines that the essential characteristics of the brand name included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.

C. Qualified Products List

1. Definition. *Qualified Products List*—a specification developed by evaluating brands and models of various manufacturers of an item and listing those determined to be acceptable as eligible to be offered on the next invitation for bids; on approved brands list.

2. Use. A qualified products list may be developed with the approval of the chief procurement officer, or the head of a purchasing or using agency authorized to develop qualified products lists, when testing or examination of the supplies or major repair items prior to issuance of the solicitation is desirable or necessary in order to best satisfy state requirements.

3. Comments, Final Approval, Revisions, and Cancellation. Comments on final approval of, and revisions to the proposed criteria and methodology for establishing and maintaining a qualified products list, and the cancellation thereof, shall follow the procedures of Subparagraphs D.3.b-e of this Section applicable to specifications for common or general use items.

4. Solicitation

a. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration.

b. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with prior published requirements.

D. Common or General Use Item

1. Definition. *Specification for a Common or General Use Item*—a specification which has been developed and approved for repeated use in procurement in accordance with the provisions of R.S. 39:1651(A) and (B).

2. Use. If a specification for a common or general use item has been developed or a qualified products list has been developed for a particular supply, service, or major repair item, or need, it shall be used unless the chief procurement officer or the head of a purchasing agency makes a written determination that its use is not in the state's best interest and that another specification shall be used.

3. Special Additional Procedures

a. Preparation and Utilization. A specification for common or general use shall, to the extent practicable, be prepared to be utilized:

i. when a supply, service, or major repair item is used in common by several using agencies or used repeatedly by one using agency, and the characteristics of the supply, service, or major repair item as commercially produced or provided remain relatively stable while the frequency or volume of procurement is significant;

ii. where the state's recurring needs require uniquely designed or specially produced items; or

iii. when the chief procurement officer, or the head of a purchasing or using agency authorized to prepare such specifications, finds it to be in the state's best interest.

b. In the event a using agency requests the preparation of a specification for a common or general use item, the chief procurement officer shall prepare such a specification if such officer determines the conditions in Clauses 3.a.i-iii have been met.

c. Comments on the Draft. The chief procurement officer, or the head of a purchasing or using agency preparing a specification for a common or general use item, shall provide an opportunity to comment on the draft specification to the using agencies, and as reasonable a number of manufacturers and suppliers as such officer deems appropriate.

d. Final Approval. Final approval of a proposed specification for a common or general use item shall be given only by the chief procurement officer, or by the head of a purchasing or using agency authorized to give such approval.

e. Revisions. Revisions to specifications for common or general use items which do not change the technical elements of the specifications but which are necessary for clarification may be made upon approval of the chief procurement officer, or the head of a purchasing or using agency authorized to approve such specifications. Interim revisions to fit the requirements for a particular procurement which change the technical elements of the specification may be made by the chief procurement officer, or the head of a purchasing or using agency authorized to approve such a specification. All other revisions shall be made in accordance with Subparagraphs D.3.a-d of this Section.

f. Cancellation. A specification for a common or general use item may be canceled by the chief procurement officer, or by the head of a purchasing or using agency authorized to give final approval to such specifications.

E. Use of Functional or Performance Descriptions. State agencies should emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the needs of the state to the extent practicable.

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).

Chapter 3. Competitive Sealed Bidding

§301. Content of the Invitation for Bids [Formerly LAC 34:I.501]

A. Invitation for Bids

1. Purchases where the estimated cost is over $5,000 shall be made by sending out written invitations for bids to at least five responsible bidders, and if feasible, use should be made of state purchasing's computerized vendor list. Purchases where the estimated cost is over $25,000 shall be advertised in accordance with R.S. 39:1594. All advertisements or written invitations for bids shall contain general descriptions of the classes of commodities on which bids are solicited and shall state:

a. the date and time when bids will be received, opened and publicly read;

b. the names and locations of the state agencies for which the purchases are to be made;

c. where and how specifications and bid forms may be obtained.

2. The invitation for bids shall be on the state's standard forms containing all pertinent information and shall be full and complete including specifications, quantities, units, packaging and number of containers to the case.

B. Content. The invitation for bids shall include the following:

1. the purchase description, evaluation factors, delivery or performance schedule, and inspection and

acceptance requirements not included in the purchase description; and

2. the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

C. Incorporation by Reference. The invitation for bids may incorporate documents by reference provided that the invitation for bids specifies where such documents can be obtained.

D. Special Conditions. If any special conditions are to apply to a particular contract, they shall be included in the invitation for bid.

E. Types of Purchases. Purchases are made in two different ways.

1. *Open Market*—a purchase made other than under a schedule or term contract.

2. *Term Contracting*—a technique by which a source of supply is established for a specific period of time. Term contracts are usually based on indefinite quantities to be ordered "as needed," although such contracts can specify definite quantities with deliveries extended over the contract period.

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).

§303. Bidding Time
[Formerly LAC 34:I.503]

A. Bidding time is the period of time between the date of distribution of the invitation for bids 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 over $25,000, a minimum of 21 days should 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), LR 40:2550 (December 2014).

§305. Addenda Modifying Invitation for Bids
[Formerly LAC 34:I.505]

A. Addenda modifying invitation for bids shall not be issued within a period of three working days prior to the advertised time for the opening of bids, excluding Saturdays, Sundays and any other legal holidays. If the necessity arises to issue an addendum modifying an invitation for bid within the three working day period prior to the advertised time for the opening of bids, then the opening of bids shall be extended exactly one week, without the requirement of re-advertising. Addenda shall be sent to all prospective bidders known to have received an invitation for bid.

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 40:2550 (December 2014).

§307. Bidder Submissions
[Formerly LAC 34:I.507]

A. Bid Forms. All written bids, unless otherwise provided for, must be submitted on, and in accordance with, forms provided, properly signed. Bids submitted in the following manner will not be accepted:

1. bid contains no signature indicating an intent to be bound;

2. bid filled out in pencil; and bids must be received at the address specified in the invitation for bids prior to bid opening time in order to be considered.

B. Bid Samples and Descriptive Literature

1. Descriptive literature means information available in the ordinary course of business which shows the characteristics, construction, packaging, or operation of an item which enables the state to consider whether the item meets its specifications and needs.

2. *Bid Sample*—a sample to be furnished by a bidder to show the characteristics of the item offered in the bid.

3. Bid samples or descriptive literature may be required when it is necessary to evaluate required characteristics of the items bid.

4. The invitation for bids shall state whether bid samples or descriptive literature should be submitted. Unsolicited bid samples may not be returned.

5. When required, samples must be received not later than the time set or specified for bid opening, free of expense to the state. Samples should be marked plainly with name and address of bidder, bid number and opening date of bid, also memorandum indicating whether bidder desires return of sample or samples. Providing they have not been used or made useless through tests, when requested, samples submitted will be returned at bidder's risk and expense. All samples submitted are subject to mutilation as the result of tests by the agency. Failure to submit samples within time allowed will result in disqualification or nonconsideration of bid.

C. Conditional Bids. Conditional bids are subject to rejection in whole or in part. A conditional bid may be accepted if the condition is not a substantial deviation from the invitation for bid.

D. All or Part. Bids may be considered for all or part of total quantities.

E. Bids Binding. Unless otherwise specified, all formal bids shall be binding for a minimum of 30 calendar days. Nevertheless, if the lowest responsive and responsible bidder is willing to keep his price firm in excess of 30 days, the state may award to this bidder after this period has expired, or after the period specified in the formal bid has expired.

F. Net Prices. Bid prices, unless otherwise specified, must be net including transportation and handling charges prepaid by contractor to destination.

G. Taxes. Vendor is responsible for including all applicable taxes in the bid price.

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).

§309. Bidder Lists
[Formerly LAC 34:I.509]

A. Bidder lists may be compiled to provide the state with the names of businesses that may be interested in competing for various types of state contracts. Unless otherwise provided, inclusion or exclusion of the name of a business does not indicate whether the business is responsible in respect to a particular procurement or otherwise capable of successfully performing a state contract.

B. Where feasible, use should be made of the state purchasing's computerized vendor list. It shall be the responsibility of the bidder to confirm that his company is in the appropriate bid category.

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).

§311. Pre-Bid Conferences
[Formerly LAC 34:I.511]

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 for bids and shall be advertised if over $25,000 and attendance is mandatory. The conference should be held long enough after the invitation for bids 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 for bids unless a change is made by written addenda as provided in §505.

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).

§315. Pre-Opening Modification or Withdrawal of Bids
[Formerly LAC 34:I.515]

A. Procedure. Bids may be modified or withdrawn by written, telegraphic or fax notice received at the address designated in the invitation for bids prior to the time set for bid opening, as recorded by date stamp at the purchasing agency.

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, all bid documents shall remain the property of the state, unless return is requested in writing.

C. Disposition of Bid Security. Bid security, if any, shall be returned to the bidder if requested when withdrawal of the bid is permitted.

D. Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate 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 8:329 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1350 (July 2014), LR 40:2551 (December 2014).

§317. Late Bids
[Formerly LAC 34:I.517]

A. Formal bids and addenda thereto, received at the address designated in the invitation for bids after time specified for bid opening will not be considered, whether delayed in the mail or for any other causes whatsoever. If a bid is delayed by actions of the agency handling the solicitation, and this delay prejudices a vendor, then the agency shall cancel the solicitation and re-bid. In no case will late bids be accepted.

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).

§319. Receipt, Opening and Recording of Bids
[Formerly LAC 34:I.519]

A. Receipt. Upon receipt, all bids and modifications will be time-stamped but not opened. They shall be stored in a secure place until bid opening time.

B. Opening and Recording

1. Bids and modifications shall be opened publicly, in the presence of one or more witnesses, at the time and place designated in the invitation for bids. The names of the bidders and the bid price shall be read aloud or otherwise made available and shall be recorded.

2. The opened bids shall be available for public inspection, in accordance with R.S. 44.Chapter I.

C. Postponed Openings—Exceptions. In the event that bids are scheduled to be opened on a day that is a federal holiday, or if the governor by proclamation creates an unscheduled holiday, or for any cause that exists that creates a nonworking day, bids scheduled to be opened on that day shall be opened on the next working day at the same address and time specified in the invitation for bids.

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).

§321. Mistakes in Bids
[Formerly LAC 34:I.521]

A. Correction or Withdrawal of Bids. Patent errors in bids or errors in bids supported by clear and convincing evidence may be corrected, or bids may be withdrawn, if such correction or withdrawal does not prejudice other bidders, and such actions may be taken only to the extent permitted under these regulations. A request to withdraw a bid after the bid opening must be made within three business days after bid opening, and supported in writing. If it is determined that the error is patently obvious, then the bid may be withdrawn, and if a bid guaranty was required it shall be returned to the bidder.

B. Minor Informalities. Minor informalities are matters of form rather than substance which are evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders; that is, the effect on price, quantity, quality, delivery, or contractual conditions is not significant. The chief procurement officer or the head of a purchasing agency may waive such informalities or allow the bidder to correct them depending on which is in the best interest of the state. Examples include, but are not limited to, the failure of a bidder to:

1. return the number of signed bids required by the invitation for bids;

2. sign the bid, but only if the unsigned bid is accompanied by other signed material indicating the bidder's intent to be bound;

3. sign or initial write-overs, or corrections in bids;

4. get an agency's certification that a mandatory job-site visit was made; and

5. return nonmandatory pages of the bid proposal.

C. Mistakes Where Intended Bid is Evident. If the mistake and the intended bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended bid and may not be withdrawn. Some examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, unit prices placed in the extended amount column, and failure to return an addendum provided there is evidence that the addendum was received. When an error is made in extending total prices the unit bid price will govern. Under no circumstances will a unit bid price be altered or corrected unless it is obvious that a unit price is submitted in a different unit of measure than shown on the bid form and the bidder's extended total verifies that the unit bid price was submitted using a wrong unit of measure, then the unit price may be changed to correspond with the correct unit of measure.

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).

§323. Bid Guaranty and Bond
[Formerly LAC 34:I.523]

A. Bid Guaranty

1. When specified in the invitation for bids, a bid bond, cashier's check, or certified check, made payable to the Department of the Treasury of the state of Louisiana, for the amount specified, must accompany each bid.

2. If a bid bond is used, it shall be written by a surety or insurance company currently on the U.S. Department of the Treasury Financial Management Service list of approved bonding companies which is published annually in the *Federal Register*, or by a Louisiana domiciled insurance company with at least an A-rating in the latest printing of the *A.M. Best's Key Rating Guide* to write individual bonds up to 10 percent of policyholders' surplus as shown in the A.M. Best's Key Rating Guide.

B. Performance Bond

1. Any performance bond furnished shall be written by a surety or insurance company currently on the U.S. Department of the Treasury Financial Management Service list of approved bonding companies which is published annually in the *Federal Register*, or by a Louisiana domiciled insurance company with at least an A- rating in the latest printing of the *A.M. Best's Key Rating Guide* to write individual bonds up to 10 percent of policyholders' surplus as shown in the *A.M. Best's Key Rating Guide* or by an insurance company that is either domiciled in Louisiana or owned by Louisiana residents and is licensed to write surety bonds.

2. No surety or insurance company shall write a performance bond which is in excess of the amount indicated as approved by the U.S. Department of the Treasury Financial Management Service list or by a Louisiana domiciled insurance company with an A- rating by A.M. Best up to a limit of 10 percent of policyholders' surplus as shown by A.M. Best; companies authorized by this Paragraph who are not on the treasury list shall not write a performance bond when the penalty exceeds 15 percent of its capital and surplus, such capital and surplus being the amount by which the company's assets exceed its liabilities as reflected by the most recent financial statements filed by the company with the Department of Insurance.

3. In addition, any performance bond furnished shall be written by a surety or insurance company that is currently licensed to do business in the state of Louisiana. If a performance bond has been required, the requirement cannot be waived, unless otherwise allowed by Louisiana statutes.

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 40:1351 (July 2014), LR 40:2552 (December 2014).

§325. General Guaranty
[Formerly LAC 34:I.525]

A. At a minimum, the state shall require that the contractor submit to the following guarantees.

1. Hold the state, its agents and employees harmless against any liability for negligent acts or omissions by the contractor.

2. Hold the state, its agents and employees harmless against any liability for infringement of any copyright or patent arising from performance of this contract.

3. Protect the state against latent defective material or workmanship and to repair or replace any damages or marring occasioned in transit.

4. Pay for all necessary permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the city or town in which the installation is to be made or the contract to be performed, and of the state of Louisiana.

B. The contractor may propose substitute guarantees which provide greater protection to the state.

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 40:2552 (December 2014).

§327. Bid Evaluation and Award
[Formerly LAC 34:I.527]

A. General. The contract is to be awarded "to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids." See R.S. 39:1594(G) (Competitive Sealed Bidding, Award) of the Louisiana Procurement Code. The invitation for bidsshall set forth the requirements and criteria which will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the invitation for bids.

B. Responsibility and Responsiveness

Responsive Bidder—a person who has submitted a bid under R.S. 39:1594 which conforms in all substantive respects to the invitation for bids including the specifications set forth in the invitation.

Responsible Bidder or *Offeror*—a person who has the capability in all respects to perform the contract requirements and the integrity and reliability which will assure good faith performance.

C. Product Acceptability

1. The invitation for bids shall set forth the evaluation criteria to be used in determining product acceptability. It may require the submission of bid samples, descriptive literature, technical data, or other material. It may also provide for:

a. inspection or testing of a product prior to award for such characteristics as quality or workmanship;

b. examination of such elements as appearance, finish, taste, or feel; or

c. other examinations to determine whether the product conforms with any other purchase description requirements, such as unit packaging. If bidder changes the unit or packaging, and it is determined that the change prejudices other bidders, then the bid for the changed item shall be rejected.

2. The acceptability evaluation is not conducted for the purpose of determining whether one bidder's item is superior to another but only to determine that a bidder's offering is acceptable as set forth in the invitation for bids. Any bidder's offering which does not meet the acceptability requirements shall be rejected.

D. Determination of Lowest Bidder

1. Following determination of product acceptability as set forth in Subsection C of this Section, if any is required, bids will be evaluated to determine which bidder offers the lowest cost to the state in accordance with the evaluation criteria set forth in the invitation for bids. Only objectively measurable criteria which are set forth in the invitation for bids shall be applied in determining the lowest bidder. Examples of such criteria include but are not limited to transportation cost, and ownership or life-cycle cost formula. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible, such evaluation factors shall:

a. be reasonable estimates based upon information the state has available concerning future use; and

b. treat all bids equitably.

E. Restrictions. A contract may not be awarded to a bidder submitting a higher quality item than that required by the invitation for bids unless the bid is also the lowest bid as determined under Subsection D of this Section. Further, this Section does not permit negotiation with any bidder.

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).

§329. Tie Bids
[Formerly LAC 34:I.529]

A. Definition

Tie Bids—low responsive bids from responsible bidders that are identical in price and which meet all requirements and criteria set forth in the invitation for bids.

B. Resident Business Preference

1. In state contracts awarded by competitive sealed bidding, resident businesses shall be preferred to nonresident businesses where there is a tie bid and where there will be no sacrifice or loss of quality.

2. *Resident Business*—one authorized to do and doing business under the laws of this state, which either:

a. maintains its principal place in business in the state; or

b. employs a minimum of two employees who are residents of the state.

C. Award. In the discretion of the chief procurement officer or the head of a purchasing agency, award shall be made in any manner that will discourage tie bids. A written determination justifying the manner of award must be made. This would include, but is not limited to, consideration of such factors as resident business, proximity, past performance, delivery, completeness of bid proposal. Tie bids over $10,000 must be reported to the attorney general. (See Chapter 23, Reporting of Suspected Collusive Bidding or Negotiations).

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 40:1353 (July 2014), LR 40:2553 (December 2014).

§331. Awarding of Bids
[Formerly LAC 34:I.531]

A. Rejection of Bids. The right is reserved to reject any or all bids in whole or in part, and to award by items, parts of items, or by any group of items specified. Also, the right is reserved to waive technical defects when the best interest of the state thereby will be served.

B. Information on Bid Results. Information pertaining to results of bids may be secured by visiting the agency, except weekends and holidays, during normal working hours, or by complying with §535.

C. Cash Discounts

1. Open Market Purchases and Definite Quantity Term Contracts. All cash discounts will be taken. However, cash discounts will only be considered in determining an award on terms for 30 days or more and at least 1 percent.

2. Indefinite Quantity Term Contracts. Cash discounts will be accepted and taken but will not be considered in determining awards.

D. Increase or Decrease in Quantities. Unless otherwise specified in the invitation for bids, the state reserves the right to increase or decrease the quantities of any item or items shown in the bid by 10 percent.

E. Availability of Funds. A contract shall be deemed executory only to the extent of appropriations available to each agency for the purchase of such articles.

F. All or None Bids

1. A business may limit a bid on acceptance of the whole bid, whereupon the state shall not thereafter rejectpart of such bid and award on the remainder. An award shall be made to the "all or none" bid only if it is the overall low bid on all items, or those items bid.

2. Overall low bid shall be that bid whose total bid, including all items bid, is the lowest dollar amount; be it an individual's bid or a computation of all low bids on individual items of those bids that are not conditioned "all or none."

a. Open Market Purchases. When multiple items are contained on any solicitation and the state chooses to make an item or group award in order to save the state the cost of issuing a different purchase order, an award may be made to a vendor on that item if the total bid for said item is $1,000 or less, and the difference between the low bidder and the bidder receiving the award is $100 or less.

b. An "all or none" bid may be awarded in a similar fashion, to save the state the cost of issuing another purchase order, if the difference in the overall cost between the vendors is $100 or less and no single item exceeds $1,000.

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 40:1353 (July 2014), LR 40:2553 (December 2014).

§333. Documentation of Award
[Formerly LAC 34:I.533]

A. Following award, a record showing the basis for determining the successful bidder, including reasons for rejecting any nonresponsive bids, 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).

§335. Publicizing Awards
[Formerly LAC 34:I.535]

A. Written notice of award shall be sent to the successful bidder. In procurement over $25,000, each unsuccessful bidder shall be notified of the award provided that he submitted with his bid a self-addressed stamped envelope requesting this information. 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).

§337. Assignments
[Formerly LAC 34:I.537]

A. No contract or purchase order or proceeds thereof may be assigned, sublet or transferred without written consent of the commissioner. This does not include agencies exempt in R.S. 39:1572.

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 40:1353 (July 2014), LR 40:2554 (December 2014).

§339. Deliveries
[Formerly LAC 34:I.539]

A. Extension of Time. Any extension of time on delivery or project completion time must be requested in writing by the vendor and accepted or rejected in writing by the purchasing department. Such extension is applicable only to the particular item or shipment affected.

B. Additional Charges. No delivery charges shall be added to invoices except when express delivery is substituted on an order for less expensive methods specified in contract. In such cases, when requested by the agency, the difference between freight or mail and express charges may be added to the invoice.

C. Weight Checking. Deliveries shall be subject to reweighing on official scales designated by the state. Payments shall be made on the basis of net weight of materials delivered.

D. Rejection of Deliveries, Payment for Used Portion. Payment for any used portion of delivery found (as a result of tests or otherwise) to be inferior to specifications or contract requirements, will be made by the state on an adjusted price basis, using the procedures outlined in R.S. 39:1673.

E. Contracts—Reduction in Prices. All state agencies will receive the benefit of any reduction in price on any unshipped portion of any commodity contract. In the event the contractor reduces his price to any one state agency or political subdivision of the state, or makes a general reduction in price, all state agencies being supplied under these contracts are automatically entitled to the lower price; and the contractor shall rebate to all state agencies in a proportional amount. Also, in the event the total purchases of all state agencies of any items covered by the contract entitle the state to a greater quantity discount, the state shall receive the quantity discount appropriated the total amount of actual purchases made by all state agencies. All price reductions made by any supplier under these contracts, designed for the benefit of any state agency, shall be made directly to Purchasing, Division of Administration. Also, the state agencies shall report any offer of a reduction in contract price to Purchasing, and the right is reserved to accept or

reject such offers; but the best interest of the state as a whole will always be considered.

F. Invoices. Upon delivery of each order and its acceptance by the state agency, the supplier shall bill the state agency by means of invoice and the invoice shall make reference to the purchase order number, contract award number, and/or purchase requisition number. All invoices shall be submitted by the supplier on the supplier's own invoice forms, in duplicate, directly to the accounting office of the state agency as required by the purchase order.

G. Payment

1. After receipt and acceptance of order and receipt of valid invoice, payment will be made by the state agency within 30 days. Payment will be made at the respective unit prices shown on the bid or price schedule, less any percentages off list price, less federal excise tax (unless otherwise specified), less cash discount earned.

2. If a state agency without reasonable cause fails to make any payment due within 90 days of the due date prescribed by contract, the state agency shall pay a penalty in accordance with R.S. 39:1695.

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 40:1354 (July 2014), LR 40:2554 (December 2014).

Chapter 5. Reverse Auctions

§501. Definition
[Formerly LAC 34:I.501]

A. For the purpose of this Section, using agency means the Office of State Purchasing using the reverse auction process on its own behalf or on behalf of other state agencies.

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).

§503. Application
[Formerly LAC 34:I.503]

A. Where the using agency utilizes the reverse auction process on behalf of a single state agency, the head of the state agency requesting a reverse auction shall provide:

1. reasons that the best interest of the state would be served and that electronic online bidding is more advantageous than other procurement methods;

2. specifications and terms and conditions to be used for the procurement.

B. When the using agency uses the reverse auction process on its own behalf or on behalf of multiple state agencies, the director of state purchasing shall be considered the department head of the using agency.

C. Vendors shall register before the opening date and time, and as part of the registration, shall agree to any terms and conditions and other requirements of the solicitation.

D. Vendors and/or products shall be prequalified prior to placing bids and only bidders who are prequalified will be allowed to submit bids.

1. The prequalification criteria shall be prescribed in the solicitation.

2. The prequalification period shall be announced in the solicitation.

3. The prequalification period shall end 10 days prior to the beginning of the auction.

4. Bidders shall be notified as to whether they have been prequalified in writing at least seven days prior to the beginning of the auction.

5. When applicable, prequalified products for a particular solicitation shall be announced on the state's internet-based system for posting vendor opportunities seven days prior to the beginning of the auction.

6. Any bidder aggrieved by the pre-qualification process shall have the right to protest the solicitation in accordance with the provisions of R.S. 39:1671.

E. The solicitation shall designate an opening date and time and the closing date and time. The closing date and time may be fixed or remain open depending on the nature of the item being bid.

1. Online reverse auctions shall last no less than one hour.

F. At the opening date and time, the using agency shall begin accepting online bids and continue accepting bids until the bid is officially closed. Registered bidders shall be allowed to lower the price of their bid below the lowest bid posted on the Internet until the closing date and time.

G. Bidders' identities shall not be revealed during the bidding process; only the successively lower prices, ranks, scores, and related bid details shall be revealed.

H. All bids shall be posted electronically and updated on a real-time basis. All prices must be received in the state's system by the announced closing time regardless of what time it was submitted by the vendor.

I. The using agency shall retain the right to cancel the solicitation if it determines that it is in the agency's or the state's best interest.

J. The using agency shall retain its existing authority to determine the criteria that shall be used as a basis for making awards.

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).

§505. Addenda Modifying a Reverse Auction
[Formerly LAC 34:I.605]

A. Addenda will be issued in accordance with §505 of these rules.

B. It is the responsibility of the bidder to obtain any solicitation amendment(s) if the solicitation and addenda are posted on the state's internet-based system for posting bid opportunities.

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 40:1355 (July 2014), LR 40:2555 (December 2014).

§507. Price Submittals
[Formerly LAC 34:I.607]

A. Bidders may submit multiple prices during the event. The lowest price offered will become the price portion of the bid response.

B. The preference provisions of R.S. 39:1595, 1595.1, 1595.2, 1595.3, 1595.6, and 1595.7 shall apply to the reverse auction process.

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 40:2555 (December 2014).

§509. Withdrawal of Bids
[Formerly LAC 34:I.609]

A. Withdrawal of bids will be handled in accordance with §521 of 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 State Purchasing, LR 38:1407 (June 2012), repromulgated LR 40:1355 (July 2014), LR 40:25560 (December 2014).

§511. Tie Bids
[Formerly LAC 34:I.511]

A. In the event that multiple bidders submit identical prices for the same goods or services, the bid received first will be considered to be the lowest. Any other identical bids received later will be considered in the order received.

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 40:2556 (December 2014).

§513. Rejected Bids
[Formerly LAC 34:I.513]

A. The awarding authority may reject any bid, in whole or in part, if any of the following occur:

1. bids offered for materials, supplies, services, products, or equipment that are not in compliance with the requirements, specifications, terms or conditions as stated in the reverse auction;

2. the price of the lowest responsive and responsible bid exceeds the amount budgeted for the procurement;

3. it is determined that awarding any item is not in the best interest of the agency/department.

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 40:2556 (December 2014).

§515. Public Viewing of Auction Event
[Formerly LAC 34:I.615]

A. The public may view the internet auction event which will be conducted such that the names of the bidders will not be disclosed until after the completion of the auction, at which time the event record will be available to the public.

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 40:2556 (December 2014).

§517. Security
[Formerly LAC 34:I.617]

A. All reverse auctions shall be conducted in accordance with the electronic security requirements of the Office of Information Technology.

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 40:2556 (December 2014).

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

Subchapter A. General Provisions

§2501. Delegation of Authority
[Formerly LAC 34:V.101]

A. The Director of Contractual Review may delegate in writing certain responsibilities set forth herein; however, he shall review any actions taken by his designee.

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 7:179 (April 1981), LR 8:591 (November 1982), LR 10:455 (June 1984), LR 11:1067 (November 1985), repromulgated LR 40:2556 (December 2014).

§2503. Definitions and Classes of Contractual Services
[Formerly LAC 34:V.103]

A. The following services shall be contracted out in accordance with these regulations.

1. *Personal Services*—work rendered by individuals which requires use of creative or artistic skills, such as but not limited to graphic artists, sculptors, musicians, photographers, and writers, or which requires use of highly technical or unique individual skills or talents, such as, but not limited to, paramedicals, therapists, handwriting analysts, foreign representatives, and expert witnesses for adjudications or other court proceedings. A *foreign representative* shall mean a person to represent the Department of Economic Development in such foreign country.

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

profession that may be added by regulations adopted by the Office of Contractual Review of the Division of Administration.

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

a. Includes the procurement of supplies and services by a contractor without the necessity of complying with provisions of the Louisiana Procurement Code when such supplies and services are merely ancillary to the provisions of consulting services under a contingency fee arrangement, even though the procurement of supplies or services directly by a governmental body would require compliance with the Louisiana Procurement Code. Supplies or services ancillary to the provision of consulting services are those supplies or services which assist the contractor in fulfilling the objective of his contract where the cost for such supplies and services, is less than the cost of providing consulting services, as determined by the using agency. No contract for consulting services as defined in this Paragraph shall be entered into unless it has been approved in advance by the Joint Legislative Committee on the Budget.

4. *Retroactive Claims Recovery Services*—those consulting services where third party coverage identification and verification represent the primary services, and any operations type activities such as data processing and/or claims submission are merely incidental to the total work tasks to be performed, and where such services will result in revenue enhancement to the state through a contingency fee arrangement. The RFP process for this type of consulting service shall require that at least 50 percent of total weighted criteria for evaluation be allocated to cost.

5. *Social Service*—work rendered by a person, firm, corporation, organization, governmental body, or governmental entity in furtherance of the general welfare of the citizens of Louisiana, including but not limited to the following objectives.

a. Rehabilitation and Health Support. Services rendered by a contractor with special knowledge or service available to assist individuals to attain or maintain a favorable condition of physical and/or mental health. These services include but are not limited to health-related counseling; alcohol or drug abuse training and treatment; training to support emergency medical services; services to support family planning; counseling, delinquency prevention; genetic disease evaluation and counseling, community-based medical support services; evaluation and training for physically/mentally handicapped; and other services in support of same.

b. Habilitation and Socialization. Services rendered by a contractor with special knowledge to assist specified client groups to enhance their self-sufficiency or alleviate their dependency and/or isolation from the community. Services include but are not limited to day care; work and training; early intervention for the mentally retarded, developmentally delayed, or physically handicapped; transportation for service access; homemaker home management, and housing improvement services; in-home and out-of-home respite care; socialization services for low income and other special needs groups; nursing home ombudsman; nutritional, employment, case management, senior center activities, or other services to aid independent living by the elderly, and training and community planning services for same.

c. Protection for Adults and Children. Services rendered by a contractor to provide therapeutic intervention for adults or children who are in danger of or threatened with danger of physical or mental injury, neglect, maltreatment, extortion, or exploitation, including victims of family violence. These services include but are not limited to community planning for neglect/abuse; adoption; substitute care; education and training; crisis intervention type services; emergency shelter for victims of rape/family violence or services in support of same; and training and valuation services for same.

d. Improvement of Living Conditions and Health. Services rendered by an authorized contractor with special knowledge or services available to assist individuals to attain or maintain favorable conditions in which to live. These services include but are not limited to:

i. distribution of foodstuffs either purchased or that are made available from government-owned commodities;

ii. determining the needs of the poor, and development of programs to distribute the available resources;

iii. determining the needs of the poor and identifying programs to alleviate these poverty conditions;

iv. providing services to respond to the educational/ employment needs of eligible individuals in the communities needing these services. The primary purpose of this service is to provide the participating individuals with the skills necessary for them to advance socially, academically, and occupationally; and

v. providing training for and evaluation of any of the above services.

e. Evaluation, Testing, and Remedial Educational Services for Exceptional Handicapped or Learning Disabled Nonpublic School Students. Services rendered by a contractor with special knowledge or services available to provide special educational and related services for exceptional or handicapped students voluntarily enrolled in approved nonpublic schools of Louisiana who are not otherwise provided with such services through either their local school program or through other services afforded to them by local school boards or other public agencies. These services may include but are not limited to identification, assessment, appraisal, and evaluation of exceptional or handicapped children; development of individualized education programs; and the providing of instructional and supportive services to such eligible students in accordance with the provisions of R.S. 17:1941, et seq., (Act 754 of 1977) and P.L. 94-142 and their regulations.

6.a. *Performance-Based Energy Efficiency Contract*—a contract for energy efficiency services and equipment in which the payment obligation for each year of the contract is either:

i. set as a percentage of the annual energy cost savings attributable to the services or equipment under the contract; or

ii. guaranteed by the person under contract to be less than the annual energy cost savings attributable to the services or equipment under the contract.

b. Any state agency, board, or commission may enter into a performance-based energy efficiency contract for services and equipment. Any such agency, board, or commission shall contact the Division of Administration for assistance in preparation of the requests for proposals, analysis of the proposals, and development of the contract. The contract shall be considered a consulting services contract.

c. Performance-based energy efficiency contracts shall be awarded through a request for proposal process. Any performance-based energy efficiency contract entered into shall be for a period not to exceed 10 years and shall contain a guarantee of energy savings.

7. Interagency contracts between governmental entities as defined in R.S. 39:1484(23) for any of the services enumerated in Paragraphs 1, 2, 3, 4, 5 or 6 above shall be governed by these regulations, except that contracts between boards of higher education and their respective institutions shall be exempt.

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 LR 40:2556 (December 2014).

§2505. Performance-Based Energy Efficiency Contracting [Formerly LAC 34:V.105]

A. Preparation of Requests for Proposals

1. Performance contracts shall be considered to be consulting services contracts under the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes and shall be awarded in accordance with the provisions of that Chapter, the rules and regulations promulgated by OCR pursuant to that Chapter, and this Section.

2. Prior to its preparation of an RFP, a state agency, as defined in R.S. 39:2 (hereinafter, "user agency") shall perform a needs analysis in accordance with the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes and the rules and regulations promulgated by the Division of Administration, through its Office of Contractual Review ("OCR") pursuant to that Chapter. Such needs analysis shall be in a form approved by the Commissioner of the Division of Administration or his designated agent and shall include a detailed audit of energy use.

3. Prior to its preparation of an RFP, a user agency shall submit its needs analysis to the Commissioner of the Division of Administration or his designated agent for approval.

4. Upon approval of a user agency's needs analysis pursuant to this Section, such user agency shall prepare an RFP in a form approved by OCR, which form shall require proposers to separately itemize the costs and savings associated with each proposed energy cost savings measure ("ECSM"). In accordance with the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes and the rules and regulations promulgated by OCR pursuant to that Chapter, every RFP shall indicate the relative importance of price and other evaluation factors, shall clearly define the tasks to be performed under the performance contract, the criteria to be used in evaluating the proposals and the time frames within which the work must be completed. Prior to advertising its RFP, a user agency shall submit it to the Commissioner of Administration or his designated agent and obtain his written consent to the advertisement of the RFP.

5. Upon approval of a user agency's RFP, such user agency shall advertise its RFP in accordance with the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes and the rules and regulations promulgated by OCR pursuant to that Chapter.

B. Evaluation of Submitted Proposals

1. A user agency shall review any proposals it timely receives in response to its RFP and shall submit to the Office of Facility Planning and Control ("FPC") the results of its review, along with each proposal that is responsive and responsible and otherwise in accordance with the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes, the rules and regulations promulgated by OCR pursuant to that Chapter, and this Section. A user agency shall not make a final selection from among the proposals it submits to FPC.

2. Prior to the award of any performance contract, FPC shall evaluate all proposals submitted by a user agency for that performance contract. In its evaluation, FPC shall include suggestions, if appropriate, for the resolution of any unique issues arising in connection with a particular proposed performance contract. FPC's evaluation shall also include, but not be limited to, a consideration of the following:

a. whether proposed ECSMs are in compliance with the provisions of R.S. 39:1496.1;

b. whether proposed ECSMs will generate net savings, as those terms are defined in Subsection E of this Section; and

c. whether the proposed protocol for measuring and verifying the energy savings guaranteed in the contract conforms to the latest standards set forth by the International Performance Measurement and Verification Protocol.

3. FPC shall, within 60 days of the receipt of the submitted proposals, forward to the Commissioner of Administration or his designated agent its written evaluation of the submitted proposals, along with the results of the review of the submitted proposals by the user agency. FPC shall not make a final selection from among the proposals it forwards to the Commissioner of the Division of Administration except if FPC has been designated as the Commissioner's agent for that specific purpose.

4. Prior to the award of any performance contract, the Commissioner of the Division of Administration or his designated agent may retain an independent consultant in accordance with this Section. Such independent third-party consultant shall evaluate all proposals and written evaluations submitted to the Commissioner of the Division of Administration or his designated agent. Such evaluation shall be in accordance with the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes, the rules and regulations promulgated by OCR pursuant to that Chapter, and this Section. After completing its evaluation, an independent consultant shall submit to the Commissioner of

the Division of Administration or his designated agent the written results of such evaluation. An independent consultant shall not make a final selection from among the proposals it evaluates.

5. Prior to retaining an independent third-party consultant pursuant to this Section, the Commissioner of the Division of Administration or his designated agent shall require every proposed independent consultant to execute a written certification verifying that he or she has no direct conflict of interest as to the user agency that requested the proposals to be evaluated, the proposals themselves and/or those who submitted the proposals to the user agency. Such written certification shall be in a form approved by the legislative auditor. In order to assist the legislative auditor in verifying the independence of a proposed independent consultant, such proposed independent consultant shall provide to the legislative auditor any documentation or information the legislative auditor requests. A proposed independent consultant shall not be retained, unless the legislative auditor has determined that such proposed independent consultant has no direct conflict of interest as to the user agency that requested the proposals to be evaluated, the proposals themselves and/or those who submitted the proposals to the user agency.

6. After completing his review of the submitted proposals and evaluations prepared by the independent consultant, if any, pursuant to this Section, the Commissioner of the Division of Administration or his designated agent shall provide written notification to a user agency that the Commissioner of the Division of Administration or his designated agent has consented to the award of a performance contract to a specified energy services company ("ESCO") or that he has not consented to the award of a performance contract. Pursuant to the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes, the rules and regulations promulgated by OCR pursuant to that Chapter, and this Section, such consent shall be given to the responsible ESCO whose proposal is determined by the Commissioner of the Division of Administration or his designated agent to be the most advantageous to the state of Louisiana, taking into consideration all of the evaluation factors set forth in the RFP, as well as any evaluations or recommendations provided by the user agency, and the independent consultant, if any. In the event that the Commissioner of the Division of Administration or his designated agent determines that consent to the award of a performance contract would not be advantageous to the state of Louisiana, he shall provide the user agency with written reasons for his decision to withhold his consent.

7. Except as explicitly set forth in this Section, no party shall disclose information derived from submitted proposals prior to the consent by the Commissioner of the Division of Administration or his designated agent to the award of a performance contract to a specified ESCO.

C. Negotiation of Performance Contracts

1. A user agency shall negotiate with an approved ESCO a performance contract in a form approved by OCR. The process of such negotiation shall be in accordance with the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes, the rules and regulations promulgated by OCR pursuant to that Chapter, and this Section. The Commissioner of the Division of Administration or his designated agent may require that an independent consultant retained pursuant to this Section participate on behalf of a user agency in the negotiation of a performance contract with an approved ESCO.

a. Notwithstanding any other provisions of this Section, every performance contract negotiated pursuant to this Section shall set forth the total units of energy saved, the method, device or financial arrangement to be used to establish the amount of such savings, the cost per unit of energy and, if applicable, the basis for any adjustment in the cost per unit of energy during the term of the contract.

b. Notwithstanding any other provisions of this Section, every performance contract negotiated pursuant to this Section shall, with respect to each ECSM included in such performance contract and in addition to fulfilling any other requirements set forth in this Section, state the following:

i. the detailed scope of work to be performed pursuant to the performance contract;

ii. the initial price to be paid by the user agency;

iii. the annual energy cost savings guaranteed by the ESCO;

iv. the annual maintenance savings guaranteed by the ESCO, including, but not limited to, services, parts, materials, labor and equipment;

v. the annual new maintenance costs, including operating expenses added as a result of new equipment installed or service performed by the ESCO; and

vi. the total annual savings guaranteed by the ESCO. *Total annual savings* means annual energy cost savings plus annual maintenance savings minus annual new maintenance costs.

c. Notwithstanding any other provisions of this Section, no payment shall be made to an ESCO pursuant to a performance contract unless such performance contract complies with Paragraph C.1.

2. The term of every performance contract negotiated pursuant to this Section and term of any obligation incurred by a user agency to fund a performance contract shall be for a period equal to the lesser of 20 years or the average life of the equipment installed by the ESCO and shall contain a guarantee of energy savings, which guarantee shall, at a minimum, ensure total annual savings sufficient to fully fund any financing arrangement entered into pursuant to such performance contract.

3. Every performance contract negotiated pursuant to this Section shall contain the following clause: "The continuation of this contract is contingent upon the appropriation of funds by the legislature to fulfill the requirements of the contract. If the legislature fails to appropriate sufficient monies to provide for the continuation of the contract, the contract shall terminate on the last day of the fiscal year for which funds have been appropriated. Such termination shall be without penalty or expense to the agency, board or commission except for payments which have been earned prior to the termination date."

4. A user agency shall submit a negotiated performance contract to OCR for its review and approval. A user agency's submission of a negotiated performance contract shall be in accordance with the provisions of Title 39, Chapter 16 of the Louisiana Revised Statutes, the rules

and regulations promulgated by OCR pursuant to that Chapter, and this Section.

5. At the time a performance contract is executed, the contracting ESCO shall submit a certified or cashiers check, payable to the Commissioner of the Division of Administration or his designated agent, in a sum equal to no more than 2 1/2 percent of the total value of the proposed performance contract. The percentage of such total value and the means of calculating such total value shall be determined by the Commissioner of the Division of Administration or his designated agent and shall be set forth in the performance contract.

D. Audits of Performance Contracts

1. An ESCO that enters into a performance contract shall provide the user agency with all performance information and other reports required by the performance contract.

a. An ESCO's reports to the user agency shall conform with the standards of the International Performance Measurement and Verification Protocol.

b. An ESCO's reports to the user agency shall, in addition to fulfilling any other requirements set forth in its performance contract or in this Section, state the following:

i. the name of the user agency;

ii. the ESCO's name and address;

iii. whether the payment obligation under the performance contract is either:

(a). set as a percentage of the annual energy cost savings attributable to the services or equipment under the performance contract; or

(b). guaranteed by the ESCO to be less than the annual energy cost savings attributable to the services or equipment under the performance contract;

iv. the total annual savings guaranteed by the ESCO;

v. the total amount the user agency is required to pay under the performance contract and the term of the contract;

vi. the total amount paid to date by the user agency and the amount paid each year to date under the performance contract;

vii. any costs paid by the user agency which were associated with the set-up or maintenance of the performance contract or with repair or maintenance of the equipment used under the performance contract;

viii. the annual cost to the user agency of energy or other utilities beginning two years prior to operation of the performance contract and during the operation of the performance contract; and

ix. the annual energy cost savings each year, shown also as a percentage of the annual amount to be paid by the user agency under the performance contract. When calculating annual energy cost savings, maintenance savings shall be included. *Maintenance savings* means operating expenses eliminated and future capital replacement expenditures avoided by the user agency as a result of new equipment installed or services performed by the ESCO.

2. Upon a request by a user agency, by the Commissioner of the Division of Administration or his designated agent or by the legislative auditor, an ESCO shall provide any working documents, accounting records or other materials relating to costs, pricing or any other aspect of the ESCOs performance pursuant to a performance contract. Documents, records and other materials provided by an ESCO in accordance with this Section shall be subject to review and verification by a user agency, by the Commissioner of the Division of Administration or his designated agent, by the legislative auditor, or by an independent third party selected by a user agency, by the Commissioner of the Division of Administration or by the legislative auditor.

3. User agencies shall provide to the legislative auditor copies of all performance information and other reports submitted by an ESCO pursuant to a performance contract or this Section. The legislative auditor shall conduct periodic audits of performance contracts, both during the term of such performance contracts and upon the completion of such performance contracts.

E. Retention by User Agencies of Net Savings Generated by Energy Cost Savings Measures

1. Pursuant to R.S. 39:254.B(1), a user agency that is able to demonstrate net savings from implementing an ECSM by means of a performance contract may retain its net savings relating to such ECSM, until the investment costs of implementing the ECSM are paid in full, and thereafter may retain one half of such net savings over the remaining useful life of the ECSM. Such retained net savings shall be from funds appropriated or allocated to the user agency for utility costs.

2. The Commissioner of the Division of Administration or his designated agent shall develop and promulgate such rules and regulations as are necessary to provide for the measurement and verification of net savings relating to ECSMs.

3. For the purposes of these rules, ECSM refers to a repair, equipment modification, procedure, course of action or other step taken which lowers energy costs.

4. For the purposes of these rules, *net savings* from the implementation of ECSMs shall be defined as measurable and verifiable energy cost savings that directly result from such implementation and shall be determined in accordance with the following provisions.

a. ESCOs shall employ energy savings measurement techniques that embody the best practical methods of determining net savings generated by the ECSMs to be evaluated. Such measurement techniques shall be fully defined and set forth in the RFP and performance contract that includes the ECSMs. In selecting a measurement technique, an ESCO shall consider the complexity of the ECSM to be evaluated and other factors that may affect energy use, such as changes in the mission of a facility, population, space utilization and weather.

b. Energy savings measurement may be based upon estimates, calculations or computer models, if metering is not practical.

c. Every RFP and performance contract shall set forth in detail the method to be used by an ESCO in order to determine the unit energy costs by which an energy baseline and energy savings are to be multiplied. For the purposes of these rules, an energy baseline shall be defined as the amount of energy that would be consumed annually without implementation of a given ECSM and shall be based upon historical metered data, engineering calculations, submetering of buildings or other energy-consuming

systems, building load simulations, statistical regression analysis, or some combination of these methods.

d. The selection of every energy savings measurement technique and method of determining unit energy costs or energy baseline shall be subject to the approval of the Commissioner of the Division of Administration or his designated agent, who shall have the authority to modify such techniques and methods if he determines, in his sole discretion, that such modification is warranted by changed conditions or other circumstances affecting the accuracy or appropriateness of such techniques and methods.

e. Net savings must be real savings of money that the state of Louisiana either is currently spending or has budgeted to spend in the future. Such money must be available in the state's budget for payments against the performance contract involved. Net savings may be either recurring or one-time cost savings.

f. Examples of net savings shall include, but not be limited to, recurring operation, maintenance and repair tasks, which are currently performed by the state or its agents and which are directly related to the energy-consuming system affected by an ECSM. The savings associated with such tasks shall be net savings, if the ESCO assumes such tasks, reduces the burden of such tasks or eliminates such tasks. The Commissioner of the Division of Administration or his designated agent shall determine whether an ESCO's action with respect to a given recurring task generates net savings and shall determine the value of such net savings.

g. Net savings may also include one-time cost savings of money budgeted by the state and available to fund a project or task that is made unnecessary by the implementation of an ECSM. The Commissioner of the Division of Administration or his designated agent shall determine whether an ESCO's action with respect to a given one-time project or task generates net savings and shall determine the value of such net savings.

h. Any utility company rebates or other incentives arising in connection with the implementation of an ECSM shall be the property of the user agency. An ESCO shall provide any assistance necessary in order to permit a user agency to apply for and receive such rebates or other incentives.

F. Grandfathered Performance Contracts

1. Notwithstanding any other provision of this Section, where an RFP or a proposed performance contract is exempt from the application of Subparagraphs (a) through (d) of R.S. 39:1496.1.E(1), the selected ESCO shall, at the time a performance contract is executed, submit a certified or cashiers check, payable to the Commissioner of the Division of Administration or his designated agent, in a sum equal to no more than 1 percent of the total value of the proposed performance contract. The percentage of such total value and the means of calculating such total value shall be determined by the Commissioner of the Division of Administration or his designated agent and shall be set forth in the performance contract.

2. Where an RFP or a proposed performance contract is exempt from the application of Subparagraphs (a) through (d) of R.S. 39:1496.1.E(1), such RFP or proposed performance contract shall not be subject to the application of Subsection A or B of this Section but shall be subject to the remaining provisions of this Section.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office Facility Planning and Control, LR 31:640 (March 2005), amended LR 32:2049 (November 2006), repromulgated LR 40:2558 (December 2014).

§2506. Contracts for $10,000 or Less
[Formerly LAC 34:V.106]

A. The Director of the Office of Contractual Review may, in accordance with R.S. 39:1488, 1490.B(3), and 1508, delegate to other state-using agencies certain responsibilities in the review and approval process of professional, personal, consulting and social services contracts, to specifically include contracts for professional, personal, consulting and social services for $10,000 and under. Such delegations of authority may be made upon written request by the head of the using agency and shall be provided for in a written Memorandum of Agreement between the Office of Contractual Review and each using agency receiving such a delegation. All provisions of law and of these regulations not delegated remain applicable. Upon execution of the Memorandum of Agreement as herein provided, such delegation of authority shall remain in full force and effect, until it may be canceled in writing, by the Director of the Office of Contractual Review.

B. A contract meeting the definition of *small purchase* under R.S. 39:1508 may be approved by the agency director without the necessity of forwarding a copy to the Office of Contractual Review. The agency shall maintain a file for all small purchase contracts. This file shall be available for inspection by the Director of the Office of Contractual Review or his designee upon request.

C. The using agency shall submit a quarterly report to the Office of Contractual Review. This report shall contain a listing of all small purchase contracts to include: the name of contractor, amount of contract, specific nature of services rendered, date of contract, and total dollar amount of all small purchase contracts entered into by the using agency for that quarter. If no such contracts have been entered into during this period, a report shall still be submitted notifying the Office of Contractual Review of same. See §197, Appendix E for format of report.

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 8:591 (November 1982), LR 10:455 (June 1984), LR 11:1068 (November 1985), LR 17:265 (March 1991), repromulgated LR 40:2561 (December 2014).

§2509. Contract Contents
[Formerly LAC 34:V.109]

A. Each contract for professional, personal, consulting and social services shall follow the provisions of R.S. 39:1498.1.

B. Contracts funded fully or in part by federal funds, in addition to meeting all the requirements of these guidelines and R.S. 39:1428-1473, shall meet all applicable federal standards and shall contain all necessary clauses required by federal statutes, rules or regulations. The burden of complying with federal regulations shall rest with the using agency.

C. Travel expenses shall be reimbursed in accordance with Division of Administration Policy and Procedure Memorandum 49 (the state general travel regulations, LAC 4, Part V). Persons performing services under contracts approved by the Office of Contractual Review shall be considered to be other persons under LAC 4:V.1503.C.3 (the state general travel regulations).

D. When a contract is to include travel and other reimbursable expenses, it shall contain language to effect the following:

1. travel and other reimbursable expense shall constitute part of the total maximum payable under the contract. Travel expenses shall be reimbursed in accordance with Administration Policy and Procedure Memorandum 49 (PPM 49), LAC 4, Part V; or

2. no more than (a certain sum) of the total maximum amount payable under this contract shall be paid or received as reimbursement for travel and other reimbursable expenses. Travel expenses shall be reimbursed in accordance with Division of Administration Policy and Procedure Memorandum 49, LAC 4, Part V.

E. If the using agency desires to reimburse the contractor other than in accordance with rates established in Policy and Procedure Memorandum 49, LAC 4, Part V, such reimbursement must be approved by the Commissioner of Administration as a waiver to the requirements of PPM 49.

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 7:182 (April 1981), LR 8:592 (November 1982), LR 10:456 (June 1984), LR 11:1068 (November 1985), repromulgated LR 40:2561 (December 2014).

§2512. Modification of Contract
[Formerly LAC 34:V.112]

A. All amendments to contracts for professional, personal, consulting and social services shall be submitted to the Office of Contractual Review and shall become effective only upon approval by the Director of the Office of Contractual Review. If an amendment extends a contract beyond one year, justification for a multi-year contract must be submitted with said amendment in accordance with §133.

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).

§2515. Termination of Contract
[Formerly LAC 34:V.115]

A. Whenever a contract is terminated prior to the termination date stated in the contract, the Office of Contractual Review shall be notified in writing by the using agency of such prior termination, and the reasons therefor.

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), repromulgated LR 40:2562 (December 2014).

§2518. Submission of Contracts
[Formerly LAC 34:V.118]

A. The original contract and at least one copy of said contract and attachments shall be submitted to the Office of Contractual Review. The Office of Contractual Review shall submit a list of all contracts for $25,000 or more to the Legislative Fiscal Office. Copies of such contracts shall be forwarded to the Legislative Fiscal Office upon request. The Office of Contractual Review will not accept for review and approval any contract that is not accompanied by the necessary attachments and copies as required herein. (Attachments being submittal letters, R.S. 39:1497 certification, BA-22, etc.)

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).

§2521. Contractual Review Process
[Formerly LAC 34:V.121]

A. Contracts arriving in the Office of Contractual Review will be date stamped and logged in. Contracts should be submitted prior to their effective dates and no contract shall be approved which has been submitted 60 days after its effective date unless written justification is provided by the using agency and approval granted by the Director of Contractual Review or his designee. All submittals will be required to have a cover letter attached thereto in conformity with §195, Appendix D of this Part.

B. If a contract does not appear to be out of the ordinary and appears to have the necessary attachments and inclusions, it will be routed as appropriate to the Division of Administration budget analyst for the submitting agency. A BA-22, or its equivalent, shall be submitted with every contract submitted to the Office of Contractual Review, which contains any expenditures or reduction in expenditures.

C. Contracts that are incomplete as to form may be returned to the submitting agency. If a contract is merely missing an attachment then the necessary attachment may be secured from the submitting agency.

D. Contracts Returned from Budget

1. Not Recommended for Approval. If a contract is not recommended for approval, the Office of Contractual Review shall discuss the reason with the budget analyst. If the problem cannot be resolved, the contract shall be returned to the submitting agency with a letter explaining the problem.

2. Recommended for Approval. If a contract is recommended for approval the review process shall continue.

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

1. signatures of both the head of the using agency or his designee and the contractor. At least one submitted copy of each contract shall bear an actual, nonfacsimile signature of each party;

2. contractor name and address (including zip code);

3. scope of services that clearly and completely identifies the work to be performed and products to be delivered;

4. beginning and termination dates for the contract. Normally, such contracts should be for a term no longer than one year, although the Director of Contractual Review may approve contracts with terms up to three years. 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. 39:1496.1(c), performance-based energy efficiency contracts shall have a term not to exceed 10 years;

5. the maximum amount of compensation to be paid under the contract. This maximum must be inclusive of all payment, fees, travel expenses, etc. When applicable, the amounts shall be stated by category and then given as a comprehensive total. The payment schedule shall be given also;

6. a statement giving the legislative auditor and/or the Office of the Governor, Division of Administration auditors authority to audit the financial records of the contractor relative to work done under the contract. A clause referencing audit requirements given in R.S. 24:517 is advisable for contractors who may be considered "quasi-public";

7. a clause providing that the contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the submitting agency thereto, provided, however, that claims for money due or to become due to the contractor from the using agency under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to both the using agency and the Director of the Office of Contractual Review;

8. the Office of Contractual Review shall notify the using agency in writing when an assignment of proceeds notice has been received from a contractor;

9. a statement giving the contractor the responsibility for paying any taxes which may be due as a result of the contract. The taxes could include state or federal income taxes or payroll taxes;

10. advance payments on all contracts except those for professional services are allowable if limited to less than or equal to 20 percent of the contract amount and if necessary to provide for the lowest cost delivery of service:

a. all such advances shall be approved by the Director of the Office of Contractual Review. If federal funds are to be advanced, federal guidelines shall prevail on the conditions and amount of the advance. Specific state statutory authority may override the 20 percent limit for certain contracts;

b. when submitting for approval a contract including provisions for an advance, the using agency shall submit the following additional information at a minimum:

i. certification by the using agency that the procurement of the services involved at the lowest cost requires the advance and that no other source of funding is available;

ii. provisions in the contract specifying the amount and timing of the payments and safeguarding repayment of the advance.

F. Each contract over $5,000 submitted for approval shall be accompanied by a certification letter as described in R.S. 39:1497, signed by the using agency's representative (see §191, Appendix B of this Part).

G. Proof of review and approval by other agencies shall accompany submitted contracts as follows; or contracts will be returned to the submitting agency without final approval.

1. Civil Service. All contracts must have Civil Service approval unless exempted by the Department of Civil Service.

2. Attorney General. Contracts for legal services that are not consulting work and that do involve or lead to litigation must be reviewed by the attorney general in accordance with R.S. 49:258. Approval of the attorney general can be evidenced by the signature on the contract documents or by a letter from the attorney general. Contracts with Louisiana district attorneys do not require this approval.

3. Legislative Auditor. Contracts for financial auditing of state agencies must have prior written approval of the legislative auditor.

4. If the contractor is a corporation not incorporated under the laws of the state of Louisiana, then the contractor must secure a certificate of authority pursuant to R.S. 12:301-302 from the secretary of the state of Louisiana and verification of such certificate must be made available to the Office of Contractual Review.

5. The Office of Telecommunications Management shall review and recommend any contract containing elements of telecommunication services before returning it to the Office of Contractual Review for completion of the analysis.

H. Consulting Services Contracts for $50,000 or More. If a contract is for services defined as consulting in R.S. 39:1484(4) and is for an amount equal to or exceeding $50,000, it must have been awarded pursuant to the requirements of R.S. 39:1503, unless exempt by §142. Failure to so comply shall result in the using agency having to reconduct the process. A statement in accordance with R.S. 39:1503.C as to why the award was made must be submitted with the contract.

I. Data processing consulting service contracts for more than $100,000 shall be procured in accordance with Subchapter C of these regulations.

J. Social Services Contracts for $150,000 or More During a 12-Month Period. If a contract is for services defined as social services in R.S. 39:1484(24), it must have been awarded pursuant to the requirements of R.S. 39:1503 unless exempt by R.S. 1494.1. Failure to so comply shall result in the using agency having to reconduct the process. A statement in accordance with R.S. 39:1503(c) as to why the award was made must be submitted with the contract.

K. When a contractor is a corporation, a formal, dated board resolution must be secured and attached to the contract indicating that the signatory is a corporate representative and authorized to sign said contract.

L. When it has been determined that a contract is complete, the contract shall be returned to the submitting

agency with an approval letter attached and signed by the Director of Contractual Review.

M. A performance evaluation for every personal, professional, consulting or social services contract shall be done by the using agency in accordance with R.S. 39:1500. This performance evaluation shall be retained by the using agency for all small purchase contracts approved under delegated authority. For all other contracts this performance evaluation shall be submitted to the Office of Contractual Review within 120 days after the termination of the contract. An example evaluation form can be found in §195, Appendix F of this Part. Using agencies should use their own formats.

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 LR 40:2562 (December 2014).

§2524. Exempt Occupations [Formerly LAC 34:V.124]

A. The following list of occupations shall be construed as falling within the definition of medical, nursing or allied health fields given in R.S. 39:1498.2. Personnel employed in these fields would therefore be exempt from the prohibition contained in R.S. 39:1498(4) which disallows personal, professional, consulting or social services contracts between the state of Louisiana and state employees:

1. audiologist;
2. dental assistant;
3. dentist;
4. electroencephalograph technician;
5. emergency medical technician;
6. hospital chaplain;
7. inhalation therapist;
8. medical laboratory technologist;
9. accredited medical records technician/ administrator;
10. nurse anesthetist;
11. occupational therapist;
12. optometrist;
13. osteopath;
14. pharmacist;
15. psychologist;
16. physical therapist;
17. physician;
18. podiatrist;
19. practical nurse;
20. professional dietitian;
21. psychiatrist;
22. radiologic technologist;
23. radioisotope technologist;
24. registered nurse;
25. rehabilitation counselor;
26. respiratory therapy technician;
27. respiratory therapy technologist;
28. social worker;
29. speech pathologist;
30. ultrasonography technologist.

B. Other specialists as may be included later by the Director of the Office of Contractual Review.

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), LR 15:82 (February 1989), LR 17:266 (March 1991), repromulgated LR 40:2564 (December 2014).

§2527. Delegation of Signature Authority [Formerly LAC 34:V.127]

A. R.S. 39:1502 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 Contractual Review. Normally delegations of signature authority to the level of assistant secretary or equivalent will be approved if circumstances warrant the delegation. Delegations of signature authority to a level below that of assistant secretary may be granted in unusual situations, for example, where the volume of contracts is very heavy.

B. In addition, autonomous or semi-autonomous boards or commissions may sign their own contracts if such authority is granted them by their enabling legislation or by the heads of the agency in which they are placed.

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).

§2530. Confidentiality of Technical Data or Trade Secrets [Formerly LAC 34:V.130]

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 Contractual Review shall be returned to the using agency upon completion of said review.

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).

§2533. Multi-Year Contracts [Formerly LAC 34:V.133]

A. Contracts in excess of one year shall be submitted to the Office of Contractual Review with written reasons why a multi-year contract is needed. Justification of multi-year contracts shall be submitted in accordance with R.S. 39:1514 in compliance with the delegation of authority from the Commissioner of Administration.

B. Any contracts which cross fiscal years should contain a funding-out clause in accordance with R.S. 39:1514.

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).

§2534. Cost Reimbursement Contracts [Formerly LAC 34:V.134]

A. If a nongovernmental provider is expected to receive $100,000 or more per year of state funds via one or more cost-reimbursement contracts, then those contracts shall contain at least one of the following requirements:

1. source documentation verification (evidenced by invoices, canceled checks, certified payroll sheets, etc.) shall be submitted to the state to justify each payment request; or

2. utilizing internal auditors, the using agency shall perform frequent, unannounced contract compliance audits of the contractor. "Frequent" shall mean no less than once per contract or per 12 months if the contract is longer than 12 months and all disallowed expenditures shall be reimbursed to the using agency; or

3. the contract shall require the contractor to obtain a contract compliance audit of expenditures charged to the contract. This compliance audit shall be performed by a certified public accountant or the Louisiana legislative auditor's office. A contract compliance audit must include an examination of reimbursed expenditures to determine if they are in accord with contract terms, not reimbursed by any other source, and in accord with any guidelines set by the using agency or other relevant authority. This examination shall be conducted in accordance with generally accepted auditing and sampling procedures, including the *Government Auditing Standards* ("Yellow Book"). See §201, Appendix G of this Part for sample opinion letter for this contract compliance audit.

a. Such an audit may be performed in conjunction with a financial audit, but results must be available to the using agency within 12 months after the fiscal year end of the contractor. It is the intention of this rule not to require audits at a different time of year if annual audits are currently being performed. Thus, a contract period may be covered by two separate audits.

b. For multi-year cost-reimbursement contracts, the provider may with the using agency's consent, elect to have a multi-year contract compliance audit done to cover the entire contract period.

c. If a single provider has multiple cost-reimbursement contracts subject to the requirements of §134, then the provider may elect to have an audit done using the single audit model. In these instances, a major state contract means any state contract for which expenditures during the year exceed the greater of $100,000 or 3 percent of such total expenditures.

d. All disallowed expenditures shall be reimbursed to the using agency. Such disallowances shall normally be recouped by the using agency in current or future contracts with the provider. For cost-reimbursement contracts, any audit of the contract period issued pursuant to the Single Audit Act of 1984, P.L. 98-502, OMB Circular A- 110, or other federal legislation and regulations, shall fulfill the audit requirements of this Paragraph 3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(B) and 39:1521.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 15:82 (February 1989), repromulgated LR 40:2565 (December 2014).

§2536. Determination of Responsibility [Formerly LAC 34:V.136]

A. In order to qualify as responsible, an offerer must meet the following standards as they relate to the particular procurement under consideration:

1. has adequate financial resources for performance, or has the ability to obtain such resources as required during performance;

2. has the necessary experience, organizations, technical qualifications, skills, and facilities, or has the ability to obtain them (including probable subcontractor arrangements);

3. is able to comply with the proposed or required time of delivery or performance schedule;

4. has a satisfactory record of integrity, judgment and performance (contractors who are seriously delinquent in current contract performance, considering the number of contracts and the extent of delinquencies of each, shall in the absence of evidence to the contrary or evidence of compelling circumstances, be presumed to be unable to fulfill the requirement);

5. is otherwise qualified and eligible to receive an award under applicable laws and regulations.

B. An offerer shall present acceptable evidence of financial resources, experience, organization, technical qualifications, skills, and facilities, to perform the service called for by the contract.

C. No contract for consulting services for $50,000 or more, or for social services for $150,000 or more 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 within the meaning of Subsections A and B.

D. In any case where a contract for consulting services is for $50,000 or more, or where a contract for social services is for $150,000 or more, 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 offerer or potential subcontractors should be kept on file with the agency, subject to inspection upon the request by the Director of Contractual Review or his designee.

E. 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 in Subsections A and B. Information from the following sources shall be utilized before making a determination of responsibility:

1. information from the prospective contractor, including representations and other data contained in proposals, or other written statements or commitments, such as financial assistance and subcontracting arrangements;

2. other existing information within the agency, including financial data, the list of debarred and ineligible bidders and records concerning contractor performance;

3. publications, including credit ratings and trade and financial journals;

4. other sources, including banks, other financial companies, and state departments and agencies.

F. To the extent that a prospective contractor cannot meet the standard in Paragraph A.2 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 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).

§2539. Suspension, Debarment and Reinstatement [Formerly LAC 34:V.139]

A. Authority. After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Director of the Office of Contractual Review shall have authority to suspend or debar a person for cause from consideration for a contract, provided that doing so is in the best interest of the state.

B. Suspension. The Director of the Office of Contractual Review may suspend a person from consideration for a contract if he determines in writing that there is probable cause to believe that such person has engaged in any activity which might lead to debarment. Said suspension shall not exceed 60 days if debarment is not forthcoming.

C. Causes for Debarment. The causes for debarment include, but are not limited to the following:

1. conviction for a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

2. conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a state contractor;

3. conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

4. violation of contract provisions, or a recent record of failure to perform, or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment; and

5. any other cause the Director of Contractual Review determines to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for any cause listed in regulations.

D. Decision. The Director of the Office of Contractual Review shall issue a written decision stating his reasons and findings therein.

E. Notice of Decisions. A copy of the decisions under Subsection D of this Section shall be mailed or otherwise furnished immediately to the debarred or suspended person and any other party intervening.

F. Finality of Decision. A decision under Subsection D of this Section shall be final and conclusive, unless appealed as provided for in Subsection G.

G. Appeal. The contractor or business who is directly affected by the decision of the Director of Contractual Review may appeal in writing to the Commissioner of Administration within 10 days of the receipt of said decision.

H. Reinstatement

1. If the commissioner finds that the Director of Contractual Review was in error, then he may reinstate said individual or business. If the commissioner affirms the decision of the Director of Contractual Review that decision is final and conclusive.

2. The Director of Contractual Review, upon request of a debarred contractor, 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 contractors shall be kept by the Office of Contractual Review 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).

Subchapter B. Contracts Let Via a Request for Proposals Process

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

A. Pursuant to R.S. 39:1494-1496 professional or personal services contracts for any amount, consulting services contracts less than $50,000, and social services contracts meeting one of the requirements of R.S. 39:1494.1.A may be awarded without competitive negotiation or bidding, therefore this Section shall be applicable to consulting services contracts for $50,000 or more and social services contracts for $150,000 or more which are not exempted by R.S. 39:1494.1.A.

1. Emergency Purchases. An emergency situation must be determined in writing by the Director of Contractual Review or his designee. The using agency which requests an emergency procurement must indicate in writing the basis of the emergency.

2. Sole Source Procurement. A determination in writing, supported by using agency documentation, must be made by the Director of Contractual Review or his designee that only one source exists for the services requested by the using agency.

3. A determination by the Director of Contractual Review that contracts are necessary under Paragraph 1 or 2 above will dispense with the requirement of a request for proposal pursuant to R.S. 39:1496.B and R.S. 1494.1.B.

4. Record. A record of emergency procurements and sole source procurements shall be maintained by the Office of Contractual Review, and shall contain:

a. contractor's name;

b. the amount of the contract;

c. services to be rendered;

d. reason for the emergency or sole source 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 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).

§2545. Request for Proposals
[Formerly LAC 34:V.145]

A. Unless otherwise stated, this Section applies to Requests for Proposals (RFP) for both consulting and social services contracts.

1. Prequalification of Offerers for Consulting Services Contracts Only. A using agency which intends to issue a RFP shall request the prequalified offerers list, as described below, prior to issuing an RFP. A using agency shall forward a notice of the request for proposals to those businesses on said list who offer the services requested in the RFP.

a. The Office of Contractual Review shall prepare and maintain a prequalified list of offerers to be used in the request for proposal procedure as provided for in R.S. 39:1506.

b. Contractors who are interested in being placed on this list shall submit a statement of qualifications to the Office of Contractual Review. This statement must describe the potential contractor's current qualifications by subject area and include key personnel currently employed or associated, and be accompanied by a résumé of each. Additionally, a list should be provided describing previous work done (by subject area), with whom (governmental agency or private business) and the names of contact persons for each client listed.

c. Each statement of qualifications shall have attached to it a financial statement or other evidence of financial solvency.

d. Finally, any other current information or material which would further describe a potential contractor's qualifications will be accepted.

2. Notice to Social Service Proposers. Written notice shall be mailed to persons, firms or corporations who are known to be in a position to furnish such social services, at least 14 days before the last day that such proposals will be accepted. This requirement is subject to reasonable limitation at the discretion of the using agency.

3. Advertisements. Written notices shall contain a general description of the consulting or social services desired and state the name and address of the using agency desiring to contract for consulting or social services; where and how the request for proposal may be obtained and where proposals are to be sent; in the event of a proposer's conference, the date, time and place it will be held; the date and time not later than which proposals must be received; and the date, time, and place that a proposal may be accepted.

4. Questions to be received from potential contractors must be in writing and all responding answers must be provided by the using agency to all potential contractors participating in the selection process. A proposer's conference may be provided in lieu of the above question-and-answer process. However, copies of the proceedings shall be made available to all those who are participating in the selection process.

5. Written or oral discussions shall be conducted by the using agency with all responsible offerers who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerers. Discussions need not be conducted:

a. with respect to prices, where such prices are fixed by law or regulation, except that consideration shall be given to competitive terms and conditions; or

b. where time of delivery or performance will not permit discussions; or

c. where it can be clearly demonstrated and documented from the existence of adequate competition or accurate prior cost experience with that particular service that acceptance of an initial offer without discussion would result in fair and reasonable prices, and the request for proposals notifies all offerers of the possibility that an award may be made on the basis of the initial offers.

6. In addition to the requirements of R.S. 39:1503 and these regulations, a request for proposals shall:

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

b. identify agency liaison personnel and resources available to the contractor, both in preliminary studies and the actual services;

c. state approximately when the contractor can begin the work, plus an estimate of the time necessary to accomplish the work, if applicable;

d. specify applicable procedures concerning billing, documentation requirements, progress reports, and final reports, if applicable;

e. specify that a minimum of two copies of the proposal be submitted;

f. 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;

g. require potential contractors to include the following information in their proposals:

i. a description of the firm's qualifications to include 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 will be required on each of the key personnel. Additionally for consulting services, the contractor must stipulate that these personnel will not be removed from the contract without prior approval of the using agency;

ii. a list of the agencies with names and contact persons, for whom similar work has been done;

iii. if applicable, the length of time needed for the services, broken down by phases, if phasing is necessary;

iv. 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);

v. for consulting services only, 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;

vi. for social services only, a detailed budget or other cost breakdown as may be required by the using agency and/or the federal government.

7. The final selection of a contractor shall be made by the using agency 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 Director of the Office of Contractual Review. When a final selection has been made by the using agency, the contract file containing that information outlined in Paragraphs 1-6 above, including the request for proposals, and the proposed contract, along with a selection memorandum justifying the final selection shall be sent to the Office of Contractual Review for final concurrence (R.S. 39:1503.C. The selection memorandum shall include, but not be limited to:

a. a list of criteria used along with the weight assigned each criteria;

b. scores of each proposal considered in each of the categories listed above along with overall scores of each proposal considered;

c. a narrative justifying selection.

8. Right to Protest. Any contractor who is aggrieved in connection with the request for proposal or award may protest to the head of the agency issuing the proposal, at which time the agency shall notify the Office of Contractual Review that a protest has been lodged. Said protest shall be in writing and state fully the reason(s) for the protest. A protest of a consulting service solicitation must be filed at least 14 days prior to the date for receipt of proposals. A protest of a social service solicitation must be filed at least seven days prior to the date for receipt of proposals. Protests with respect to an award shall be submitted within 14 days after the award has been announced by the agency.

9. Stay of Award during Protest. If a person protests the request for proposal, then an award shall not be made until said protest is resolved. If a person protests an award, then work on the contract shall not be commenced until the protest is resolved administratively.

10. Decision. The head of the agency must notify the protesting party within 10 days after receipt of said protest whether or not the protest is denied or granted. If granted as to the proposal the request for proposal may be amended if possible or canceled and reissued. If the protest is granted as to the award then the contract will be voided and the remaining proposals may be re-evaluated for another selection. If another selection can not be made or if it appears to be in the best interest of the state, a new request for proposal shall be issued.

11. Appeal. If an aggrieved party is not satisfied with the agency's decision, then that party may appeal said decision in writing to the Commissioner of Administration. Such appeals must be made within 14 days of receipt of the agency's decision by the protesting party. The protesting party should fully explain the basis of his appeal. The commissioner then must render a decision in writing within 10 days of receipt of the appeal or the date of the hearing. The commissioner's decision is final and an aggrieved party must bring judicial action within six months from receipt of said decision; an agency may proceed with an award after the commissioner so decides.

12. Delays. The delays provided for in this Part may be extended only with the concurrence of the using agency, the protesting party and the Commissioner of Administration.

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 LR 40:2567 (December 2014).

§2547. Contracts for Data Processing Consulting Services [Formerly LAC 34:V.147]

A. Contracts for data processing consulting services in an amount equal to or greater than $50,000 shall be subject to all the statutory and regulatory requirements generally applicable to consulting services contracts equal to or greater than $50,000.

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), LR 13:655 (November 1987), repromulgated LR 40:2568 (December 2014).

Subchapter C. Contracts for Data Processing Consulting Services in an Amount Greater than $100,000

§2549. Procurement Support Team [Formerly LAC 34:V.149]

A. A procurement support team shall be formed in accordance with the procedures defined herein for every contract for the procurement of data processing consulting services in an amount greater than $100,000. The formation of a procurement support team shall be accomplished by the Office of Contractual Review and shall include one or more representatives from each of the following: the Office of Contractual Review, 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 Contractual Review concerning the final contract.

B. At least two members of each procurement support team should have formal training in computer contract negotiations. The Legislative Fiscal Office and the Attorney General's Office shall each designate in writing to the Office of Contractual Review the names of a primary and an alternate team member, and should insure that at least one of these individuals has received formal training in computer contract negotiations. It shall thereafter be the responsibility of each named agency to keep the Office of Contractual Review advised of any changes in designated individuals. At least four members, one from each office designated, must be present to constitute a quorum.

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 40:2568 (December 2014).

§2551. Procurement Support Team Involvement [Formerly LAC 34:V.157]

A. Procurement support team participation must include, as a minimum, review of the request for proposals, review of using agency evaluation of proposals and award of contract, and review and/or negotiation of contract terms. Procurements requiring a procurement support team will involve the active participation of all of the members of the procurement support team as a unit. There will be at least one joint meeting per phase during the process. The procurement support team will make written evaluations and recommendations as a group; these will not supplant written individual agency approvals as required by statute or regulations. The team leader will be designated by the Office of Contractual Review.

B. All data processing consulting service contracts in an amount greater than $100,000 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. In situations where formal negotiations with prospective contractors, or a successful proposer, is appropriate, such negotiations will be conducted by a negotiations team appointed by the procurement support team leader. One member of the negotiating team will be designated as lead negotiator. The results of such negotiations will, of course, be subject to all statutory required reviews. The lead negotiator and at least one other member of the negotiating team should have formal training in computer contract negotiations.

D. The individual agencies represented on procurement support teams will have the following primary responsibilities. The responsibilities may be enlarged or modified as appropriate to each given situation by the procurement support team leader with the concurrence of the Office of Contractual Review.

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

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

3. Office of Contractual Review. The Office of Contractual Review shall have primary responsibility for insuring compliance with RFP procedures and regulations.

4. The Using Agency. The using agency shall have primary responsibility for the determination of the compliance of proposals with the functional requirements, drafting of the requests for proposals, the evaluation of proposals, the award of the contract and for all management decisions at each phase of the procurement process.

5. The Office of Information Resources shall provide technical staff to the procurement support team. They shall provide advice and support in the area of data processing techniques, negotiation techniques, and reviewing the structure and content of requests for proposals.

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).

§2554. Emergency and Sole Source Procurements [Formerly LAC 34:V.154]

A. Notwithstanding the guidelines established in §142, procurements of data processing consulting services in an amount greater than $100,000 under emergency or sole source conditions shall involve a procurement support team designated by the Office of Contractual Review and under the direction of a team leader designated by the Office of Contractual Review.

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).

§2557. Procurement Support Team; Procurement Schedule [Formerly LAC 34:V.157]

A. Each using agency contemplating a contract requiring more than $100,000 of data processing consulting services shall write the Director of the Office of Contractual Review notifying him prior to the drafting of the request for proposals. The Office of Contractual Review 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 Contractual Review 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. The team leader will establish a schedule for the procurement activity, define the role and task of each team member, and establish a project file. The using agency and all team members are responsible for insuring that the team leader receives a copy of all correspondence and documentation.

C. At the end of the procurement process one copy of the documentation related to the procurement will be retained on file by the Office of Contractual Review. The team leader will make written status reports at the end of each phase to the Office of Contractual Review. Such status reports shall be presented to the Office of Contractual Review at each regular meeting.

D. Each member of the procurement support team must review as a minimum the request for proposals, the using agency's proposal evaluation, the award of contract and the final contract. As a minimum, this review must be indicated by the signature of each team member. Where team evaluations are made, each PST team member must sign the evaluation, or his designating or qualifying reports.

E. In the event that a PST team member indicates acceptance or concurrence with any activity, and that PST team member's agency subsequently refuses to approve the process pursuant to its statutorily required review, the

reviewing agency and the individual PST team member must submit to the team leader written reasons for their actions. The PST team leader shall file these documents in the final activity file.

F. After a procurement process has been completed, PST team members and the using agency are encouraged to submit written evaluations and comments of the process, and suggestions for future improvements. Such evaluations, comments, and suggestions shall be sent to the Office of Contractual Review.

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).

Subchapter D. Revised Statutes

§2587. Revised Statutes [Formerly LAC 34:V.187]

A. These regulations shall be read and interpreted jointly with R.S. 39:1481-1526.

B. A rule or regulation shall not change any contract commitment, right, or obligation of the state or of a contractor under a state contract in existence on the effective date of that rule or regulation [R.S. 39:1491.D].

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 LR 40:2570 (December 2014).

Subchapter E. Appendices

§2589. Appendix A—Sample Contract [Formerly LAC 34:V.189]

Sample Contract Adaptable for Use by State Agencies. (This sample contract contains the minimum language required in a state contract. Additional items may be added as required by the individual agency's needs and applicable federal requirements.)

STATE OF LOUISIANA

PARISH OF _____

CONTRACT

Be it known, that on this _____ day of _____, 20 __, the _____(Agency Name) _____(hereinafter sometimes referred to as "state") and _____ (contractor's name and legal address including zip code) _____hereinafter sometimes referred to as "Contractor") do hereby enter into contract under the following terms and conditions.

1.

Contractor hereby agrees to furnish the following services:

(If the Scope of Services is more lengthy than will fit here, it may be attached separately as an addendum.)

2.

In consideration of the services described above, state hereby agrees to pay to contractor a maximum fee of___. Payment will be made only on approval of _____. If progress and/or completion to the reasonable satisfaction of the agency is obtained, payments are scheduled as follows:

3.

This contract may be terminated by the state upon 30 days written notice.

(Other conditions for termination may be stated here also.)

4.

Upon completion of this contract, or if terminated earlier, all records, reports, work sheets or any other materials related to this contract shall become the property of the state.

5.

Contractor hereby agrees that the responsibility for payment of taxes from the funds thus received under this agreement and/or legislative appropriation shall be said contractor's obligation and identified under federal tax identification number _____.

6.

The contractor shall not assign any interest in this contract and shall not transfer any interest in same (whether by assignment or novation), without prior written consent of the state, provided however, that claims for money due or to become due to the contractor from the state may be assigned to a bank, trust company, or other financial institution without such prior written consent. Notice of any such assignment or transfer shall be furnished promptly to the state.

7.

It is hereby agreed that the legislative auditor of the state of Louisiana and/or the Office of the Governor, Division of Administration auditors shall have the option of auditing all accounts of contractor which relate to this contract.

8.

This contract shall begin on and shall terminate on .

THUS DONE AND SIGNED AT Baton Rouge, Louisiana on the day, month and year first written above.

_____
CONTRACTOR

_____
STATE AGENCY

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 7:183 (April 1981), amended LR 8:596 (November 1982), LR 10:461 (June 1984), LR 11:1074 (November 1985), LR 15:83 (February 1989), repromulgated LR 40:2570 (December 2014).

§2591. Appendix B—Sample Certification [Formerly LAC 34:V.191]

Sample Certification as required by R.S. 39:1497.

Ms. Susan Smith, Director
Office of Contractual Review
Division of Administration
P.O. Box 94095
Baton Rouge, Louisiana 70804-9095

Dear Ms. Smith:

In reference to the attached contract we do certify the following:

1. Either no employee of our agency is both competent and available to perform the services called for by the proposed contract or the services called for are not the type readily susceptible of being performed by persons who are employed by the state on a continuing basis.

2. The services are not available as a product of a prior or existing professional, personal consulting or social service contract.

3. When applicable, the requirements for consulting or social service contracts, as provided for under R.S. 39:1503-1507, have been complied with.

4. The Department of has developed and fully intends to implement a written plan providing for:

a. The assignment of specific agency personnel to a monitoring and liaison function.

b. The periodic review of interim reports or other indicia of performance to date; and

c. The ultimate use of the final product of the service.

Sincerely,

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 7:184 (April 1981), amended LR 8:596 (November 1982), LR 10:462 (June 1984), LR 11:1075 (November 1985), LR 15:84 (February 1989), repromulgated LR 40:2570 (December 2014).

§2592. Appendix C—Suggested Checklist for Review of Personal, Professional, Consulting and Social Services Contracts [Formerly LAC 34:V.193]

1. Minimum Contract Content:

Yes No

____ ____1. Contains a date upon which the contract is to begin and upon which the contract will terminate.

____ ____2. Contains a description of the work to be performed and objectives to be met.

____ ____3. Contains an amount and time of payments to be made.

____ ____4. Contains a description of reports or other deliverables to be received, when applicable.

____ ____5. Contains a date of reports or other deliverables to be received, when applicable.

____ ____6. When a contract includes travel and/or other reimbursable expenses, it contains language to effect the following:

a. travel and other reimbursable expenses constitute part of the total maximum payable under the contract; or

b. no more than (a certain sum) of the total maximum amount payable under this contract shall be paid or received as reimbursement for travel or other reimbursable expenses; and

c. travel expenses shall be reimbursed in accordance with Division of Administration Policy and Procedure Memorandum 49 (the state general travel regulation).

____ ____7. Contains the responsibility for payment of taxes, when applicable.

____ ____8. Contains the circumstances under which the contract can be terminated either with or without cause and contains the remedies for default.

____ ____9. Contains a statement giving the legislative auditor the authority to audit records of the individual(s) or firm(s).

____ ____10. Contains an assignability clause.

____ ____11. Budget Form BA-22 P.S. fully completed and attached to the contract.

2. Determination of Responsibility of Contractor:

Yes No

____ ____1. Has adequate financial resources for performance, or has the ability to obtain such resources as required during performance.

____ ____2. Has the necessary experience, organization, technical qualifications, skills, and facilities, or has the ability to obtain them (including probable subcontractor arrangements).

____ ____3. Is able to comply with the proposed or required time of delivery or performance schedule.

____ ____4. Has a satisfactory record of integrity, judgment and performance (contractors who are seriously delinquent in current contract performance, considering the number of contracts and the extent of delinquencies of each, shall, in the absence of evidence to the contrary or compelling circumstances, be presumed to be unable to fulfill this requirement).

____ ____5. Is otherwise qualified eligible to receive an award under applicable laws and regulations.

____ ____ 6. If a contract for consulting services is for $50,000 or more, or for social services for $150,000 or more, the head of the submitting agency has prepared, signed and placed in the contract file a statement of the facts on which a determination of responsibility was based.

____ ____7. On subcontracting, it has been established that contractor's recent performance history indicates acceptable subcontracting systems; or, major subcontractors have been determined by the head of the submitting agency to satisfy standard.

3. Contract Let via a request for proposals Process:

Contract file attached and this includes:

_____ Criteria for Selection

_____ Proposals

_____ Pertinent Documents

_____ Selection Memorandum

_____ Request for Proposals

_____ 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 7:184 (April 1981), amended LR 8:596 (November 1982), LR 10:462 (June 1984) LR 11:1075 (November 1985), LR 13:655 (November 1987), repromulgated LR 40:2571 (December 2014).

§2593. Appendix D—Agency Transmittal Letter [Formerly LAC 34:V.195]

Ms. Susan Smith, Director
Office of Contractual Review
Division of Administration
P.O. Box 94095
Baton Rouge. Louisiana 70804-9095

Ms. Smith:

The following contract(s) is/are being submitted to your office this date for review and approval in accordance with R.S. 39:1481 et seq., and the rules and regulations adopted pursuant thereto:

Submitting Agency Contractor Amount

Upon approval of said contract(s) please return to:

(List Return Address)

Your cooperation in this regard is greatly appreciated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 7:185 (April 1981), amended LR 8:597 (November 1982), LR 10:463 (June 1984), LR 11:1076 (November 1985), LR 15:84 (February 1989), repromulgated LR 40:2571 (December 2014).

§2594. Appendix E—Quarterly Report on Small Purchase Contracts [Formerly LAC 34:V.197]

Ms. Susan Smith, Director
Office of Contractual Review
Division of Administration
P.O. Box 94095
Baton Rouge, Louisiana 70804-9095

Ms. Smith:

During the quarter ending the following contracts for $10,000 or less were approved by the Department of .

Contract

Contract Date Contractor Purpose or Service Rendered Amount

TOTAL_____

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 8:597 (November 1982), amended LR 10:463 (June 1984), LR 11:1076 (November 1985), LR 15:84 (February 1989), LR 17:266 (March 1991), repromulgated LR 41:2572 (December 2014).

§2595. Appendix F—Performance Evaluation [Formerly LAC 34:V.199]

(Example Only)

Agency Name _____

Office Name _____

Agency Contract No. _____

DOA Contract No. _____

Contractor _____

Beginning and Ending Dates for Contract ___ to _____

Description of Services:

Deliverable Products:

(What were final products, if any? Were they delivered on time? Were they usable?...)

Overall Performance:

(List weak points, strong points. Would you hire this contractor again?)

Signature of Program Official _____

Approved by:_____

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 10:463 (June 1984), amended LR 11:1076 (November 1985), repromulgated LR 40:2572 (December 2014).

§2596. Appendix G—Sample Auditor's Opinion for Contract Compliance Audits [Formerly LAC 34:V.201]

We have audited the financial statements of the Provider's Name, for the year ended June 30, 19XX, and have issued our report thereon dated September 21, 19XX. Our examination was made in accordance with generally accepted auditing standards and the *Government Auditing Standards* ("Yellow Book") issued by the U.S. General Accounting Office, and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

The management of the Provider's Name, is responsible for the Provider's compliance with laws and regulations. In connection with the audit referred to above, we selected and tested transactions and records from the state contract, number _____.

The purpose of our testing of transactions and records from that contract was to obtain reasonable assurance that the Provider's Name had, in all material respects, administered the contract in compliance with laws and regulations, noncompliance with which we believe could have a material effect on the allowability of contract expenditures.

Our testing of transactions and records disclosed instances of noncompliance with those laws and regulations. All instances of noncompliance that we found are identified in the accompanying schedule of findings and questioned costs.

In our opinion, except for those instances of noncompliance referred to in the preceding paragraph, for the year ended June 30, 20XX, the Provider's Name, administered the state contract number in compliance, in all material respects, with laws and regulations, noncompliance with which we believe could have a material effect on the allowability of contract expenditures.

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 15:84 (February 1989), LR 41:2572 (December 2014), repromulgated LR 40:2572 (December 2014).

Chapter 25. Intergovernmental Regulations

§2701. Scope [Formerly LAC 34:I.2501]

A. This Part applies to cooperative purchasing and other cooperative activities authorized by R.S. 39:1702.

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 40:2572 (December 2014).

§2703. Cooperative Purchasing Shall Not Adversely Affect Employees [Formerly LAC 34:I.2503]

A. No employee of any public procurement unit participating in any cooperative purchasing activity authorized by part VII (Intergovernmental Relations) of the Louisiana Procurement Code shall suffer any loss of salary, seniority, tenure, or pension rights, or be adversely affected as a result of any such activity.

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).

§2705. Cooperative Purchasing Agreement in Form of Open-Ended State Contract [Formerly LAC 34:I.2505]

A. Cooperative purchasing may include, but is not limited to, joint or multi-party contracts between public procurement units and open-ended state public procurement unit contracts which are made available to local public procurement units.

B. Any agreement between the state and a local public procurement unit entered into pursuant to R.S. 39:1702 which provides that certain open-ended state procurement contracts shall be available to the local public procurement unit, shall also provide that:

1. the state shall conduct the procurement in compliance with the Louisiana Procurement Code;

2. when the local public procurement unit agrees to procure any supply or service under the state contract, its requirements for such supply or service shall be obtained by placing purchase orders against the appropriate state contract in accordance with the terms and conditions of such contract;

3. payment for supplies or services ordered by the local public procurement unit under state contracts shall be the exclusive obligation of said local public procurement unit;

4. inspection and acceptance of supplies or services ordered by the local public procurement unit under state contracts shall be the exclusive obligation of said local public procurement unit;

5. the state may terminate the agreement for failure of the local public procurement unit to comply with the terms of the contract or pay a contractor to whom the state has awarded an open-ended contract;

6. the exercise of any warranty rights attaching to supplies or services received by the local public procurement unit under state contracts shall be the exclusive obligation of said local public procurement unit; and

7. failure of a local public procurement unit which is procuring supplies or services under a state contract to secure performance from the contractor in accordance with the terms and conditions of its purchase order will not necessarily require the state or any other local public procurement unit to consider the default or to discontinue procuring under the 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 8:341 (July 1982), amended LR 21:566 (June 1995), repromulgated LR 40:1364 (July 2014), LR 40:2573 (December 2014).

§2706. LaMAS (Louisiana Multiple Award Schedule) State Contracts Based on GSA Prices [Formerly LAC 34:I.2506]

A. The State Central Purchasing Agency of the Division of Administration may establish state contracts based on GSA (general service administration) pricing when it has been determined in writing by the director of state purchasing that certain conditions are met, which shall become part of the procurement file.

B. Materials, supplies, or equipment shall not be purchased on a state contract based on GSA pricing at a price higher than the price of the same item listed on any available state purchasing contract.

C. Establishment of a state contract based on GSA pricing will only be considered when there is a valid business case.

D. State agencies shall not procure materials, supplies or equipment directly under a GSA contract. The State Central Purchasing Agency of the Division of Administration will:

1. be responsible for analyzing and determining the feasibility of establishing a LaMAS state contract based on GSA prices; and

2. issue procedures for establishment and utilization of this type of contract.

E. No use shall be made of a LaMAS contract without the participation of a Louisiana licensed dealer or distributor. Louisiana licensed dealers or distributors must meet the requirement of a resident business defined in R.S. 39:1591(6). Louisiana licensed dealers or distributors shall agree to:

1. Louisiana terms and conditions; and

2. provide written consent from the GSA contractor to extend current GSA pricing to the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581 and R.S. 39:1702(A)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Purchasing, LR 29:2381 (November 2003), repromulgated LR 40:1365 (July 2014), LR 40:2573 (December 2014).

§2707. Supply of Personnel, Information, and Services [Formerly LAC 34:I.2507]

A. Requests made to a public procurement unit by another public procurement unit or external procurement activity to provide or make available personnel, services, information, or technical services pursuant to R.S. 39:1706, shall be complied with only to the extent that the chief procurement officer determines that it is practical and feasible to do so in terms of personnel, time, and other resources.

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 40:1365 (July 2014), LR 40:2573 (December 2014).

Jan B. Cassidy
Assistant Commissioner

1412#049

RULE

Office of the Governor
Division of Administration
Office of State Uniform Payroll

Charitable Organization Requirements and Responsibilities
(LAC 4:III.1111)

In accordance with R.S. 42:456, notwithstanding any other provision of law to the contrary, the Office of the Governor, Division of Administration, Office of State Uniform Payroll hereby adopts amendments to the rule regarding payroll deductions for the state's combined charitable campaign deductions. The purpose of the amendment is to clarify the requirements of charitable organizations submitting an application for inclusion in the state's combined charitable campaign.

Title 4
ADMINISTRATION
Part III. Payroll
Chapter 11. State Combined Charitable Campaign (SCCC) Deductions
§1111. Charitable Organization Requirements and Responsibilities

A. - A.3.c. …

d. provide an affidavit stating that there is no outstanding debt owed to a state agency;

e. certify that your organization is in compliance with the Louisiana Legislative Auditors (LLA) Office and is not on the LLA non-compliance list;

f. certify that all amounts collected through the SCCC beginning with the fall campaign in 2015 will be used in the community and will not be used for fundraising and administrative costs (FRA);

g. ensure that an equivalent amount collected as contributions will be spent to provide services and benefits primarily to the citizens of Louisiana unless an exception is granted per §1109.D of this Rule, and certify the dollar value of health and human services provided in the state of Louisiana during the previous calendar year(s);

h. certify a substantial local presence within the state of Louisiana;

i. demonstrate that fundraising and administrative expenses represent no more than 25 percent of total support and revenue according to the submitted copy of its most recent IRS 990 form or a pro forma IRS 990 for organizations not required to file an IRS 990;

j. be registered and in good standing with the Louisiana secretary of state and submit proof of that registration or possess a congressional charter and provide documentation of such;

k. be governed by a board of directors which meets regularly and whose members serve without compensation;

l. provide the organization's most recent annual budget, which must consist of a 12-month period;

m. provide the organization's most recent audited financial statements conducted by a CPA within the last 12 months at the time of the application;

n. indicate the regions served in Louisiana;

4. - 6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:456(A)(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 39:3274 (December 2013), amended LR 40:2574 (December 2014).

Ruth Johnson
Deputy Commissioner

1412#064

RULE

Office of the Governor
Licensing Board for Contractors

Contractors (LAC 46:XXIX.Chapters 1-15)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and through the authority granted in R.S. 37:2150-2192, which is the contractor licensing law, the Licensing Board for Contractors (LSLBC) hereby amends and adopts its rules and regulations regarding contracting matters under the jurisdiction of the LSLBC.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXIX. Contractors
Chapter 1. General Provisions
§113. Maintenance of Skills

A. …

B. A residential building contractor shall be required to complete a minimum of six hours of continuing education annually by a board approved provider. Proof of compliance with this requirement shall be filed with the board annually in the format required by the board, as a condition for the maintenance and/or renewal of the license. A contractor who holds a valid, current commercial license in the major classifications of: building construction; highway, street and bridge construction; heavy construction; or municipal and public works construction, shall be deemed to have fulfilled this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended LR 8:137 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:150 (January 2012), LR 40:2574 (December 2014).

§119. Notice

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:137 (March 1982), amended the

Department of Economic Development, Licensing Board for Contractors, LR 19:1126 (September 1993), repealed by the Office of the Governor, Licensing Board for Contractors, LR 40:2574 (December 2014).

Chapter 3. License

§307. Ownership of License

A. …

B. A domestic business entity licensed or registered by the board as a limited liability company, business corporation, partnership in commendam, or partnership, that converts under the provision of R.S. 12:1601 et seq., or is a surviving entity following a merger pursuant to 26 U.S.C. 368(a)(1)(f) where ownership of the entity does not change, shall be recognized by the board without having to file a new application for a license or registration. However, prior to updating a license or registration of the converted entity or surviving entity, the converted entity or surviving entity must furnish the following information to the board:

1. a copy of the conversion application or act of merger filed with the Secretary of State;

2. a copy of the certificate of conversion or certificate of merger issued by the Secretary of State;

3. the current license or registration issued by the board;

4. a copy of the revised certificate(s) of insurance in the new name of the converted entity or surviving entity for any coverage required for the issuance of the updated license or registration;

5. any revised contract or other agreement required for the issuance of the license or registration in the name of the converted entity or surviving entity.

C. An updated license or registration issued pursuant to Subsection B of this Section shall have an effective date retroactive to the effective date of the conversion as stated on the certificate of conversion, or the merger as stated on the certificate of merger.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153 and R.S. 12:1308.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended LR 8:136 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:150 (January 2012), LR 40:2575 (December 2014).

§319. Solar Energy Equipment

A. Contractors applying for the classification of solar energy equipment, must, in addition to all other application or licensing requirements, meet the following requirements prior to issuance of this classification:

1. hold one or more of the following major classifications:

a. building construction;

b. electrical work;

c. mechanical work;

d. residential building contractor;

2. complete training in the design of solar energy equipment by an entity and course approved by the board;

3. pass a written examination approved by the Licensing Board for Contractors on the installation and maintenance of solar energy equipment.

a. Any contractor licensed by the state Licensing Board as of August 1, 2014, holding the major classification of building construction, electrical work (statewide) and/or mechanical work (statewide) shall be deemed to have met this examination requirement.

b. An applicant who holds a current solar pv installer certification for solar electric systems or a current solar heating installer certification for solar thermal hot water systems issued by the North American Board of Certified Energy Practitioners shall be deemed to have met both this examination requirement and the training requirement in §1115.A.2.

B. Any work performed to connect wiring or hookups for any photovoltaic panel or system wherein the panel or system is of a value, including labor, materials, rentals, and all direct and indirect project expenses of $10,000 or more shall be performed only by a contractor or subcontractor who holds the classification of electrical work or who may perform electrical work under the provisions of R.S. 37:2156.2(IX)(B).

C. Any work performed to connect piping or equipment for any solar thermal system wherein the system is of a value, including labor, materials, rentals, and all direct and indirect project expenses of $10,000 or more shall be performed only by a contractor or subcontractor who holds the classification of mechanical work or who may perform mechanical work under the provisions of R.S. 37:2156.2(IX)(B).

D. Entities engaging in the business of selling or leasing solar energy equipment wherein such entities enter into agreements for installing, servicing, or monitoring solar energy equipment, including entities engaged in the business of arranging agreements for the lease or sale of solar energy systems or acquiring customers for financing entities, must possess a state contractor's license with the classification of solar energy equipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2156.3.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 40:2575 (December 2014).

§321. Licensure for Individuals with Military Training and Experience, and Military Spouses

A. The board shall issue a license or registration to a military-trained applicant to allow the applicant to lawfully act as a contractor, residential building contractor, home improvement contractor, mechanical contractor, electrical contractor in this state if, upon application to the board, the applicant satisfies all of the following conditions:

1. has completed a military program of training, been awarded a military occupational specialty, and performed in that specialty, and performed in that specialty at a level that is substantially equivalent to or exceeds the requirements for licensure or registration as a contractor, residential building contractor, home improvement contractor, mechanical contractor, or electrical contractor in this state;

2. has engaged in the active practice of contracting in the classification or subclassification for which a license or registration is sought;

3. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a contractor's license or registration in this state at the time the act was committed.

B. The board shall issue a license or registration to a military trained applicant, if, upon application to the board,

the applicant holds a current license, certification, or registration from another jurisdiction and that jurisdiction's requirements for licensure, certification, or registration are substantially equivalent to or exceed the requirements for licensure or registration in this state.

C. The board shall issue a license or registration to a military spouse to allow the military spouse to act as a contractor in this state if, upon application to the board, the military spouse satisfies all of the following conditions:

1. holds a current license, certification, or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification or registration are substantially equivalent to or exceed the requirements for licensure or registration in this state;

2. can demonstrate compentency to act as a contractor through methods determined by the board such as, but not limited to, having completed continuing education units or having had recent experience in the classification or subclassification for which a license or registration is being sought;

3. has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license or registration to act as a contactor in this state at the time the act was committed;

4. is in good standing and has not been disciplined by the agency that issued the license, certification, or permit.

D. The board shall issue a temporary practice permit to a military-trained applicant or military spouse licensed, certified, or registered in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure or registration, if that jurisdiction has licensure, certification, or registration standards substantially equivalent to the standards for licensure or registration in this state. The military-trained applicant or military spouse may practice under the temporary permit until a license or registration is granted, or until a notice to deny a license or registration is issued in accordance with §701.

E. The provisions of this Section shall not apply to any applicant receiving a dishonorable discharge or a military spouse whose spouse received a dishonorable discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2156.3.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 40:2575 (December 2014).

Chapter 5. Examination

§507. Applicants

A. …

B. The qualifying party shall submit his application, with all supporting documentation for approval. The qualifying party shall list all prior affiliations with a licensed contractor(s) and shall disclose whether or not any sanctions have been levied against such contractor(s). The qualifying party shall also state his and/or the contractor's involvement in such sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended LR 8:136 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 16:602 (July 1990), LR 19:1127 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:152 (January 2012), LR 40:2576 (December 2014).

§509. Exemption Examination

A. …

B. A qualifying party may be exempt from taking another examination for the same classification for which he has previously taken and passed.

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE; Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended LR 8:136 (March 1982), amended by the Department of Economic Development, Licensing Board for Contractors, LR 16:602 (July 1990), LR 19:1127 (September 1993), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:153 (January 2012), LR 40:2576 (December 2014).

§515. Examination Scheduling

A. A qualifying party candidate who has been approved to take an examination shall be given a means to register and schedule the examination.

B. A candidate who fails to appear on the scheduled examination date and time shall forfeit his or her examination fee and be required to submit a new examination fee before a new examination date will be scheduled.

C. A candidate who fails an examination may schedule an additional attempt 30 days or more after the date on which he or she failed an examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Economic Development, State Licensing Board for Contractors, LR 21:1214 (November 1995), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:153 (January 2012), LR 40:2576 (December 2014).

§517. Examination Administration Procedures

A. Administrative check-in procedures begin one-half hour before the examinations begin. Candidates must report to the testing center for processing at least 15 minutes prior to the examination's starting time. Any candidate reporting after the 15-minute reporting time may not be allowed admittance to the examination room. Every candidate must present acceptable government-issued photographic identification to be admitted to the examination room.

B. Personal items (e.g., telephones, pagers, calculators, purses, briefcases, etc.) shall not be allowed in the testing room. A candidate shall not have access to these items during examination administration.

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Licensing Board for Contractors, LR 21:1214 (November 1995), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:153 (January 2012), LR 40:2576 (December 2014).

§519. Test Item Challenges

A. A candidate who believes that an individual test item may not have a correct answer or may have more than one correct answer shall be afforded an opportunity to challenge the test item. The candidate shall record his or her comments in writing on a form supplied by the test monitor at the candidate's request during the examination. Comments will

not be accepted at any other time. Comments should provide a detailed explanation as to why the candidate feels the item is incorrect. General comments (e.g., "This item is wrong.") will not be investigated.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Licensing Board for Contractors, LR 21:1214 (November 1995), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:153 (January 2012), LR 40:2576 (December 2014).

Chapter 11. Bidding

§1103. Proper Classification

A. …

B. The refusal by any licensed contractor, residential building contractor, home improvement contractor, subcontractor, mechanical contractor, or electrical contractor to honor a bid price may be grounds for a finding of a violation of the contractors licensing law.

C. When two or more contractors bid as a joint venture on any project in the amount for which a license is required with R.S. 37:2150 et seq., all parties are required to be licensed at the time the bid is submitted. Each party to the joint venture may only perform within the applicable classifications of the work of which it is properly classified to perform.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2153.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, LR 8:138 (March 1982), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:155 (January 2012), LR 40:2577 (December 2014).

§1107. Federal Projects

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2164.

HISTORICAL NOTE: Adopted by the Department of Commerce, Licensing Board for Contractors, November 1974, amended and promulgated LR 8:136 (March 1982), amended LR 12:761 (November 1986), amended by the Department of Economic Development, Licensing Board for Contractors, LR 19:1128 (September 1993), repealed by the Office of the Governor, Licensing Board for Contractors, LR 40:2577 (December 2014).

Chapter 15. Residential

§1505. Exceptions

A. An applicant for a residential building contractor's license who can show written proof that it possessed a contractor's license for building construction as required by R.S. 37:2167D(1) prior to February 1, 1996 shall not be required to take the examinations required by the State Licensing Board for Contractors, but shall meet all other requirements for such license.

B. - C. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Licensing Board for Contractors, LR 22:94 (February 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:156 (January 2012), LR 40:2577 (December 2014).

§1509. Penalties

A. …

B. In accordance with the provisions of R.S. 37:2162, the subcommittee shall have the authority to issue a fine not to exceed ten percent of the total contract being performed for each violation, for the causes listed in R.S. 37:2158, subject to final approval by the state Contractors Licensing Board.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Adopted by the Department of Economic Development, Licensing Board for Contractors, LR 22:95 (February 1996), amended by the Office of the Governor, Licensing Board for Contractors, LR 38:156 (January 2012), LR 40:2577 (December 2014).

§1511. Home Improvement Registration

A. Home improvement contractors are required to register with the board in order to perform services in an amount of $7,500 or more, not to exceed $75,000. Contractors who hold valid commercial or residential licenses with the board are exempt from this registration requirement. Home improvement contractors are required to submit certificates evidencing workers' compensation coverage in compliance with title 23 of the *Louisiana Revised Statutes* of 1950, proof of general liability insurance in a minimum amount of $100,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 38:813 (March 2012), amended LR 40:2577 (December 2014).

Michael McDuff
Executive Director

1412#066

RULE

Department of Health and Hospitals
Board of Practical Nurse Examiners

Regular Admissions; Advanced Standing; Licensure; Fees
(LAC 46:XLVII.937, 939 and 1715)

The Board of Practical Nurse Examiners hereby amends LAC 46:XLVII.937, 939, and 1715 in accordance with the provisions of the Administrative Procedure Act, R.S. 950 et seq., and the Practical Nursing Practice Act, R.S. 37:961-979.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII. Nurses: Practical Nurses and Registered Nurses
Subpart 1. Practical Nurses

Chapter 9. Program Projection

Subchapter F. Admissions

§937. Regular Admissions

A. …

1. receive a grade placement of at least 12.0 in mathematics, reading and language on an achievement test approved by the board;

2. - 8. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:197 (April 1977), amended LR 5:65 (March 1979), LR 6:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1128 (October 1992), repromulgated LR 18:1261 (November 1992), amended LR 21:684 (July 1995), LR 40:2577 (December 2014).

§939. Advanced Standing

A. - C. …

D. At the discretion of the nursing faculty and based upon individual evaluation, a student who has withdrawn and/or dropped from an approved or accredited practical nursing program within the previous three years may be granted advanced credit for units previously completed.

E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:976.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:197 (April 1977), amended LR 5:65 (March 1979), LR 10:339 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners, LR 18:1128 (October 1992), repromulgated LR 18:1261 (November 1992), amended LR 26:2617 (November 2000), LR 40:2578 (December 2014).

Chapter 17. Licensure

§1715. Approved Fees

A. - A.1. …

2. license by endorsement—$60;

3. …

4. renewal of license—$60;

5. reinstatement of license which has been suspended, or which has lapsed by nonrenewal—$150;

A.6. - B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:969 and 37:977 as amended Act 272, 1982 and Act 54, 1991.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Practical Nurse Examiners, LR 3:200 (April 1977), amended LR 10:342 (April 1984), amended by the Department of Health and Hospitals, Board of Practical Nurse Examiners LR 18:1130 (October 1992), repromulgated LR 18:1263 (November 1992), amended LR 26:2618 (November 2000), LR 34:874 (May 2008), LR 40:2578 (December 2014).

M. Lynn Ansardi, RN
Executive Director

1412#030

RULE

Department of Health and Hospitals
Board of Optometry Examiners

Authorized Ophthalmic Surgery Procedures
(LAC 46:LI.107, 503 and 801)

Editor's Note: This Rule is being repromulgated to correct manifest computer errors upon submission. The original Rule can be viewed in the November 2014 edition of the *Louisiana Register* on pages 2249-2252.

In accordance with the Administrative Procedures Act, R.S. 49:950 et seq., the Louisiana State Board of Optometry Examiners, has amended the following rules set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LI. Optometrists

Chapter 1. General Provisions

§107. Organization of the Board

A. …

B. Definitions

1. As used in this Part, the following terms have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise.

2. Masculine terms shall include the feminine and, when the context requires, shall include partnership and/or professional corporations.

3. Where the context requires, singular shall include the plural or plural shall include the singular.

Act—the Optometry Practice Act, R.S. 37:1041 et seq.

Board—the Louisiana State Board of Optometry Examiners.

Diagnostic and Therapeutic Pharmaceutical Agent—any prescription or nonprescription drug delivered by any route of administration, used or prescribed for the diagnosis, prevention, treatment, or mitigation of abnormal conditions and pathology of the human eye and its adnexa, or those which may be used for such purposes, and certain approved narcotics, only when used in treatment of disorders or diseases of the eye and its adnexa. Licensed pharmacists of this state shall fill prescriptions for such pharmaceutical agents of licensed optometrists certified by the board to use such pharmaceutical agents.

i. Any *diagnostic and therapeutic pharmaceutical agent* as defined above listed in schedules III, IV and V of the uniform controlled dangerous substances law shall be limited to use or to be prescribed by a licensed optometrist for a maximum of 48 hours when used in treatment or disorders or diseases of the eye and its adnexa.

ii. *Diagnostic and therapeutic pharmaceutical agent* shall not include any drug or other substances listed in schedules I and II of the uniform controlled dangerous substances law provided in R.S. 40:963 and 964 which shall be prohibited from use by a licensed optometrist.

iii. A licensed optometrist may prescribe one additional 48-hour prescription only if warranted by a follow-up exam.

Licensed Optometrist—a person licensed and holding a certificate issued under the provisions of the Act.

Optometry—that practice in which a person employs primary eye care procedures including ophthalmic surgery such as YAG laser capsulotomy, laser peripheral iridotomy, and laser trabeculoplasty, except for those surgery procedures specifically excluded in subsection D of section 1041 of the Optometry Practice Act; measures the power and range of vision of the human eye using subjective or objective means, including the use of lenses and prisms before the eye and autorefractors or other automated testing devices to determine its accommodative and refractive state and general scope of function; and the adaptation of frames and lenses, in all their phases, including plano and zero power contact lenses, to overcome errors of refraction and restore as near as possible normal human vision, or for orthotic, prosthetic, therapeutic or cosmetic purposes

with respect to contact lenses. *Optometry* also includes the examination and diagnosis, and treatment of abnormal conditions and pathology of the human eye and its adnexa, including the use or prescription of vision therapy, ocular exercises, rehabilitation therapy, subnormal vision therapy, ordering of appropriate diagnostic lab or imaging tests; the dispensing of samples to initiate treatment; and the use or prescription of diagnostic and therapeutic pharmaceutical agents. Optometrists shall issue prescriptions, directions and orders regarding medications and treatments which may be carried out by other health care personnel including optometrists, physicians, dentists, osteopaths, pharmacists, nurses, and others.

i. *Ophthalmic Surgery*—a procedure upon the human eye in which in vivo human tissue is injected, cut, burned, frozen, sutured, vaporized, coagulated, or photodisrupted by the use of surgical instrumentation such as, but not limited to, a scalpel, cryoprobe, laser, electric cautery, or ionizing radiation. Nothing in this Optometry Practice Act shall limit an optometrist's ability to use diagnostic or therapeutic instruments utilizing laser or ultrasound technology in the performance of primary eye care or limit an optometrist's ability to perform *ophthalmic surgery* procedures other than those specifically excluded in subsection D of section 1041 of the Optometry Practice Act. Only persons licensed to practice medicine by the Louisiana State Board of Medical Examiners under the laws of this state may perform the *ophthalmic surgery* procedures specified in subsection D of of section 1041 of the Optometry Practice Act.

ii. *Authorized Ophthalmic Surgery Procedures*—any procedure upon the human eye or its adnexa in which in vivo human tissue is injected, cut, burned, frozen, vaporized, coagulated, photodisrupted, or otherwise altered by the use of surgical instrumentation such as, but not limited to, a scalpel, needle, cryoprobe, laser, cautery, ultrasound, or ionizing radiation, other than procedures listed in subsection D of section 1041 of the Optometry Practice Act.

iii. Nothing in the Optometry Practice Act shall prohibit the dilation and irrigation of lacrimal ducts, insertion and removal of lacrimal plugs, foreign body removal from superficial ocular tissue, suture removal, removal of eyelashes, drainage of superficial lesions of the eye and its adnexa, or corneal shaping with external ophthalmic devices such as contact lenses by optometrists, provided, however, no optometrist shall carry out any such procedures referenced in this Paragraph unless certified by the board to treat those abnormal conditions and pathology of the human eye and its adnexa.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:629 (April 2006), amended LR 34:872 (May 2008), LR 40:2249 (November 2014), repromulgated LR 40:2578 (December 2014).

Chapter 5. Practicing Optometry

§503. License to Practice Optometry

A. - F.5. ...

G. Certification to Use Diagnostic Drugs to Treat Ocular Pathology. An optometrist may be certified to use diagnostic and therapeutic pharmaceutical agents and to diagnose and treat ocular pathology. In order to obtain such certification, an optometrist shall comply with the following requirements.

1. - 1.c. …

2. Certification to Treat Pathology and to Use and Prescribe Diagnostic and Therapeutic Pharmaceutical Agents

a. Definitions. For purposes of this Paragraph 2 the following definitions shall apply.

* * *

b. Requirements for Certification. In order to be approved as an optometrist authorized to treat pathology and use and prescribe diagnostic and therapeutic pharmaceutical agents, an optometrist shall present to the secretary of the Louisiana State Board of Optometry Examiners for approval by the board, the following:

i. a certified transcript from an approved educational institution evidencing satisfaction of the educational prerequisites for certification to use diagnostic and therapeutic pharmaceutical agents as set forth in LAC 46:LI.503.G.1.a.ii or evidence of current certification by the board for the use of diagnostic and therapeutic pharmaceutical agents under LAC 46:LI.503.G.1; and

ii. certification from a source acceptable to the board evidencing current qualification to perform cardiopulmonary resuscitation (CPR) or basic life support, which certification shall be current as of the time of application to the board for certification to treat pathology and use and prescribe diagnostic and therapeutic pharmaceutical agents;

iii. a signed statement from the applicant stating that he or she possesses child and adult automatic epinephrine injector kits in every office location in which the applicant practices, which injector kits shall be operable and unexpired as of the date of application to the board for certification to treat pathology and use and prescribe diagnostic and therapeutic pharmaceutical agents;

2.b.iv. - 3. …

H. Qualifications for a Louisiana Licensed Optometrist to be Credentialed to Utilize and Perform Authorized Ophthalmic Surgery Procedures

1. Louisiana licensed optometrists shall be credentialed to perform authorized ophthalmic surgery procedures if:

a. the applicant provides proof of holding a Louisiana license to practice therapeutic optometry and is in good standing;

b. the applicant provides proof of satisfactory completion of a course of instruction approved by the board that may include:

i. the following didactic classroom instructions:

(a). laser physics, hazards, and safety;

(b). biophysics of lasers;

(c). laser application on clinical optometry;

(d). laser tissue interactions;

(e). laser indications, contraindications, and potential complications;

(f). gonioscopy;

(g). laser therapy for open angle glaucoma;

(h). laser therapy for angle closure glaucoma;

(i). posterior capsulotomy;

(j). common complications: lids, lashes, lacrimal system;

(k). medicolegal aspects of anterior segment procedures;

(l). peripheral iridotomy;

(m). laser trabeculoplasty;

(n). minor surgical procedures;

(o). overview of surgical instruments, asepsis, and O.S.H.A.;

(p). surgical anatomy of the eyelids;

(q). emergency surgical procedures;

(r). chalazion management;

(s). epilumeninesence microscopy;

(t). local anesthesia: techniques and complications;

(u). anaphalaxsis and other office emergencies;

(v). radiofrequency surgery;

(w). post-operative wound care;

c. the applicant satisfactorily completes a written test approved by the board on aspects of the Louisiana Optometry Practice Act pertaining to authorized ophthalmic surgery procedures.

2. A board approved course of instruction shall be:

a. provided by an accredited optometry, osteopathy or medical school;

b. a minimum of 32 clock hours in length; and

c. sponsored by an organization approved by the board.

3. Prohibitions and Referrals

a. Performing authorized ophthalmic surgery procedures without credentialing based upon the education requirements outlined in this administrative regulation shall be grounds for suspension or revocation of an optometry license and/or credentialing to perform authorized ophthalmic surgery procedures as per section 1061 of the Optometry Practice Act.

4. Outcomes Reporting

a. Every optometrist who has met the requirements for certification to perform authorized ophthalmic surgery procedures shall report to the board the outcome of authorized ophthalmic surgery procedures performed in such form as required or directed by the board.

5. Beginning with the graduating class of 2015 any optometrist who provides proof that he/she graduated from an optometry school whose program includes all of the training and testing requirements established by the board may be deemed to have met the requirements for certification to perform authorized ophthalmic surgery procedures.

6. Performance of authorized ophthalmic surgery procedures by any person without a valid and current certificate issued by the board to perform such procedures shall be considered a violation of section 1061(A)(1) of the Optometry Practice Act.

I. Prescriptions for Eyeglasses or Contact Lenses

1. Every written prescription shall contain an expiration date and the signature of the optometrist issuing the prescription. The expiration date may not exceed 18 months, unless the optometrist documents a valid medical reason in the chart for doing so.

2. Contact lenses may not be sold or dispensed without a written, signed, unexpired prescription. Every contact lens prescription shall contain information specifying the curvature, diameters, refractive power, pertinent measurement, and the number of lenses to be dispensed. An optometrist, when issuing a prescription for contact lenses, shall issue to the patient a notice that states the number of refills allowed and the expiration date of the prescription.

3. An optometrist, when filling a prescription for eyeglasses or contact lenses, shall be required to keep the original prescription. An optometrist may not refuse to release to a patient a copy of the patient's prescription if requested by the patient; provided, however, an optometrist shall not be required to release a prescription that has expired.

4. A spectacle prescription shall not be construed to be or substituted for a contact lens prescription nor shall a contact lens prescription be construed to be or substituted for a spectacle prescription.

J. Participation in Student Extern Program. An optometrist may participate in student extern programs in accordance with rules and regulations promulgated from time to time by the board.

1. The level of responsibility assigned to a student extern shall be at the discretion of the supervising optometrist who shall be ultimately responsible for the duties, actions or work performed by such student extern.

2. The duties, actions and work performed by a student extern in accordance with the provisions of this §503 and §603 shall not be considered the practice of optometry without a license as set forth in R.S. 37:1061(14).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:632 (April 2006), amended LR 34:873 (May 2008), LR 38:1590 (July 2012), LR 40:2250 (November 2014), repromulgated LR 40:2580 (December 2014).

Chapter 8. Fees and Expenses

§801. Fees

A. - A.11. …

12. Original Authorized Ophthalmic Surgery Procedures Certificate—$50

13. Authorized Ophthalmic Surgery Procedures Certificate renewal fee —$50

14. Authorized Ophthalmic Surgery Procedures Certificate delinquency fee—$50

15. Authorized Ophthalmic Surgery Procedures Certificate reinstatement fee—$50

B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1048.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Optometry Examiners, LR 32:636 (April 2006), amended LR 40:2252 (November 2014), repromulgated LR 40:2580 (December 2014).

James D. Sandefur, O.D.
Secretary

1412#014

RULE

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

Adult Day Health Care
Standards for Payment
(LAC 50:II.Chapter 109)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services have repealed LAC 50:II.Chapter 109 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 3. Standards for Payment
Chapter 109. Standards for Payment—Adult Day Health Care Services

§10901. Forward

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2581 (December 2014).

§10903. Program Description

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2581 (December 2014).

§10905. Definitions

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1149 (September 1997), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1100 (June 1999), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2581 (December 2014).

§10907. Licensure

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1150 (September 1997), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:1099 (June 1999), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2581 (December 2014).

§10909. Provider Agreement

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 13:181 (March 1987), LR 23:1150 (September 1997), LR 28:2356 (November 2002), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2581 (December 2014).

§10911. Interdisciplinary (ID) Team

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1151 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2581 (December 2014).

§10913. ID Team Assessments

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1152 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2581 (December 2014).

§10915. Staffings

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1152 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2581 (December 2014).

§10917. Plan of Care

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1152 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2581 (December 2014).

§10919. Progress Notes

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1153 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2581 (December 2014).

§10921. Services to be Provided

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1153 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2581 (December 2014).

§10923. Participant Rights

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1154 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2582 (December 2014).

§10925. Eligibility Criteria for Adult Day Health Care Certification

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1155 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2582 (December 2014).

§10927. BHSF Admission Assessment/Vendor Payment

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1155 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2582 (December 2014).

§10929. Utilization Review (UR)

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1157 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2582 (December 2014).

§10931. Inspection of Care

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1158 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2582 (December 2014).

§10933. Discharge Planning and Implementation

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1160 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2582 (December 2014).

§10935. Incident Reports

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1163 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2582 (December 2014).

§10937. Complaint Procedure

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1163 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2582 (December 2014).

§10939. Prospective Payment System

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 28:2356 (November 2002), amended LR 30:242 (February 2004), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2582 (December 2014).

§10941. Participant Records

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 23:1156 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2582 (December 2014).

§10945. Audits

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1165 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2582 (December 2014).

§10947. Compliance with Standards for Payment

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:1166 (September 1997), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 40:2582 (December 2014).

Kathy H. Kliebert
Secretary

1412#103

RULE

Department of Health and Hospitals
Bureau of Health Services Financing
and
Office for Citizens with Developmental Disabilities

Home and Community-Based Services Waivers
Supports Waiver
(LAC 50:XXI.5301, 5501, 5503, and Chapters 57-61)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities have amended LAC 50:XXI.5301, §5501, §§5701-5719, §5901 and §6101, repeaedl LAC 50:XXI.5711 and adopted LAC 50:XXI.5503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community Based Services Waivers
Subpart 5. Supports Waiver

Chapter 53. General Provisions

§5301. Purpose

A. The mission of this waiver is to create options and provide meaningful opportunities that enhance the lives of men and women with developmental disabilities through vocational and community inclusion. The supports waiver is designed to:

1. promote independence for individuals with a developmental disability who are age 18 or older while ensuring health and safety through a system of participant safeguards;

2. - 3. ...

B. Allocation of Waiver Opportunities. Waiver opportunities (slots) shall be offered on a first-come, first-served basis to individuals who meet the participant qualifications for this waiver with the exception of the 70 opportunities designated to the two categories as specified under §5501.

1. - 3. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1604 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2583 (December 2014).

Chapter 55. Target Population

§5501. Participant Qualifications and Admissions Criteria

A. In order to qualify for the supports waiver, an individual must be 18 years of age or older, offered a waiver opportunity (slot), and meet all of the following criteria:

1. have a developmental disability as specified in R.S. 28:451.2;

a. - f. Repealed.

2. be on the developmental disabilities request for services registry (DDRFSR), unless otherwise specified through programmatic allocation in §5501;

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

4. meet the requirements for an intermediate care facility for persons with intellectual disabilities (ICF/ID) level of care which requires active treatment of a developmental disability under the supervision of a qualified developmental disability professional;

5. have assurance that the health and welfare of the individual can be maintained in the community with the provision of supports waiver services;

6. have justification, as documentation in the approved plan of care, that supports waiver services are appropriate, cost effective and represent the least restrictive environment for the individual;

7. be a resident of Louisiana; and

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

B. Two separate categories within the supports waiver have been established for 70 opportunities with specific criteria established for each.

1. Transition from School to Work

a. Individuals must meet the following criteria for participation in the 50 transition from school to work opportunities:

i. have a developmental disability as specified in R.S. 28:451.2;

ii. be on the developmental disabilities request for services registry (DDRFSR), unless otherwise specified through programmatic allocation in §5501;

iii. meet the financial eligibility requirements for the Medicaid Program;

iv. meet the requirements for an ICF/ID level of care which requires active treatment of a developmental disability under the supervision of a qualified developmental disability professional;

v. have assurance that health and welfare of the individual can be maintained in the community with the provision of supports waiver services;

vi. have justification, as documentation in the approved plan of care, that supports waiver services are appropriate, cost effective and represent the least restrictive environment for the individual;

vii. be a resident of Louisiana;

viii. be a citizen of the United States or a qualified alien;

ix. be exiting the school system;

x. desire an individual, integrated job in the community; and

xi. require supports and/or services to obtain and/or maintain employment in the community, specifically supported employment services.

b. Each human services authority or district/local governing entity (LGE) is responsible for the prioritization of the 50 transition from school to work opportunities.

c. Individuals who participate in the 50 transition from school to work opportunities are not required to have a protected request date on the DDRFSR, but must have a current statement of approval indicating they meet the ICF/ID level of care.

d. All other supports waiver provisions apply to the 50 transition from school to work opportunities.

2. "Priority" Opportunity

a. *Priority*—a change in circumstances of the individual and/or caregiver rendering the natural and community support system in place unable to meet the individual's needs and now requires services to sustain the individual in the community.

b. Individuals must meet the following criteria for participation in the 20 priority opportunities:

i. have a developmental disability as specified in R.S. 28:451.2;

ii. be on the developmental disabilities DDRFSR, unless otherwise specified through programmatic allocation in §5501;

iii. meet the financial eligibility requirements for the Medicaid Program;

iv. meet the requirements for an ICF/ID level of care which requires active treatment of a developmental disability under the supervision of a qualified developmental disability professional;

v. have assurance that health and welfare of the individual can be maintained in the community with the provision of supports waiver services;

vi. have justification, as documentation in the approved plan of care, that supports waiver services are appropriate, cost effective and represent the least restrictive environment for the individual;

vii. be a resident of Louisiana; and

viii. be a citizen of the United States or a qualified alien;

ix. be designated by the Office for Citizens with Developmental Disabilities (OCDD) Human Services Authority or district/LGE as meeting the criteria for a "priority" opportunity.

2.c. - 5. Repealed.

C. Each human services authority or district/LGE is responsible for the prioritization of these Priority opportunities.

D. Determination of prioritization for a priority opportunity is defined as follows:

1. without requested supports, there is an immediate need for services due to out-of-home placement or homelessness or potential threat of out-of-home placement or homelessness due to a change in the individual's circumstances, including but not limited to, behavioral changes/challenges, problems with the law, or changes in his/her living arrangements or threat of losing his/her job;

2. without requested supports, there is an immediate need for services due to out-of-home placement or homelessness or potential threat of out-of-home placement or homelessness due to a change in the care giver's circumstances, including but not limited to, health issues, death, changes in job (i.e., being switched from night shift to day shift or being switched to different work location requiring more travel time) or other changes that effect the current situation; or

3. without requested supports, there is an immediate need for services due to out-of-home placement or homelessness or potential threat of out-of-home placement or homelessness due to some other family crisis which leaves the individual with no care giver support available, such as abuse/neglect or a second person in the household becomes disabled and must be cared for by the same care giver causing inability of the natural caregiver to continue necessary supports to assure health and safety of the individual.

E. Individuals who participate in the priority opportunities are not required to have a protected request date on the DDRFSR but they must have a current statement of approval indicating they meet the ICF/ID level of care.

F. All other supports waiver provisions apply to the priority opportunities.

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, Office for Citizens with Developmental Disabilities, LR 32:1604 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2583 (December 2014).

§5503. Denial of Admission or Discharge Criteria

A. Individuals shall be denied admission to, or discharged from, the supports waiver if one of the following criteria is met:

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

2. the individual does not meet the requirement for an ICF/ID level of care;

3. the individual is incarcerated or placed under the jurisdiction of penal authorities, courts or state juvenile authorities;

4. the individual resides in another state or has a change of residence to another state;

5. the participant is admitted to an ICF/ID facility or nursing facility with the intent to stay and not to return to waiver services:

a. the waiver participant may return to waiver services when documentation is received from the treating physician that the admission is temporary and shall not exceed 90 days;

b. the participant will be discharged from the waiver on the ninety-first day if the participant is still in the ICF/ID or nursing facility;

6. the health and welfare of the participant cannot be assured through the provision of supports waiver services within the participant's approved plan of care;

7. the individual fails to cooperate in the eligibility determination/re-determination process and in the development or implementation of the approved plan of care; and/or

8. continuity of services is interrupted as a result of the individual not receiving a supports waiver service during a period of 30 or more consecutive days. This does not include interruptions in supports waiver services because of hospitalization, institutionalization (such as ICFs/ID or nursing facilities), or non-routine lapses in services where the family agrees to provide all needed or paid natural supports. There must be documentation from the treating physician that this interruption will not exceed 90 days. During this 90-day period, the OCDD will not authorize payment for supports waiver services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2584 (December 2014).

Chapter 57. Covered Services

§5701. Supported Employment Services

A. Supported employment services consists of intensive, ongoing supports and services necessary for a participant to achieve the desired outcome of employment in a community setting in the State of Louisiana where a majority of the persons employed are without disabilities. Participants utilizing these services may need long-term supports for the life of their employment due the nature of their disability, and natural supports would not meet this need.

B. - B.3. ...

C. When supported employment services are provided at a work site where a majority of the persons employed are without disabilities, payment is only made for the adaptations, supervision and training required by participants receiving the service as a result of their disabilities. It does not include payment for the supervisory activities rendered as a normal part of the business setting.

D. ...

E. These services are also available to those participants who are self-employed. Funds for self-employment may not be used to defray any expenses associated with setting up or operating a business.

F. - F.2. ...

G. Service Limitations

1. Services for job assessment, discovery and development in individual jobs and self-employment shall not exceed 2,880 units of service in a plan of care year.

2. Services for job assessment, discovery and development in group employment shall not exceed 480 units of service in a plan of care year.

3. Services for initial job support, job retention and follow-along shall not exceed 960 units of service in a plan of care year.

4. Services for initial job support, job retention and follow-along in group employment shall not exceed 240 units of service in a plan of care year.

H. Restrictions. Participants receiving individual supported employment services may also receive prevocational or day habilitation services. However, these services cannot be provided during the same service hours and cannot total more than five hours of services. Participants receiving group supported employment services may also receive prevocational or day habilitation services; however, these services cannot be provided in the same service day.

I. Choice of this service and staff ratio needed to support the participant must be documented on the plan of care.

J. There must be documentation in the participant's file that these services are not available from programs funded under section 110 of the Rehabilitation Act of 1973 or sections 602 (16) or (17) of the Individuals with Disabilities Education Act [230 U.S.C. 1401 (16 and 71)] and those covered under the state plan.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1605 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2585 (December 2014).

§5703. Day Habilitation

A. Day habilitation is services that assist the participant to gain desired community living experience, including the acquisition, retention or improvement in self-help, socialization and adaptive skills, and/or to provide the participant an opportunity to contribute to his or her community. These services focus on enabling the participant to attain or maintain his/her maximum functional level and shall be coordinated with any physical, occupational, or speech therapies identified in the individualized plan of care. Day habilitation services may serve to reinforce skills or lessons taught in other settings. Volunteer activities may be a part of this service.

B. Day habilitation services are provided on a regularly scheduled basis for one or more days per week in a variety of community settings that are separate from the participant's private residence. Day habilitation services should not be limited to a fixed site facility. Activities and environments are designed to foster the acquisition of skills, appropriate behavior, greater independence, and personal choice.

C. Day habilitation includes assistance in personal care with activities of daily living.

1. - 3. Repealed.

D. All transportation costs are included in the reimbursement for day habilitation services. The participant must be present to receive this service. If a participant needs transportation, the provider must physically provide, arrange for, or pay for appropriate transport to and from a central location that is convenient for the recipient and agreed upon by the team. The recipient's transportation needs and this central location shall be documented in the plan of care.

E. Service Limitations. Services shall not exceed 4,800 units of service in a plan of care.

F. Restrictions. Participants receiving day habilitation services may also receive prevocational or individual supported employment services, but these services cannot be provided during the time period of the day and cannot total more than five hours combined. Group supported employment services cannot be provided on the same day but can be utilized on a different service day.

G. Choice of service and staff ratio needed to support the participant must be documented on the plan of care.

H. 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, Office for Citizens with Developmental Disabilities, LR 32:1605 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2585 (December 2014).

§5705. Prevocational Services

A. Prevocational services are time limited with employment at the individual's highest level of work in the most integrated community setting, with the job matched to the individual's interests, strengths, priorities, abilities and capabilities, with integrated competitive employment as the optimal outcome. Individuals receiving prevocational

services may choose to pursue employment opportunities at any time. Career planning must be a major component of prevocational services.

B. Prevocational services are to be provided in a variety of locations in the community and are not to be limited to a fixed site facility. Activities associated with prevocational services should be focused on preparing the participant for paid employment or a volunteer opportunity in the community. These services are operated through a provider agency that is licensed by the appropriate state licensing agency. Services are furnished one or more hours per day on a regularly scheduled basis for one or more days per week.

C. Participants receiving prevocational services must have an employment related goal in their plan of care, and the general habilitation activities must be designed to support such employment goals. Prevocational services are designed to create a path to integrated community-based employment for which a participant is compensated at or above minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

D. Prevocational services can include assistance in personal care with activities of daily living. Choice of this service and staff ratio needed to support the participant must be documented on the plan of care.

E. All transportation costs are included in the reimbursement for prevocational services. The participant must be present to receive this service. If a participant needs transportation, the provider must physically provide, arrange, or pay for appropriate transport to and from a central location that is convenient for the participant and agreed upon by the team. The participant's transportation needs and this central location shall be documented in the plan of care.

F. Service Limitations. Services shall not exceed 4,800 units of service in a plan of care.

G. Restrictions. Participants receiving prevocational services may also receive day habilitation or individualized supported employment services, but these services cannot be provided during the same time period of the day and cannot total more than five hours combined in the same service day. Group supported employment services cannot be provided on the same day but can be utilized on a different service day.

H. There must be documentation in the participant's file that this service is not available from programs funded under section 110 of the Rehabilitation Act of 1973 or sections 602 (16) or (17) of the Individuals with Disabilities Education Act [230 U.S.C. 1401 (16 and 71)] and those covered under the state plan.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1605 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2585 (December 2014).

§5707. Respite

A. Respite care is a service provided on a short-term basis to a participant who is unable to care for himself/herself because of the absence or need for relief of those unpaid persons normally providing care for the participant.

B. Respite may be provided in a licensed respite care facility determined appropriate by the participant, responsible party, in the participant's home or private place of residence.

1. - 3. Repealed.

C. Service Limitations. Services shall not exceed 428 units of service in a plan of care year.

D. Choice and need for this service must be documented on the plan of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1606 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2586 (December 2014).

§5709. Habilitation

A. Habilitation offers services designed to assist the participant in acquiring, retaining and improving the self-help, socialization and adaptive skills necessary to reside successfully in home and community settings.

B. Habilitation is provided in the home or community, includes necessary transportation and is based on need with a specified number of hours weekly as outlined in the approved plan of care.

C. Habilitation services include, but are not limited to:

1. acquisition of skills needed to do household tasks which include, but are not limited to laundry, dishwashing, housekeeping, grocery shopping in the community, and other tasks to promote independence in the home and community; and

2. travel training activities in the community that promote community independence, to include but not limited to, place of individual employment. This does not include group supported employment, day habilitation, or prevocational sites.

D. Service Limitations. Services shall not exceed 285 units of service in a plan of care year.

E. Choice and need for this service must be documented on the plan of care.

F. Participants receiving habilitation may use this service in conjunction with other supports waiver services, as long as other services are not provided during the same period in a day.

NOTE: Participants who are age 18 through 21 may receive these services as outlined on their plan of care through the Early Periodic Screening, Diagnosis and Treatment (EPSDT) Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1606 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2586 (December 2014).

§5711. Individual Goods and 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, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1606 (September 2006), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2586 (December 2014).

§5713. Personal Emergency Response System

A. A personal emergency response system (PERS) is an electronic device connected to the participant's phone which enables a participant to secure help in the community. The system is programmed to signal a response center staffed by trained professionals once a "help" button is activated.

B. This service must be prior authorized and be in accordance with the plan of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:2587 (December 2014).

§5715. Support Coordination

A. Support coordination is a service that will assist participants in gaining access to all of their necessary services, as well as medical, social, educational and other services, regardless of the funding source for the services. Support coordinators shall be responsible for on-going monitoring of the provision of services included in the participant's approved plan of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, Office for Citizens with Developmental Disabilities, LR 40:2587 (December 2014).

§5719. Housing Stabilization Services

A. Housing stabilization services enable waiver participants to maintain their own housing as set forth in a participant's approved plan of care. Services must be provided in the home or a community setting. This service includes the following components:

1. - 3. ...

4. providing supports and interventions according to the individualized housing support plan;

a. if additional supports or services are identified as needed outside the scope of housing stabilization service, the needs must be communicated to the support coordinator;

5. - 6. ...

7. if at any time the participant's housing is placed at risk (e.g., eviction, loss of roommate or income), providing supports to retain housing or locate and secure housing to continue community-based supports, including locating new housing, sources of income, etc.

B. - C.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 40:81 (January 2014), amended LR 40:2587 (December 2014).

Chapter 59. Provider Participation

§5901. General Provisions

A. ...

B. If transportation is provided as part of a service, the provider must have $1,000,000 liability insurance coverage on any vehicles used in transporting a participant.

C. - C.2. ...

3. Respite Services. The provider must possess a current, valid license as a personal care attendant agency or a respite care center in order to provide these services.

4. Habilitation Services. The provider must possess a valid license as a personal care attendant agency in order to provide this service.

5. - 6. ...

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, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, Office for Citizens with Developmental Disabilities, LR 40:2587 (December 2014).

Chapter 61. Reimbursement Methodology

§6101. Reimbursement Methodology

A. ...

B. Supported Employment Services. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the participant. A standard unit of service in both individual and group job assessment, discovery and development is one-quarter hour (15 minutes). A standard unit of service in individual initial job support, job retention and follow-along is one-quarter hour (15 minutes). A standard unit of service in group initial job support, job retention and follow-along is one hour or more per day.

C. Day Habilitation. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the participant. A standard unit of service is one-quarter hour (15 minutes), excluding time spent in transportation.

D. Prevocational Services. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the participant. A standard unit of service is one-quarter hour (15 minutes), excluding time spent in transportation.

E. Respite, housing stabilization transition services and housing stabilization services shall be reimbursed at a prospective flat rate for each approved unit of service provided to the participant. One-quarter hour (15 minutes) is the standard unit of service.

F. Habilitation. Reimbursement shall be a prospective flat rate for each approved unit of service provided to the participant. One-quarter hour (15 minutes) is the standard unit of service.

G. Personal Emergency Response System (PERS). Reimbursement for the maintenance of the PERS is paid through a monthly rate. Installation of the device is paid through a one-time fixed cost.

H. Direct Support Professionals Wage Enhancement.

1. Effective May 20, 2007, an hourly wage enhancement payment in the amount of $2 will be reimbursed to providers for full-time equivalent (FTE) direct

support professionals who provide the following services to supports waiver participants:

a. habilitation;

b. supported employment;

c. day habilitation;

d. center-based respite; and

e. prevocational services.

2. At least 75 percent of the wage enhancement shall be paid in the aggregate to direct support workers as wages. If less than 100 percent of the enhancement is paid in wages, the remainder, up to 25 percent, shall be used to pay employer-related taxes, insurance and employee benefits.

3. Effective September 20, 2007, the minimum hourly rate paid to direct support professionals shall be the federal minimum wage in effect on February 20, 2007 plus 75 percent of the wage enhancement or the current federal minimum wage, whichever is higher.

4. Providers shall be required to submit a certified wage register to the department verifying the direct support professionals' gross wages for the quarter ending March 31, 2007. The wage register will be used to establish a payroll baseline for each provider. It shall include the following information:

a. gross wage paid to the direct support professional(s);

b. total number of direct support hours worked; and

c. the amount paid in employee benefits.

5. A separate report shall be submitted for paid overtime.

6. The provider shall submit quarterly wage reports that verify that the 75 percent wage enhancement has been paid to the appropriate staff.

7. The provider shall submit a report, according to the Department's specifications, that will be used to measure the effectiveness of the wage enhancement.

8. The wage enhancement payments reimbursed to providers shall be subject to audit by the department.

9. Noncompliance or failure to demonstrate that the wage enhancement was paid directly to direct support professionals may result in:

a. forfeiture of eligibility for wage enhancement payments;

b. recoupment of previous wage enhancement payments;

c. Medicaid fraud charges; and

d. disenrollment from the Medicaid Program.

I. Support Coordination. Support coordination shall be reimbursed at a fixed monthly rate in accordance with the terms of the established contract.

I.1. - 9.d. Repealed.

J. Effective for dates of service on or after January 22, 2010, the reimbursement rates for supports waiver services shall be reduced by 5.35 percent of the rates on file as of January 21, 2010.

1. Support coordination services and personal emergency response system (PERS) services shall be excluded from the rate reduction.

K. Effective for dates of service on or after August 1, 2010, the reimbursement rates for supports waiver services shall be reduced by 2 percent of the rates on file as of July 31, 2010.

1. Support coordination services and personal emergency response system services shall be excluded from the rate reduction.

L. Effective for dates of service on or after July 1, 2012, the reimbursement rates for supports waiver services shall be reduced by 1.5 percent of the rates on file as of June 30, 2012.

1. Personal emergency response system services shall be excluded from the rate reduction.

M. - M.1. 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, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281 (October 2010), amended LR 37:2158 (July 2011), LR 39:1050 (April 2013), LR 40:82 (January 2014), LR 40:2587 (December 2014).

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

Kathy H. Kliebert
Secretary

1412#104

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Intermediate Care Facilities for Persons with Developmental Disabilities—Public Facilities Reimbursement Methodology
(LAC 50:VII.32969)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:VII.32969 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part VII. Long Term Care
Subpart 3. Intermediate Care Facilities for Persons with Developmental Disabilities
Chapter 329. Reimbursement Methodology
Subchapter C. Public Facilities
§32969. Transitional Rates for Public Facilities

A. - A.4.a. …

B. The transitional Medicaid reimbursement rate shall only be for the period of transition, which is defined as the term of the CEA or a period of four years, whichever is shorter.

C. - F.4. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:326 (February 2013), amended LR 40:2588 (December 2014).

Kathy H. Kliebert
Secretary

1412#105

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Prohibition of Provider Steering of Medicaid Recipients
(LAC 50:I.Chapter 13)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted LAC 50:I.Chapter 13 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part I. Administration
Subpart 1. General Provisions
Chapter 13. Prohibition of Provider Steering

§1301. General Provisions

A. Definitions

Health Plan—any managed care organization (MCO), prepaid inpatient *health plan* (PIHP), prepaid ambulatory *health plan* (PAHP), or primary care case management (PCCM) entity contracted with the Medicaid Program.

Provider—any Medicaid service *provider* contracted with a health plan and/or enrolled in the Medicaid Program.

Provider Steering—unsolicited advice or mass-marketing directed at Medicaid recipients by health plans, including any of the entity's employees, affiliated providers, agents, or contractors, that is intended to influence or can reasonably be concluded to influence the Medicaid recipient to enroll in, not enroll in, or disenroll from a particular health plan(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, Bureau of Health Services Financing, LR 40:2589 (December 2014).

§1303. Provider Sanctions

A. First Offense. If the department determines that a provider has participated in provider steering, the department will notify the provider in writing and, at its sole discretion, may impose any of the following sanctions as applicable.

1. If a provider has steered a Medicaid recipient to enroll in a particular managed care health plan, payments to the provider for services rendered to the Medicaid recipient for the time period the recipient's care was coordinated by the health plan may be recouped.

2. If a provider has steered a Medicaid recipient to participate in Medicaid fee-for-service, payments to the provider for services rendered to the recipient for the time period the recipient's care was paid for through Medicaid fee-for-service may be recouped.

3. A provider may be assessed a monetary sanction of up to $1,000 for each recipient steered to join a particular managed care health plan or to participate in Medicaid fee-for-service. The maximum total penalty per incident shall not exceed $10,000.

4. A provider may be required to submit a letter to the particular Medicaid recipient notifying him/her of the imposed sanction and his/her right to freely choose another participating managed care health plan or, if eligible, participate in Medicaid fee-for-service.

B. Second Offense

1. If a provider continues to participate in provider steering after having been cited once for provider steering, and receiving one of the above sanctions, that provider may then be subject to disenrollment from the Medicaid program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:2589 (December 2014).

§1305. Provider Appeal Rights

A. Informal Hearing

1. A provider who has received a notice of sanction shall be provided with an informal hearing if the provider makes a written request for an informal hearing within 15 days of the mailing of the notice of sanction. The request for an informal hearing must be made in writing and sent in accordance with the instructions contained in the notice of sanction. The time and place for the informal hearing will be provided in the notice scheduling the informal hearing.

2. Following the informal hearing, the department shall inform the provider, by written notice, of the results of the informal hearing. The provider has the right to request an administrative appeal within 30 days of the date on the notice of the informal hearing results that is mailed to the provider.

B. Administrative Appeals

1. The provider may seek an administrative appeal of the department's decision to impose sanctions.

2. If the provider timely requests an informal hearing, the 30 days for filing an appeal with the DAL will commence on the date the notice of the informal hearing results are mailed or delivered to the provider.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:2589 (December 2014).

§1307. Health Plan Sanctions

A. If the department determines the Health Plan or its subcontractors has participated in provider steering, the department, at its sole discretion, may impose the following sanctions.

1. The member(s) may be dis-enrolled from the health plan at the earliest effective date allowed.

2. Up to 100 percent of the monthly capitation payment or care management fee for the month(s) the member(s) was enrolled in the health plan may be recouped.

3. The health plan may be assessed a monetary penalty of up to $5,000 per member.

4. The health plan may be required to submit a letter to each member notifying he member of their imposed sanction and of their right to choose another health plan.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:2589 (December 2014).

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

Kathy H. Kliebert
Secretary

1412#106

RULE

Department of Health and Hospitals
Emergency Response Network

Requirements for Stroke Center Recognition and
STEMI Receiving/Referral Centers Recognition
(LAC 48:I.Chapters 187 and 189)

The Louisiana Emergency Response Network Board has exercised the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, to promulgate LAC 48:I.Chapters 187, Requirements for Stroke Center Recognition; §§18701 to 18709; and Chapter 189, Requirements for Louisiana STEMI Receiving/Referral Centers Recognition, §§18901 to 18907.

The Louisiana Emergency Response Network (LERN) is created by R.S. 40:2841-2846. R.S. 40:2846(A) authorizes the LERN board to adopt rules and regulations necessary to carry out the provisions of the Chapter. R.S. 40:2845(A)(7) authorizes the board to work with the Department of Health and Hospitals to develop stroke and ST segment elevation myocardial infraction (STEMI) systems that are designed to promote rapid identification of and access to appropriate stroke and STEMI resources statewide. This Rule is adopted in accordance therewith.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 15. Louisiana Emergency Response Network Board
Chapter 187. Requirements for Louisiana Stroke Center Recognition

§18701. Stroke Center Recognition

A. The Louisiana Emergency Response Network Board (LERN) and the Louisiana Department of Health and Hospitals recognize the following four levels of stroke facilities:

1. level 1: comprehensive stroke center;
2. level 2: primary stroke center;
3. level 3: acute stroke ready hospital; and
4. level 4: non-stroke hospital.

B. Participation in Louisiana stroke center recognition is voluntary and no hospital shall be required to participate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Hospitals, Emergency Response Network, LR 40:2590 (Dec 2014).

§18703. Stroke Center Criteria

A. Each facility participating in stroke center recognition shall meet the following criteria.

1. Level 1: A comprehensive stroke center (CSC) will meet the requirements specified by the joint commission or other board approved accrediting/certification body approved by LERN for comprehensive stroke center certification. Attestation as a CSC is only allowed after verification by the joint commission or other LERN approved accrediting/certification body that the facility meets all requirements set forth in the CSC standards.

2. Level 2: A primary stroke center (PSC) shall meet the requirements specified by the joint commission, healthcare facilities accreditation program (HFAP), or other LERN approved accrediting/certification body for Primary Stroke Center verification. Attestation as a PSC is only allowed after verification by the joint commission, HFAP, or other LERN approved accrediting/certification body that the facility meets all requirements set forth in the PSC standards.

3. Level 3: An acute stroke ready hospital (ACRH) will provide timely access to stroke care but may not meet all criteria for a Level 1 or a Level 2 facility. An ACRH will provide acute stroke care in urban and rural areas where transportation and access are limited. An ACRH is intended to recognize models of care delivery that have shown utility, including “drip-and-ship” and telemedicine. An ACRH must meet requirements adopted by LERN. LERN approved requirements are based on national best practice guidelines.

4. Level 4: A non-stroke hospital (NSH) should not receive patients exhibiting signs or symptoms of stroke except for instances when the clinical situation requires stopping at the closest emergency department. A non stroke hospital must have:

   a. physician staffed ER 24/7;
   b. CT scan available within 12 hours; and
   c. transfer protocol in place for transfer to higher levels of care with a written and agreed upon relationship with a level I, II, or III stroke center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network, LR 40:2590 (December 2014).

§18705. Attestation for Stroke Center Recognition

A. A hospital seeking level 1, level 2, level 3 or level 4 stroke center recognition will submit an affidavit of the hospital CEO to LERN detailing compliance with the requirements designated herein.

1. A center or hospital seeking level 1 CSC recognition which submits a copy of that level of certification by a LERN-recognized organization, such as the joint commission or other LERN approved accrediting/certification body, shall be assumed to meet the requirements for recognition.

2. A center or hospital seeking level 2 PSC stroke center recognition which submits a copy of that level of certification by a LERN-recognized organization, such as the joint commission, HFAP, or other LERN approved accrediting/certification body, shall be assumed to meet the requirements for recognition.

3. Although a center or hospital seeking level 3 stroke center recognition is not required to obtain certification by an external certifying body, a level 3 center which submits a copy of that level of certification by a LERN-recognized organization, such as HFAP or other LERN approved accrediting/certification body, shall be assumed to meet the requirements for recognition.

4. Each center or hospital shall submit proof of continued compliance every two years by submission of an affidavit by its CEO.

B. A hospital or center which fails to meet the criteria for a Stroke Facility level or which no longer choose to maintain state Stroke Facility level recognition, shall immediately notify LERN and local EMS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network, LR 40:2590 (December 2014).

§18707. Stroke Center Listing

A. LERN will publish a list on its website of hospitals or centers attesting to or meeting stroke center criteria and their stroke center recognition. This list shall be made available to LERN regional commissions for facilitation of EMS transportation plans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network, LR 40:2591 (December 2014).

§18709. Hospital Destination/Stroke System Transport

A. These rules are not intended to prevent any hospital or medical facility from providing medical care to any patient but rather to serve as a guideline to facilitate the timely and appropriate delivery of stroke patients to the most appropriate care site for the definitive treatment of stroke.

B. Knowledge of statewide stroke capabilities and the use of a stroke pre-hospital destination protocol will enable providers to make timely decisions, promote appropriate utilization of the stroke care delivery system, and ultimately save lives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A), 48:2845(A)(7) and La. R.S. 9:2798.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network, LR 40:2591 (December 2014).

Chapter 189. Requirements for Louisiana STEMI Receiving/Referral Centers

§18901. STEMI Center Recognition

A. The Louisiana Emergency Response Network Board (LERN), and the Louisiana Department of Health and Hospitals recognize the following types of facilities for the treatment of ST elevated myocardial infarction (STEMI):

1. STEMI receiving center; and
2. STEMI referral center.

B. Participation in the Louisiana STEMI center recognition is voluntary and no hospital shall be required to participate.

C. A facility seeking STEMI receiving center recognition shall meet the STEMI receiving center requirements adopted by LERN. LERN approved requirements are based on national best practice guidelines.

D. A hospital with an emergency room not meeting criteria for a STEMI receiving center will automatically default to a STEMI referral center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network, LR 40:2591 (December 2014).

§18903. Attestation for STEMI Center Recognition

A. A hospital seeking STEMI Center recognition will submit an affidavit of the hospital CEO to LERN detailing compliance with LERN Approved STEMI Receiving center requirements.

1. Those hospitals which submit a copy of certification by a LERN-recognized organization such as The American Heart Association Mission:Lifeline, Society of Cardiovascular Patient Care or other LERN approved accrediting/certification body shall be assumed to meet the requirements for recognition.

2. Each center or hospital shall submit proof of continued compliance every two years by submission of an affidavit of its CEO.

B. A hospital or center which fails to meet the criteria for a STEMI receiving center or which no longer choose to maintain state STEMI receiving center recognition, shall immediately notify LERN and local EMS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2846(A), 48:2845(A)(7) and R.S. 9:2798.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network, LR 40:2591 (December 2014).

§18905. STEMI Center Listing

A. LERN will publish a list on its website of hospitals or centers attesting to STEMI center criteria for recognition as either a STEMI receiving center or STEMI referral center. This list shall be made available to the LERN regional commissions for facilitation of EMS transportation plans.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 40:2846(A) and 48:2845(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network, LR 40:2591 (December 2014).

§18907. Hospital Destination/STEMI System Transport:

A. These rules are not intended to prevent any hospital or medical facility from providing medical care to any patient but rather to serve as a guideline to facilitate the timely and appropriate delivery of STEMI patients to the most appropriate care site for the definitive treatment of STEMI.

B. Knowledge of STEMI capabilities and the use of a STEMI pre-hospital destination protocol will enable providers to make timely decisions, promote appropriate utilization of the STEMI care delivery system, and ultimately save lives.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 40:2846(A), 48:2845(A)(7) and R.S. 9:2798.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Emergency Response Network, LR 40:2591 (December 2014).

Paige Hargrove
Executive Director

1412#041

RULE

Department of Insurance
Office of the Commissioner

Approved Assurance Organizations
(LAC 37:XIII.Chapter 145)

Under the authority of the *Louisiana Insurance Code*, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Insurance has adopted Regulation 102. The purpose of the regulation is to exercise the authority and fulfill the duties and responsibilities of the commissioner with respect to the continued regulation of professional employer organizations. Regulation 102 delineates the qualifications of approved assurance organizations, the duties and responsibilities of approved assurance organizations, the methods by which approved assurance organizations may file electronic submissions on behalf of a professional employer organization with the department, and provides for related matters.

Title 37
INSURANCE
Part XIII. Regulations
Chapter 145. Regulation Number 102—Approved Assurance Organizations

§14501. Purpose and Intent

A. The purpose and intent of Regulation 102 is to exercise the authority and fulfill the duties and responsibilities of the commissioner with respect to the continued regulation of professional employer organizations ("PEOs"). Regulation 102 delineates the qualifications of approved assurance organizations, the duties and responsibilities of approved assurance organizations, the methods by which approved assurance organizations may file electronic submissions on behalf of a professional employer organization with the department, and provides for related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2592 (December 2014).

§14503. Authority

A. Regulation 102 is promulgated pursuant to the authority of the commissioner under R.S.22:11, R.S. 22:1750, R.S. 22:1751, and pursuant to the authority and powers granted by law to the commissioner and the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, R.S. 22:1984, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2592 (December 2014).

§14505. Applicability and Scope

A. Regulation 102 applies to any assurance organization that transacts business on behalf of a professional employer organization authorized to operate in the state of Louisiana. A professional employer organization shall not be required to utilize the services of an approved assurance organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2592 (December 2014).

§14507. Qualifications for Approval of an Assurance Organization

A. Any assurance organization that intends to be approved by the commissioner for authorization to transact business on behalf of a professional employer organization in the state of Louisiana shall apply for and obtain the approval of the commissioner.

B. To be considered for approval, the assurance organization shall submit a written request for approval to the commissioner which shall include:

1. evidence that the assurance organization is independent and has an established program for the accreditation and financial assurance of a professional employer organization;

2. evidence that the assurance organization has documented qualifications, standards, procedures and financial assurance acceptable to the commissioner to certify the qualifications of a professional employer organization;

3. the agreement of the assurance organization to provide the information, compliance monitoring services, and level of financial assurance acceptable to the commissioner and to share with the department in a timely manner the information and supporting documentation provided to the assurance organization by a professional employer organization that equals or exceeds the requirements for registration or renewal of registration under R.S. 22:1741 through R.S. 22:1751; and

4. the agreement of the assurance organization that it will use a comprehensive online application, quarterly compliance reporting, and an ongoing compliance monitoring process for PEO accreditation that ensures that:

a. the PEO is owned and operated by controlling persons with a history of honesty, law abidance, and responsible financial dealings both personally and in business;

b. the PEO and all related entities under common control are financially solvent and have positive working capital sufficient to sustain operations; and

c. the PEO and all related PEO entities meet the assurance organization's ethical, financial, and operational standards, including compliance with applicable state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2592 (December 2014).

§14509. Requirements for an Approved Assurance Organization to Represent a Professional Employer Organization

A. For each professional employer organization that chooses to be represented by an approved assurance organization, the approved assurance organization shall submit to the department an application, executed by the professional employer organization, requesting that the assurance organization be permitted to transact business on

behalf of the professional employer organization. Such application shall:

1. authorize the approved assurance organization to share with the department the application and compliance reporting information required under R.S. 22:1741 through R.S. 22:1751 that has been provided to the assurance organization by the professional employer organization;

2. authorize the department to accept information provided by the professional employer organization to the assurance organization to facilitate the registration or renewal of registration of the professional employer organization;

3. provide the certification of the professional employer organization, attesting that the information provided by the assurance organization to the department is true and complete and that the professional employer organization is in full and complete compliance with all requirements of R.S. 22:1741 through R.S. 22:1751; and

4. provide the certification of the assurance organization that the professional employer organization is in compliance with the standards and procedures of the assurance organization, which equals or exceeds the requirements of R.S. 22:1741 through R.S. 22:1751, and that the professional employer organization is qualified for registration or renewal of registration under R.S. 22:1741 through R.S. 22:1751.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2592 (December 2014).

§14511. Duties and Responsibilities of an Approved Assurance Organization

A. An assurance organization that has been approved by the commissioner shall obtain authorization from the accredited professional employer organization and shall release to the department confidential information in support of each accredited professional employer organization's initial registration and/or renewal registration, including but not limited to the following information:

1. basic information of the applicant professional employer organization to include:

a. the name(s) of all professional employer organization entities under common control;

b. the address of the domicile, headquarters and principal place of business of the professional employer organization;

c. the physical location of all of the professional employer organization's office(s) or place(s) of business in Louisiana and elsewhere;

d. current contact information for the professional employer organization's clients that are doing business in Louisiana;

e. cross guarantees of all relevant entities; and

f. copy of surety bonds providing coverage to the professional employer organization;

2. basic information regarding the name, address, telephone number and facsimile number of the controlling person(s) of the applicant professional employer organization;

3. pursuant to R.S. 22:1984, financial information of the applicant professional employer organization, including, but not limited to:

a. current fiscal/calendar year end audited financial statements;

b. a spreadsheet demonstrating the prior fiscal/calendar year end audited financial information and year-to-date calendar quarter updates, if available, including current assets and liabilities, net worth, net worth ratio, working capital, and net income for each stated period; and

c. quarterly certifications by an independent certified professional accountant of the timely payment of state and federal payroll taxes, insurance premiums, and contributions to employee retirement plans for the most recent calendar quarter and prior five calendar quarters;

4. basic insurance information on the applicant professional employer organization's worker's compensation coverage;

5. basic insurance information on the applicant professional employer organization's health insurance coverage; and

6. certification that the applicant professional employer organization is in compliance with the assurance organization's accreditation standards and procedures.

B. An assurance organization that has been approved by the commissioner shall also obtain authorization from the accredited professional employer organization and shall release to the department confidential information on behalf of the applicant with respect to any compliance reporting requirement of the department pursuant to R.S. 22:1984, including without limitation, any reporting initiated at the request of the department. This section shall apply to any and all communications of any nature by the assurance organization, its agents, employees, or other designated representatives, that contain the confidential information transmitted to the department in support of the initial or renewal registration of the applicant professional employer organization as well as any other response provided to satisfy any inquiry made by the department.

C. An assurance organization approved by the commissioner shall provide written notice to the department within 10 business days of a determination by the assurance organization that the professional employer organization:

1. fails to meet the qualifications for registration under R.S. 22:1741 through R.S. 22:1751; or

2. fails to meet the qualifications for accreditation or certification by the assurance organization.

D. An assurance organization approved by the commissioner shall submit all required information through secure internet server, or as otherwise directed by the department.

E. An assurance organization approved by the commissioner shall comply with all time periods, application instructions, and other requests or directives made by the department.

F. An approved assurance organization shall provide the department such information that may be necessary and proper for the execution of the powers and duties of the department pursuant to this Regulation 102 and the *Louisiana Insurance Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, R.S. 22:1984, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2593 (December 2014).

§14513. Duration of Approval of an Assurance Organization

A. Provided the approved assurance organization remains in compliance with Regulation 102, the approval issued by the commissioner to an assurance organization shall remain in effect until the assurance organization withdraws from the state or until approval is suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2594 (December 2014).

§14515. Duties of Commissioner

A. Upon the approval of an assurance organization, the commissioner shall:

1. issue a letter to the assurance organization notifying it that it meets the requirements of Regulation 102; and

2. include the assurance organization on the list of approved assurance organizations that is maintained by the department.

B. In the event that an approved assurance organization no longer meets the requirements of Regulation 102, the commissioner may suspend or revoke such approval and conduct a detailed review of all information provided by the assurance organization on behalf of each professional employer organization that was registered based upon that assurance organization's certification. The commissioner will notify each such professional employer organization in writing of any deficiencies that have been found, and each such professional employer organization shall be given 60 days to correct any deficiencies as may be required to maintain its registration.

C. Authorization by the department of an assurance organization to act on behalf of the professional employer organization, in complying with the registration requirements of R.S. 22:1748 and R.S. 22:1751, or for any other reason, shall not limit or change the department's authority to register or terminate registration of a professional employer organization, or to investigate, enforce or take any regulatory action pursuant to any applicable, relevant, and appropriate provision of Regulation 102 or the *Louisiana Insurance Code*.

D. In the event of the failure of any professional employer organization which is registered pursuant to the certification of an approved assurance organization to comply with any provision of R.S. 22:1741 through R.S. 22:1751 or Regulation 102, the department shall provide the assurance organization 30 days written notice prior to taking action against any bond provided by the assurance organization to allow the assurance organization to otherwise cure the default or pay the claim before a claim is filed against any bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2594 (December 2014).

§14517. Severability

A. If any provision of Regulation 102 or its application to any person or entity or any circumstance of its application is held invalid, such invalidity shall not affect other provisions or applications of Regulation 102 which can be given effect without the invalid provision or application, and to that end, the provisions of Regulation 102 are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2594 (December 2014).

§14519. Effective Date

A. This regulation shall become effective on January 1, 2015 after final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, R.S. 22:1750, R.S. 22:1751, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:2594 (December 2014).

James J. Donelon
Commissioner

1412#068

RULE

Department of Natural Resources
Office of Coastal Management

Coastal Mitigation (LAC 43:I.724)

Under the authority of R.S. 49:214.21-49:214.42 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:450 et seq., the Department of Natural Resources, Office of Coastal Management has amended LAC 43:I.724 relative to the rules and procedures for mitigation.

This Rule amendment is to provide information on how the coastal mitigation account contribution amounts are derived.

Title 43
NATURAL RESOURCES
Part I. Office of the Secretary
Chapter 7. Coastal Management
Subchapter C. Coastal Use Permits and Mitigation
§724. Rules and Procedures for Mitigation

A - I.1. …

2. Such monetary contributions shall be used to offset anticipated unavoidable net losses of ecological values and shall be selected as the compensatory mitigation option when it is determined that more suitable options are not available to produce the required habitat benefits and replace those habitat units consistent with any plan adopted pursuant to R.S. 49:214.5.3.

3. The secretary shall determine the amount of the monetary contribution. Compensation for compensatory mitigation of unavoidable loss to aquatic resources for the DNR's coastal mitigation account shall be determined based

on an analysis of the expected costs associated with the re-establishment of the unavoidable loss to aquatic resources in Louisiana's deltaic and chenier plains as a result of permitted use, at the time that the mitigation project construction is to be performed.

4. Coastal mitigation account contribution amounts will be derived using a formula. The product of this formula, for the average cost per acre for marsh habitat is the sum of the cost of mobilization, demobilization, construction of containment features, dredging fill, and all other project costs associated with the construction of an appropriate representative sample of similar projects selected from any of the state's coastal protection and restoration programs, to include but not limited to the following:

a. Coastal Wetlands Planning, Protection, and Restoration Act (CWPPRA) Program;

b. Coastal Impact Assistance Program (CIAP);

c. state surplus-funded projects; and

d. other coastal restoration or mitigation projects contracted by other political subdivisions of the state of Louisiana and federally contracted projects for the previous three calendar years prior to the year for which the project is to be mitigated.

i. The cost of each of the projects selected to establish the coastal mitigation account contribution amounts, will be divided by the total number of acres created by the selected projects, expressed in dollars per one tenth of an acre.

ii. The assistant secretary of the Office of Coastal Management may apply a market correction factor to prevent any excess charge, or deficiency that may be caused by anomalous market conditions. The application of a market correction factor is necessary, so that all costs associated with project planning and design; construction; plant materials; labor; legal fees; monitoring; account administration; contingency costs appropriate to the stage of project planning, including uncertainties in construction and real estate expenses; and the resources necessary for the long term management, maintenance, and protection of the coastal mitigation account funded project that are expected to be necessary to ensure successful completion of the coastal mitigation account funded projects are captured by the formula.

iii. The market correction factor assures the mitigation liabilities assumed by the fund, are sufficiently compensated by contributions to the fund.

5. The formula for determining the cost per acre fees for forested wetlands is the average of the costs of available mitigation bank credits, nominalized by their mitigation potential, in the coastal zone of Louisiana.

6. These fees shall be reviewed and updated as appropriate, published when updated in the Potpourri section of the *Louisiana Register* along with a list of the sample projects used for the formula, or the names of the banks surveyed, reasons and supporting documentation for any decision to utilize a market correction factor, and the factor to be used. This information will also be posted on the LDNR website.

J. - K.7.c.ii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.41.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 21:835 (August 1995), amended by the Department of Natural Resources, Office of Coastal Management, LR 39:1474 (June 2013), LR 39:2775 (October 2013), LR 40:88 (January 2014), LR 40:1010 (May 2014), LR 40:2594 (December 2014).

Keith Lovell
Assistant Secretary

1412#031

RULE

Department of Natural Resources
Office of Coastal Management

Coastal Use Permits (LAC 43:I.723)

Under the authority of R.S. 49:214.21-49:214.42 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:450 et seq., the Department of Natural Resources, Office of Coastal Management has amended LAC 43:I.723 relative to applications for coastal use permits, and related matters.

The Rule amendment is part of an update of agency rules in order to remove overlooked obsolete requirements rendered obsolete by the implementation of technology to assist with permit processing, and to correct names in the wake of government re-organization. This action is not required by federal regulation.

Title 43
NATURAL RESOURCES
Part I. Office of the Secretary
Chapter 7. Coastal Management
Subchapter C. Coastal Use Permits and Mitigation
§723. Rules and Procedures for Coastal Use Permits

A. - B.8.c. …

C. Permit Application, Issuance, and Denial

1. General Requirements

a. Any applicant for a coastal use permit shall file a complete application with the state, or at his option, in areas subject to an approved local coastal management program, with the local government. The department will provide the application forms and instructions, including example plats and interpretive assistance, to any interested party. The staffs of the office of coastal management and approved local programs shall be available for consultation prior to submission of an application and such consultation is strongly recommended. Application forms may be periodically revised to obtain all information necessary for review of the proposed project.

b. Separate applications shall be made for unrelated projects or projects involving noncontiguous parcels of property. Joint applications may be made in cases of related construction involving contiguous parcels of property.

2. Content of Application. The application submitted shall contain the information required on the department provided application form, and such additional information as the secretary determines to be reasonably necessary for proper evaluation of an application.

3. - 4.f. …

g. Public notice of permit decisions shall be given pursuant to Subparagraph 5.a below.

C.5. - H.9.b. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:214.21-41.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 6:493 (August 1980), amended LR 8:519 (October 1982), amended by the Department of Natural Resources, Office of Coastal Restoration and Management, LR 16:625 (July 1990), amended by the Department of Natural Resources, Office of the Secretary, LR 21:835 (August 1995), amended by the Department of Natural Resources, Office of Coastal Restoration and Management, LR 28:516 (March 2002), amended by the Department of Natural Resources, Office of the Secretary, LR 35:2184 (October 2009), LR 35:2188 (October 2009), amended by the Department of Natural Resources, Office of Coastal Management, LR 39:327 (February 2013), LR 40:2595 (December 2014).

Keith Lovell
Assistant Secretary

1412#032

RULE

Department of Natural Resources
Office of Conservation

E and P Waste for Hydraulic Fracture Stimulation
Statewide Order No. 29-B (LAC 43:XIX.311 and 313)

The Department of Natural Resources, Office of Conservation has amended LAC 43:XIX.311 and 313 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 existing Rule provides for the conservation of freshwater aquifer resources by allowing the limited use of exploration and production waste (E and P waste) as a substitute for the fluids required to perform fracture stimulation operations on the Haynesville Shale only. This amendment removes the Haynesville Shale restriction and allows the use of E and P waste on any fracture stimulation operation being performed in the state.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B
Chapter 3. Pollution Control—Onsite Storage, Treatment and Disposal of Exploration and Production Waste (E and P Waste) Generated from the Drilling and Production of Oil and Gas Wells (Oilfield Pit Regulations)

§311. Pit Closure

A. Pits must be closed properly to assure protection of soil, surface water, groundwater aquifers and USDW's. Operators may close pits utilizing onsite land treatment, burial, solidification, onsite land development, or other techniques approved by the Office of Conservation only if done so in compliance with §313 and §315. Otherwise, all E and P waste must be manifested according to §511 and transported offsite to a permitted commercial facility unless temporarily used in hydraulic fracture stimulation operations in accordance with the requirements of LAC 43:XIX.313.J.

B. - F.2. …

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2803 (December 2000), amended LR 33:1658 (August 2007), LR 35:2464 (November 2009), LR 40:2596 (December 2014).

§313. Pit Closure Techniques and Onsite Disposal of E and P Waste

A. Reserve pit fluids, as well as drilling muds, cuttings, etc. from holding tanks, may be disposed of onsite provided the technical criteria of §313.C, D, E, F, or G below are met, as applicable. All E and P waste must be either disposed of on-site, temporarily used in hydraulic fracture stimulation operations in accordance with the requirements of LAC 43:XIX:313.J or transported to an approved commercial facility or transfer station in accordance with the requirements of LAC 43:XIX.Chapter 5 or under the direction of the commissioner.

B. - I.3. …

J. Temporary Use of E and P Waste (Produced Water, Rainwater, Drilling, Workover, Completion and Stimulation Fluids) for Hydraulic Fracture

1. Produced water, rainwater, drilling, workover, completion and stimulation fluids generated at a wellsite (originating wellsite) that are classified as E and P waste may be transported offsite for use in hydraulic fracture stimulation operations at another wellsite (receiving wellsite) provided that the following conditions are met.

a. The originating wellsite and the receiving wellsite must have the same operator of record.

b. All residual waste generated in the treatment or processing of E and P waste prior to its use in hydraulic fracture stimulation operations must be properly disposed of in accordance with the following:

1.b.i. - 2. …

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2804 (December 2000), amended LR 33:1659 (August 2007), LR 35:2464 (November 2009), LR 36:1265 (June 2010), LR 40:2596 (December 2014).

James H. Welsh
Commissioner

1412#055

RULE

Department of Natural Resources
Office of Conservation

Statewide Order No. 29-B—Two Well Tests
Per Year Requirement (LAC 43:XIX.121 and 137)

The Department of Natural Resources, Office of Conservation amends LAC 43:XIX.121 and 137 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 Rule change in §121 codifies the long standing practice of requiring oil and gas operators to conduct two well tests per year. Additionally, as a result of low or no production, wells drilled to or completed in the Monroe gas rock or

stripper oil lease wells shall not be required to conduct well tests. The Rule change in §137 updates language to reflect the proposed Rule change being made in §121.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B
Chapter 1. General Provisions
§121. Production, Production Records, Production Tests

A - C.4. …

D.1. Each operator shall conduct semi-annual tests on all producing/service wells and shall report the results on the approved forms DM-1-R, oil well deliverability test or DT-1, gas well deliverability test or other method prescribed by the Office of Conservation no later than the first day of May and November of each year. Well tests shall be conducted a minimum of 60 days prior to the required filing date. All wells which are shut in shall also be shown on this form and the date of last production or date the service well ceased to be used shall be indicated.

2. The requirements of LAC 43:XIX.121.D.1 shall not be applicable for wells drilled to or completed in the Monroe gas rock or stripper oil lease wells in the Monroe or Shreveport districts.

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

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (January 1963), (July 1959), amended by the Department of Natural Resources, Office of Conservation, LR 40:2597 (December 2014).

§137. Plugging and Abandonment

A. All wells wherein production operations or use as a service well have ceased on or after the effective date of this order shall continue to be reported on the Forms DM-1-R, oil well deliverability test or DT-1, gas well deliverability test or other method prescribed by the Office of Conservation no later than the first day of May and November of each year with the appropriate notation that the well is off production or no longer in use as a service well along with the date of last production or date the service well ceased to be used; and, after six months, if such a well has not been restored to production or use as a service well, it shall thereafter be reported by the operator on the semiannual inactive well report, Form INACT WR-1 which report shall be filed with the Office of Conservation showing the status of such well as of May 1 and November 1 of each year. Such wells shall continue to be reported on the Form DM1-R or Form DT-1 showing the date of last production or the date the well ceased to be used as a service well, together with a notation showing the well is carried on the Form INACT WR-1, inactive well report, until the well is plugged and abandoned.

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

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), amended (March 1974), amended by the Department of Natural Resources, Office of Conservation, LR 40:2597 (December 2014).

James H. Welsh
Commissioner

1412#063

RULE

Department of Transportation and Development
Office of Operations

Ferry Operations (LAC 70:XXV.Chapter 1)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 48.25 et seq., R.S. 17:157, R.S. 29:27, R.S. 33:1975, R.S. 40:1392, R.S. 48:999, R.S. 48:1000, and R.S. 17:158, the Department of Transportation and Development, Office of Operations, has repealed Chapter 1 of Part XXV, and replaced it with a new Chapter 1. The Rule is replaced to reflect the expiration of tolls on the Crescent City Connection bridge, and the legislative transfer of ferry operations from the Crescent City Connection Division to the Department of Transportation and Development, Office of Operations. The Rule replacement also addresses the legislative authority to contract with political subdivisions relative the Chalmette ferry and renames Part XXV "Ferry Operations."

Title 70
TRANSPORTATION
Part XXV. Ferry Operations
Chapter 1. Toll Collections
§101. Applicability

A. This Part shall apply to all ferries owned and operated by the Department of Transportation and Development (DOTD) within the state of Louisiana, including but not limited to, ferries operating in the metropolitan New Orleans area. The metropolitan New Orleans area ferries currently consist of those ferries, when in operation, that cross at the following locations:

1. Lower Algiers/Chalmette (Chalmette ferry);
2. Algiers Point/Canal Street ferry;
3. Gretna/Canal Street ferry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:25 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 40:2597 (December 2014).

§103. Ferry Toll Charges

A. Tolls will be collected from only one side of the ferry landings.

B. Except as provided in Subsection D of this Section, the following toll charges shall apply to all ferries operated by DOTD.

Ferry Toll Classification Rate Schedule	
	Toll
Each Pedestrian	$ 0.50
Each Vehicle	$ 1.00

C. Each vehicle, its owner or operator, and all occupants of such vehicle shall be jointly and solidarily liable for the payment of the ferry tolls.

D. Notwithstanding any other provision to the contrary, if DOTD enters into a cooperative endeavor agreement with a political subdivision of the state for the continued operation of the Chalmette ferry, the political subdivision and its ferry service contractor shall use best practices to

operate and manage ferry service and to establish and collect ferry fares.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48.25 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 40:2597 (December 2014).

§105. Exemptions

A. Unless otherwise indicated, the following exemptions from payments of tolls shall be applicable to ferry passengers using DOTD ferries, including ferries operating in the metropolitan New Orleans area.

1. Students. Students attending a school, including universities, colleges, and secondary schools, shall have free passage during the hours of 6 a.m.-9:30 a.m., and 2:30 p.m.-9:30 p.m., for the purpose of traveling to and from school.

a. Procedures for Students

i. For all DOTD operated ferries, the appropriate school official, the registrar of the college or university attended by the student, or the principal, headmaster, or administrator of the school attended by the student, shall provide DOTD with a letter certifying that the student is enrolled at the school and the length of the school year and mail same to the DOTD annex building located at 1212 E. Highway Drive, Baton Rouge, LA 70802, certifying that the student is enrolled at the school and the length of the school year.

ii. Upon approval, the student will receive a student pass for free passage.

iii. Lost, stolen, or damaged vehicle passes will not be replaced.

iv. Loss of Privilege. Any prohibited use of student vehicle passes will result in the loss of the privilege to obtain and use passes and toll tags and any other remedy provided by law.

v. Student exemptions shall expire with each school year.

2. School Buses. All easily identified and clearly marked school buses shall be exempt from the payment of tolls. This exemption shall include publicly-owned school buses, school buses carrying public students under contract, parochial school buses, and private school buses funded in a fashion that allows them to publicly display "school bus" thereon or identified in a like fashion.

3. Militia. Any person belonging to the organized militia of the state who is in uniform or presents an order for duty shall be allowed free passage for himself, his conveyance, and the military property of the state in his charge, on ferries while going to, engaged in, or returning from any parade, drill, or meeting which he is required to attend, or upon being called to, engaging in, or returning from any active state duty ordered by the governor.

4. Disabled Veterans. A disabled American veteran who provides proper identification shall be allowed free passage for himself, his conveyance, and his passengers. This exemption shall not apply to the Algiers Point/Canal Street ferry.

5. Firemen/Volunteer Firemen. Firemen as defined in R.S. 33:1991(A) shall have free and unhampered passage on and over toll bridges and ferries in this state, regardless of whether the firemen are in uniform or in civilian clothes, when the firemen are performing firefighting or related duties. For purposes of this Rule, "related duties" shall include traversing to and from their place of employment. Volunteer firemen as defined in R.S. 33:1975(B) shall have free and unhampered passage on and over toll bridges and ferries in this state only when such firemen are performing official firefighting or fire prevention services.

a. Procedures

i. Firemen and volunteer firemen wishing to obtain free passage over any ferry shall present a picture identification card for inspection by the toll collector. The identification card must be issued by the municipality, parish or district as referred to in R.S. 33:1991(A).

ii. Fireman and volunteer fireman shall be required to sign a register at the ferry station and shall provide the name of the agency, municipality, parish or district for which they are employed or engaged.

iii. Off-duty firemen are not exempt unless, as part of the off duty employee's official duties, he or she is on call for immediate duty.

6. Law Enforcement Personnel. Free passage shall be granted to all law enforcement personnel employed by a law enforcement agency on a full-time basis when operating law enforcement agency equipment.

a. Law enforcement agency means any agency of the state or its political subdivisions and the federal government, responsible for the prevention and detection of crime and the enforcement of the criminal, traffic, or highway laws of this state or similar federal laws and who are employed in this state. This exemption does not apply to officers who serve in a voluntary capacity or as honorary officers.

b. Agencies eligible for this exemption shall include the Louisiana State Police, enforcement division agents of the Louisiana Department of Wildlife and Fisheries, sheriff departments of the parishes of this state, municipal police departments, levee board police departments, port police departments, and United States law enforcement agencies such as United States Secret Service, the United States Marshal Service, United States Customs and Border Protection, and the Federal Bureau of Investigation if employed within Louisiana.

c. Law enforcement personnel wishing to gain free passage on ferries must sign a register at the toll collections site and must produce picture identification.

7. All emergency vehicles performing a public service that permits them, under existing laws and regulations, to display emergency vehicle lights in order to carry out police, fire and ambulance functions in accordance with the laws relative thereto, when such lights are in actual use. This exemption shall also apply to emergency vehicles privately owned but entitled to such public emergency usage. This exemption shall not apply to those vehicles operated by off duty personnel unless, as part of the off duty employee's official duties, he or she is on call for immediate duty.

8. Youth Groups. In accordance with R.S. 48:999, members of the Boy Scouts of America, the Girls Scouts of America, and Camp Fire Girls, when assembled in uniform in a parade or group consisting of not less than fifteen and under the supervision of a scout master or other responsible person, shall have free and unhampered passage at all times. This exemption shall not apply to ferries operating under contract with the Department of Transportation and Development.

9. Parish Employees. In accordance with R.S. 48:1000, all employees of parish governing authorities in official parish governing authority vehicles in their passage to and from work, or on an official project of the parish governing authority, shall be exempt from the payment of ferry tolls provided the ferry landings are located in the same parish and leased or controlled by the state. This exemption shall not apply to ferries operating under contract with the Department of Transportation and Development.

10. DOTD official vehicles displaying the DOTD logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:157, R.S. 17:158, R.S. 29:27, R.S. 33:1975, R.S. 40:1392, R.S. 48:999, and R.S. 48:1000.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Operations, LR 40:2598 (December 2014).

Sherri H. LeBas
Secretary

1412#050

RULE

Department of Public Safety and Corrections
Corrections Services

Ameliorative Penalty Consideration (LAC 22:I.321)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby promulgates Section 321, Ameliorative Penalty Consideration.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections
Chapter 3. Adult Services
§321. Ameliorative Penalty Consideration

A. Purpose—pursuant to Act No. 340 of the 2014 Regular Session, to provide a consistent and reliable decision-making process for assessing the risk of certain offenders to commit another crime if released from incarceration. This process shall also be designed to enhance the motivation of offenders to participate in the types of programming that are available to prepare them to return to the community successfully without further offense and victimization.

B. Applicability—deputy secretary, undersecretary, chief of operations, regional wardens, wardens, sheriffs or administrators of local jail facilities, chairman of the Board of Pardons and parole and director of the office of information services. The deputy secretary and the chairman of the Board of Pardons and parole are responsible for the overall implementation, compliance and review of this regulation. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy that the department shall accept the application of any offender who applies for ameliorative penalty consideration pursuant to Act No. 340 of the 2014 Regular Session. The offender's application shall be reviewed for eligibility pursuant to R.S. 15:308 and those offenders found eligible for ameliorative penalty consideration shall be referred to the Committee on Parole for further consideration retroactive to August 1, 2014.

D. Definitions

ARDC Supervisor/Manager—a member of the records staff, whether employed at a state correctional facility or in the office of adult services at headquarters.

Unit Head—the head of an operational unit, specifically the warden or sheriff or administrator of a local jail facility or transitional work program.

E. Eligibility Requirements

1. Refer to the list of crimes eligible for ameliorative penalty consideration for the list of crimes that are eligible for ameliorative penalty parole consideration for those offenders who were convicted or sentenced prior to June 15, 2001.

2. Pursuant to this regulation, an offender's application is not eligible for consideration if there are any outstanding felony detainers or open warrants against the offender.

F. Application Procedures

1. State Correctional Facilities

a. Offenders housed in state correctional facilities who meet the eligibility requirements stated in Subsection E. shall complete an application for ameliorative penalty consideration and submit the application to the institution's records office.

b. Within 60 days of receipt of the application, the ARDC/supervisor manager or designee shall review the offender's application to verify the offender's eligibility for ameliorative penalty consideration. If the offender is ineligible for consideration the ARDC/supervisor manager or designee shall indicate the reason for ineligibility on the application and return a copy to the offender and the Committee on Parole. The original application shall be filed in the offender's master record.

c. If the offender is eligible for ameliorative penalty consideration, the ARDC supervisor/manager or designee shall forward the application and following documents to the Committee on Parole:

i. post sentence and pre-parole reports (if available);

ii. Louisiana risk need assessment II (LARNA II);

iii. institutional progress report;

iv. conduct record; and

v. medical mental health and psychological assessment(s) and summary.

2. Local Jail Facilities

a. The office of adult services shall ensure that an application for ameliorative penalty consideration is provided by the basic jail guidelines team leaders to the sheriff or administrator of each local jail facility within their region.

b. Offenders who are housed in local jail facilities who meet the eligibility requirements stated in Section E. shall complete an application for ameliorative penalty consideration and submit it to the sheriff or administrator, who shall forward the completed application to the chief of operations at headquarters.

c. The chief of operations shall designate OAS staff to review the offender's application. Within 60 days of receipt of the application, OAS staff shall review the application to verify the offender's eligibility for

ameliorative penalty consideration. If the offender is ineligible for ameliorative penalty consideration, the reviewing staff member shall indicate the reason for ineligibility on the application form and the ARDC supervisor/manager or designee shall return a copy to the sheriff or administrator of the local jail facility (who shall notify the offender) and forward a copy to the Committee on Parole. The original application shall be filed in the offender's master record.

d. If the offender is eligible for ameliorative penalty consideration, OAS staff shall forward the application and following documents to the Committee on Parole:

i. post sentence and pre-parole reports (if available); and

ii. Louisiana risk need assessment II (LARNA II).

G. Records Maintenance. The department's undersecretary, through the Office of Technology Services, shall implement a program to track the number of applications received, denied, approved for Committee on Parole consideration and the number of offenders granted or denied ameliorative penalty consideration.

H. List of Crimes Eligible for Ameliorative Penalty Consideration (convicted or sentenced prior to June 15, 2001)

Citation	Description
14:56.2(D)	Criminal damage of a pipeline facility
14:62.1(B) and (C)	Simple burglary of a pharmacy
14:69.1(B)(2)	Illegal possession of stolen firearms
14:70.1(B)	Medicaid fraud
14:82(D)	Prostitution
14:91.7(C)	Unauthorized possession or consumption of alcoholic beverages on public school property
14:92.2(B)	Improper supervision of a minor by parent or legal custodian
14:92.3(C)	Retaliation by a minor against a parent, legal custodian, witness or complainant
14:106(G)(2)(a) and (3)	Obscenity
14:106.1(C)(2)	Promotion or wholesale promotion of obscene devices
14:119.1(D)	Bribery of parents of school children
14:122.1(D)	Intimidation and interference in the operation of schools
14:123(C)(1) and (2)	Perjury
14:352	Bribery of withdrawn candidates prohibited
14:402.1(B)	Taking of contraband to state owned hospitals
15:529.1(A)(1)(b)(ii), (c)(ii)	Sentences for second and subsequent offenses: certificate of warden or clerk of court in the state of Louisiana as evidence
15:1303(B)	Interception and disclosure of wire, electronic or oral communications
15:1304(B)	Manufacture, distribution, or possession of wire, electronic, or oral communication intercepting devices prohibited
27:262(C), (D) and (E)	Skimming of gaming proceeds
27:309(C) (Now 27:440)	Video draw poker crimes and penalties
27:375(C)	Unauthorized slot machines, etc.
40:966(B),(C)(1),(D),(E),(F),(G)	Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I; possession of marijuana, possession of synthetic cannabinoids
40:967(B)(1), (2), (3) and (4)(a) and (b) (F) (1), (2) and (3)	Prohibited acts-Schedule II
40:979(A)	Attempt and conspiracy
40:981	Distribution to persons under age eighteen
40:981.1	Distribution to a student
40:981.2(B) and (C)	Soliciting minors to produce, manufacture, distribute or dispense controlled dangerous substances
40:981.3(A)(1) and (E)	Violation of uniform controlled dangerous substances law; drug free zone
C.Cr.P. Art. 893(A)	Suspension and deferral of sentence and probation in felony cases

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services LR 40:2599 (December 2014).

James M. LeBlanc
Secretary

1412#043

RULE

Department of Public Safety and Corrections
Corrections Services

Offender Incentive Pay and Other Wage Compensation
(LAC 22:I.331)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby amends the contents of Section 331, Offender Incentive Pay and Other Wage Compensation.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections

Chapter 3. Adult Services

§331. Offender Incentive Pay and Other Wage Compensation

A. Purpose—to state the secretary's policy regarding payment of incentive wages and other wage compensations to offenders.

B. Applicability—deputy secretary, undersecretary, chief of operations, director of prison enterprises, regional wardens and wardens. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy that compensation shall be paid, in accordance with the provisions of this regulation, to all offenders who have served at least three years of their sentence in the physical custody of the department and who have performed satisfactory work in the job assignment in which they have been classified (except those offenders who opt to receive good time in lieu of incentive wages in accordance with R.S. 15:571.3).

D. Procedures

1. An offender sentenced or resentenced or who is returning to the physical custody of the department on or after September 20, 2008, who is not eligible to earn good time at any rate shall serve three years from the date of reception before becoming eligible to earn incentive pay.

a. Grandfather Clause: The provisions of this Section are applicable to offenders received at the reception and diagnostic centers on or after September 20, 2008.

Offenders received at a reception and diagnostic center prior to this date shall be subject to the waiting period previously in effect for this regulation. Offenders receiving incentive pay on September 20, 2008, will not be affected and will continue to be eligible to receive incentive pay as they did on that date, but shall be subject to the provisions of Section D.3 as it applies to job changes.

2. An offender sentenced or re-sentenced or who is returning to the physical custody of the department on or after September 20, 2008, who is eligible to earn good time at any rate shall not be eligible to earn incentive wages.

a. Grandfather Clause: Offenders currently earning good time at a rate of three days for every 17 days served in accordance with Act 1099 of the 1995 Regular Session who are also earning incentive pay shall be allowed to continue to earn incentive pay at authorized rates.

3. Once eligible to earn incentive pay, each offender shall initially be paid an "introductory pay level" of two cents per hour for a period of six months. After six months, the offender shall be paid at the lowest pay rate that is commensurate with the job assignment he is placed in by the institution. In the event of a change in an offender's job assignment or custody status, the offender's rate of compensation shall automatically be adjusted to the lowest pay rate of the assigned job. If a change in job assignment is not for disciplinary reasons, the warden may approve the offender to be paid at the same rate as the previous job assignment and the rate of compensation shall not be automatically adjusted to the lowest pay rate of the new job assignment.

a. Grandfather Clause: Offenders earning incentive pay at any rate, prior to September 20, 2008, shall continue to earn at these rates. If the offender is reassigned to a new job or vacates the job for any reason and it has been determined the rate of pay for the job that he is leaving should be lower, the next offender to fill that position will receive the adjusted lower rate.

4. An offender may receive a raise in his hourly pay rate of no greater than $0.04 per hour on an annual basis unless specifically authorized by mutual agreement of the director of prison enterprises and the warden of the respective institution, except as provided in sections D.12 and 13 below.

5. No offender shall earn more than 80 hours in a two-week period unless specifically authorized by mutual agreement of the director of prison enterprises and the warden of the respective institution.

a. Exception: Offenders assigned to job duties at the governor's mansion will not be limited to 80 hours bi-weekly.

6. Any offender who has his incentive pay forfeited as a disciplinary sanction shall return to the "introductory pay level" of two cents per hour for a six month period upon reinstatement of his right to earn incentive pay. At the end of the six month period, the offender's pay will be automatically adjusted to the lowest pay rate for the assigned job.

7. A series of pay ranges and a standardized list of job titles shall be established by the director of prison enterprises and approved by the secretary or designee. The institutions shall be assigned limits on the total amount of incentive wages paid in certain pay ranges. These limits shall be derived on a percentage basis determined by the total hours worked by offenders who are eligible to earn incentive pay at each institution and shall be approved by the director of prison enterprises and the secretary or designee. Prison enterprises shall issue reports detailing each institution's status with regard to their limits on a quarterly basis. Offender banking shall monitor the assigned limits to ensure that the institutions remain within their limits and report discrepancies to the chief of operations, the appropriate regional warden, the director of prison enterprises and the warden of the institution.

a. The regional wardens shall work closely with the director of prison enterprises to ensure that any institution that exceeds the established limits is brought back into compliance in an expeditious manner.

b. Exception: Offenders who work in prison enterprises job titles will not affect an institution's pay range percentage limits.

8. Incentive wages shall not be paid for extra duty assignments that are imposed as sanctions through the offender disciplinary process.

9. All offenders classified in limited duty status and who are eligible to earn incentive wages shall earn at a rate of no more than $0.04 per hour. This excludes offenders classified as regular duty with restrictions or those with a temporary limited duty status.

10. All offenders classified in working cellblocks and maximum custody field lines who are eligible to earn incentive wages shall earn at the rate of $0.02 per hour.

11. All offenders assigned to educational or vocational programs who are eligible to earn incentive wages shall be paid at the rate of $0.04 per hour.

a. Exception: Due to the importance of the New Orleans Baptist Theological Seminary program and its positive impact on the department, offenders enrolled in this program shall earn incentive wages at the following rates:

i. freshmen: $0.14 per hour;
ii. sophomores: $0.16 per hour;
iii. juniors: $0.18 per hour;
iv. seniors: $0.20 per hour.

b. Upon completion of any educational or vocational program, the offender may, upon request and at the discretion of the warden and based upon availability, return to the same job at the same rate of pay he held prior to enrollment in the program.

12. Offenders assigned to prison enterprises industrial, agricultural, service or other prison enterprises jobs may be compensated at a rate up to $0.40 per hour. The pay range for these jobs shall be established by the director of prison enterprises and approved by the secretary or designee.

13. Offender tutors who achieve certification from the Corrections Education Association (CEA) or an NCCER or other industry based certification may be paid, on a graduating scale, up to $1.00 per hour while working as a tutor in the area of certification. Certified tutors may earn $0.75 per hour during the first twelve months after certification and may receive an annual raise of ten cents per hour, up to a maximum of $1.00 per hour.

14. In accordance with established procedures, offenders who are participating in the American Sign Language Interpreting Program shall earn incentive wages at the following rates:

a. sign language student I: $0.20 per hour;

b. sign language student II/tutor: $0.30 per hour;

c. sign language interpreter student/tutor: $0.50 per hour;

d. sign language interpreter intern/tutor: $0.60 per hour.

15. In accordance with established procedures, offenders working as a mentor/tutor or minister/tutor shall earn incentive wages at the following rates:

a. lead certified mentor/tutor: $0.75 per hour;

b. certified mentor/tutor: $0.65 per hour;

c. peer minister/tutor: $0.50 per hour;

d. mentor/tutor: $0.50 per hour.

16. Offenders who are eligible to earn incentive wages shall be paid only for actual hours worked in their job assignment. Offenders shall not be paid for time spent away from their job assignment due to circumstances such as holidays, callouts, duty status, weather, illness, etc.

17. For the purpose of this regulation, income earned from a private sector/prison industry enhancement (PS/PIE) program or a work release program is not "incentive pay." Therefore, offenders employed in any of these programs may receive good time in accordance with the law. The director of prison enterprises shall establish record-keeping procedures relating to wages earned by offenders employed in a PS/PIE program that include all mandatory deductions from offender wages, other deductions such as child support or garnishment and the distribution of net offender wages to offender banking.

E. Sources of Funding

1. The Division of Prison Enterprises shall pay all incentive wages.

2. Offenders who are employed in a certified PS/PIE program shall be paid by the private business that employs them or by prison enterprises depending upon the type of PS/PIE program that is in operation, in accordance with the terms stated in the employment agreement.

3. Offenders who are participating in a transitional work program shall be paid by the private business that employs them, in accordance with the terms outlined in the employment agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 34:1927 (September 2008), amended LR 36:531 (March 2010), LR 38:1253 (May 2012), LR 40:2600 (December 2014).

James M. LeBlanc
Secretary

1412#042

RULE

Department of Public Safety and Corrections
Office of Motor Vehicles

Dealer, Educator, and Retired Law Officer Plates
(LAC 55:III.Chapter 3)

In accordance with the provisions of R.S. 32:412.1, R.S. 47:463(A)(3)(a), R.S. 47:463.24, R.S. 47:463.44 and R.S. 47:473, relative to the authority of the Office of Motor Vehicles, the Office of Motor Vehicles has adopted LAC 55:III, Chapter 3, Subchapter A, §§300, 331, 333, and 335, to implement the provisions of R.S. 32:412.1, R.S. 47:463, R.S. 47:463.24, R.S. 47:463.44 and R.S. 47:473 as those provisions relate to the authorization and issuance of special plates to dealers, educators, and retired law enforcement. These four Sections are new and do not amend or repeal any existing rules.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles

Chapter 3. License Plates and Removal of Plates, Registrations, and Title Transactions

Subchapter A. Types of License Plates and Removal of Plates

§300. Issuance of Plates

A. Unless otherwise provided in law, all special plates shall be assessed the handling charge imposed in R.S. 47:463(A)(3)(a) and the handling fee imposed in R.S. 32:412.1.

B. Unless otherwise provided in law, a replacement plate for lost plate, and all duplicate registrations, shall be assessed the respective charges for each as provided in R.S. 47:472.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(3)(a), R.S. 32:412.1 and R.S. 47:472.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2602 (December 2014).

§331. Dealer Plates

A. Dealer plates shall only be issued to dealer's that possess a current license issued by either the Louisiana Motor Vehicle Commission or the Louisiana Used Motor Vehicle Commission.

B. The fee shall be issued in accordance to R.S. 47:473(E). Plate shall be valid for one year.

C. Upon issuance or renewal of a dealer plate, the applicant shall submit a copy of the current license as described in Subsection A as well as proof of insurance.

D. Dealers licensed by the Louisiana Motor Vehicle Commission shall be issued dealer plates that differ in appearance from those issued to dealers licensed by the Louisiana Used Motor Vehicle Commission.

1. Plates issued to dealers licensed by the Louisiana New Motor Vehicle Commission shall be printed on a gold background with black lettering.

2. Plates issued to dealers licensed by Louisiana Used Motor Vehicle Commission shall be printed on a white background with blue lettering.

E. The Office of Motor Vehicles may suspend or revoke the privileges of any dealer who utilizes a dealer plate or has allowed the use of a dealer plate for purposes other than what is stated in law.

F. In the event the dealer's license is suspended, revoked, cancelled, or non-renewed by the appropriate commission, or the dealer ceases or suspends business for whatever cause, the dealer shall promptly surrender all dealer plates issued to said dealer to the office of motor vehicles. In the event a plate is lost, the dealer shall submit an affidavit describing the circumstances of the lost plate in detail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:473.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2602 (December 2014).

§333. Louisiana Educator License Plate

A. Eligibility. Applicants for the Louisiana educator license plate shall include any educator educated or employed in Louisiana.

B. Requirements. A notarized affidavit to certify that applicant is an educator who received his/her degree from a Louisiana college/university (must name college/university) or is currently employed as an educator (must name specific school). In lieu of the affidavit, proof of degree and employment will be acceptable. Applicant shall provide proof of employment as an educator. A photocopy of the registration certificate of the vehicle on which the plate will be placed if the vehicle is currently registered. If the vehicle is not registered, proper title documentation and fees must be submitted along with the request for the Louisiana educator license plate.

C. Fee. The fee for issuance of a Louisiana educator license plate shall be in accordance with R.S. 47:463.11. The fee for transferring such plate to another vehicle shall be a $3 transfer fee in addition to a handling fee. The plates are subject to regular renewal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463.44.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2603 (December 2014).

§335. Retired Law Officer License Plate

A. Eligibility. Applicants for the retired law officer plate shall include any person who was employed as a law officer for 12 years or more.

B. Requirements. The applicant shall provide proof of employment as a law officer for twelve years or more, regardless of whether or not that person is a member of, or is receiving retirement benefits from a retirement system for law officers. A notarized affidavit from the applicant to include the applicant's place of employment and statements attesting that the applicant was not discharged for misconduct related to his employment and has not been convicted of any felony. The affidavit must be submitted at initial issuance and at each renewal. A photocopy of the registration certificate of the vehicle on which the plate will be placed if the vehicle is currently registered. If the vehicle is not registered in the applicant's name, then all necessary documentation required for titling of the vehicle must be submitted along with the request for the retired law officer license plate.

C. Fee. The fee for issuance of a retired law officer license plate shall be in accordance with R.S. 47:463.24. A $3 fee and a handling fee shall be due to transfer the plate to another vehicle in the applicant's name. The plates are subject to regular renewal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463.24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2603 (December 2014).

Jill P. Boudreaux
Undersecretary

1412#076

RULE

Department of Public Safety and Corrections
Office of Motor Vehicles

Driving Schools—Class D and E Licenses
(LAC 55:III.Chapter 1)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Motor Vehicles has amended Sections 155, 156 and 157 under Chapter 1, Subchapter A, and Sections 185 and 187 under Chapter 1, Subchapter C to implement Act 307 of the 2011 Regular Session which required every person properly licensed as a private driving school to administer both the knowledge and on-road driving skills tests required for the issuance of a class "D" or "E" license in Louisiana. Effective August 1, 2014, driving schools shall administer the knowledge examination for the Office of Motor Vehicles. At the end of the classroom course the school shall administer a final test provided by the department. Passing this test will waive the required knowledge test by the Office of Motor Vehicles. As of July 31, 2014, all private driving schools have been notified of this procedure.

The full text of this Rule can be found in the Emergency Rule section of the September 20, 2014 issue of the *Louisiana Register* on pages 1666-1669.

Jill P. Boudreaux
Undersecretary

1412#060

RULE

Department of Public Safety and Corrections
Office of Motor Vehicles

Driving Schools—Surety Bonds
(LAC 55:III.146 and 147)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Motor Vehicles hereby amends Sections 146 and 147 under Chapter 1 to implement Act 307 of the 2014 Regular Session which required every private driving school to execute a good and sufficient surety bond with a surety company qualified to do business in Louisiana as surety, in the sum of $40,000.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter A. General Requirements

§146. Application Process and Fees for Private Driving Schools and Instructors

A. - A.2.j. …

k. a surety bond in the amount of $40.000;

l. a written document between the student and school, as defined in LAC 55.III.147.B.3.

B. - E.8. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 40:1461 and R.S. 40:1462.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1976 (August 2012), amended LR 40:2603 (December 2014).

§147. General Regulations for Private Driving Schools

A. - A.12. …

B. Surety Bond

1. School owners shall be required to maintain a $40,000 surety bond while maintaining a license to operate a driving school.

2. OMV shall be listed as the obligee.

3. The school shall provide a written document detailing the services to be provided for the fee charged. This document shall be signed by the parent (if the student is a minor) or a student (if over the age of eighteen) and the school owner. A paid receipt shall be furnished to the parent/student. This receipt may be part of this document or a separate document.

4. Students (over eighteen) or parents (of minor students) may file with DPS for reimbursement of all or part of the course fee when the school or its instructors fail to provide the instruction as required by statute and these rules.

5. Once a Certificate of Completion is accepted by DPS and a credential is issued, the parent/student may not file against the bond.

6. The parent/student must complete a claim form and submit the form and supporting documents with the claim to OMV for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 40:1461 and R.S. 40:1462.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1977 (August 2012), amended LR 40:2604 (December 2014).

Jill P. Boudreaux
Undersecretary

1412#061

RULE

Department of Public Safety and Corrections
Office of Motor Vehicles

Electronic Reporting of Interlock Installation
(LAC 55:III.Chapter 4)

In accordance with the provisions of R.S. 32:378.2(H), relative to the authority of the Office of Motor Vehicles, the Office of Motor Vehicles has adopted LAC 55:III, Chapter 4, §§401-417, to implement the provisions of R.S, 32:378.2(H) as enacted by Act 192 of the 2011 Regular Session as it relates to the electronic submission of reports regarding the operation of ignition interlock devices installed on motor vehicles in connections with the issuance of a restricted or hardship driver's license, or in connection with the reinstatement of a driver's license pursuant to R.S. 32:667(I). This Chapter and all Sections are new.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles

Chapter 4. Specifications for Electronic Reporting Of Interlock Device Installation/Removal

§401. Introduction

A. Effective August 15, 2011, Act 192 of the 2011 Regular Session of the Louisiana Legislature requires ignition interlock device reports to be submitted electronically. The person whose driving privilege is restricted pursuant to this Section, or which has been reinstated pursuant to R.S. 32:667(I), shall have the system monitored by the manufacturer, at the manufacturer's expense, for proper use at least bi-monthly, and more frequently as the court may order, on the operation of each interlocking ignition device in the person's vehicles. A report of such monitoring shall be issued by the manufacturer to the court and the department within fourteen days after the system is monitored. However, the report issued to the department shall be in an electronic format specified by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:378.2(H).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2604 (December 2014).

§403. Definitions

Authorized Manufacturer—name of manufacturers approved by State Police Applied Technology.

Business Days—business days are Monday through Friday, between 8 a.m. and 4:30 p.m. central time. *Business days* do not include Saturday, Sunday or state holidays, or any other holiday declared by the governor.

Department—Department of Public Safety and Corrections, Office of Motor Vehicles.

Edit Error—a record submitted by an authorized manufacturer unacceptable for filing purposes due to the absence of information in a required field or the presence of invalid information in the key data fields is an *edit error*. Key data fields are identified and detailed in §405. A record which is returned to an authorized manufacturer as an *edit error* is not a filing. The record shall be corrected and re-reported within 15 business days of the return-date.

Return Filing Report—a report prepared by the department for an authorized manufacturer following completion of processing and editing of data. The report will contain any error records or, if no errors are found, a message stating "No Errors in File". It is the responsibility of the authorized manufacturer to review and take the necessary corrective action as required by these rules and regulations. If the file cannot be processed, no return report will be sent. The file must be corrected and all of the filing records must be resubmitted. None of the filing records submitted with an incomplete or incorrect header record will be accepted.

Test File Indicator—if the submitted file is a test file, the *test file indicator* must be set in the header record to insure that the test records are not uploaded to the database. The IT staff must be contacted to schedule a test prior to the test file being uploaded to the server.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:378.2(H).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2604 (December 2014).

§405. Record Formats

A. The following format shall be used by an authorized manufacturer for submitting electronic filing of the report required by R.S. 32:378.2(H).

1. Header Record

Char Pos	Type	Data Description	Format
1 - 4	Num (4)	Manufacturer Code	
5 - 12	Num (8)	Date Created	CCYYMMDD
13 - 19	Num (7)	Number of Records in Filing	9999999
20 - 20	Alpha (1)	Test File Indicator	T (Test) or P (Production)
21 - 176	Alpha (156)	Filler	Spaces
177 - 177	Num (1)	Record Type	3 (Header)

2. Interlock Filing Record

Char Pos	Type	Data Description	Format
1 - 9	Num (9)	Driver's License Number	Right justified, zero fill if not available
10 - 49	A/N (40)	Driver Name	Last, First
50 - 57	Num (8)	Driver DOB	CCYYMMDD
58 - 77	A/N (20)	Driver Street	
78 - 92	Alpha (15)	Driver City	
93 - 94	Alpha (2)	Driver State	
95 - 99	Num (5)	Driver Zip Code	
100 - 116	A/N (17)	VIN	
117 - 119	A/N (3)	Installer ID Code	
120 - 139	A/N (20)	Manufacturer's Name	
140 - 159	A/N (20)	Machine Serial Number	
160 - 167	Num (8)	Installation Date	CCYYMMDD
168 -175	Num (8)	Removal Date	CCYYMMDD
176 - 176	Num (1)	Reporting Type	1, 2, 3, 4, or 5
177 - 177	Num (1)	Record Type	1 (Data Record)

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:378.2(H).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2604 (December 2014).

§407. Data Requirements

A. Files. Authorized manufacturers may only send in one file per day to the secure DMZ move it server. This file must be named XXXX.txt where XXXX is equal to the manufacturer code number assigned to the authorized manufacturer by the department.

B. Records

1. Two types of records may be present on the file.

a. The first record in the file must be a header record and have record type = 3.

b. All subsequent records are the filing records and must have a record type = 1.

2. No trailer record is supplied. All records are 177 characters in length.

3. Record descriptions are in the Record Formats, §405 and the Record Description, §409.

C. Field Justification

1. Items with a field type of alpha or A/N should be left-justified and trailing characters space-filled.

2. Items with a field type of num should be right-justified and leading characters zero-filled.

D. Date Fields. The date fields, driver DOB, installation date and removal date must be reported in the format CCYYMMDD. For example, July 1, 2012 is entered as "20120701".

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:378.2(H).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2605 (December 2014).

§409. Record Descriptions

A. Header Record. The header record has a record type = "3". It must be the first record on the filing. Filings will not be processed if the header record does not pass all edit checks. If an error is encountered in the header record, no return report will be sent back to the servicing agent:

1. manufacturer code—number assigned by DPS IT section to authorized manufacturer. This is a required field;

2. date created—this is the date the file was created. This is a required field;

3. number of records in filing—number of records to be processed (This number should not include the header record.);

4. test indicator—T in the header indicates a test file; P indicates a production file. This is a required field;

5. filler—unused. Should be space filled;

6. record type—use a "3". This is a required field.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:378.2(H).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2605 (December 2014).

§411. Interlock Filing Record

A. The following fields are required unless otherwise noted. The filing records must have a record type = "1". If an error on any of the required fields is encountered, a description of the error will be written to the return report. These records will not be processed and must be corrected and resent:

1. driver's license number—driver's license (required);

2. driver name—the name of the person whose driver's license is being submitted (required);

3. driver dob—the date of birth of the person whose driver's license is being submitted (required);

4. driver street—the street address of the person whose driver's license is being submitted (required);

5. driver city—the city in which the person whose driver's license is being submitted resides (required);

6. driver state—the state in which the person whose driver's license is being submitted resides (required);

7. river zip code—the zip code of the person whose driver's license is being submitted (required);

8. VIN—The vehicle identification number of the vehicle the interlock is placed in (required);

9. installer ID code—code assigned by manufacturer used to identify individual installers;

10. manufacturer's name—the manufacturer's name on the interlock device installed in the vehicle (required);

11. machine serial number—the serial number on the interlock device installed in the vehicle (required);

12. installation date—the date the interlock device was installed in the vehicle (required);

13. removal date—the date the interlock device was removed from the vehicle (required);

14. reporting type—reporting types are "1" = Removed, "2" = Tampered, "3" = Failed to start test, "4" = Rolling retest failed, "5" = Install (required);

15. record type—record type is "1" (required).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:378.2(H).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2605 (December 2014).

§413. Reporting Instructions

A. The Louisiana Department of Public Safety and Corrections utilizes the move it server as the method of exchanging electronic data for interlock installation/removal reporting. The "information exchange" service allows secure electronic data transfer between the department and each authorized manufacturer. Any authorized manufacturer not currently reporting to OMV on the move it Server shall send an e-mail a request to access this system to Interlock@dps.la.gov for the purpose of reporting interlock installations/removals electronically.

B. A test filing shall be submitted for all new companies. A test filing shall also be submitted when record format changes are made. Please notify the Information Technology Center before a test file is sent to allow for scheduling. Files will not be tested unless scheduled.

C. Authorized manufacturers may only file once per business day. The department will retrieve filings only once per day. Any filing not sent before this retrieval time will be considered filed on the next day.

D. After processing, information will be returned back to the reporting authorized manufacturer. The returned data can be accessed via the move it server.

E. It is the responsibility of the authorized manufacturer to read the returned filing, correct any errors and resend the corrected filings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:378.2(H).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2606 (December 2014).

§415. Error Messages

A. The following error message will be sent for submissions by an authorized manufacturer:

1. driver name: "name required"—this is a required field. The correct format is last,first;

2. driver DOB:

a. "date of birth required"—this is a required field;

b. "DOB must be numeric"—this is a numeric field;

c. "DOB format is CCYYMMDD"—all dates are CCYYMMDD;

d. "DOB greater than today's date"—date of birth > process date;

3. driver street: "driver street required"—this is a required field;

4. driver city: "driver city required"—this is a required field;

5. driver state: "driver state required"—this is a required field;

6. driver zip code: "driver zip code required"—this is a required field;

a. driver zip code must be numeric"—this is a numeric field;

7. VIN: "VIN required"—this is a required field;

8. manufacturer's name: "manufacturer's name required"—this is a required field;

9. machine serial number: "serial number required"—this is a required field;

10. installation date: "installation date required"—this is a required field;

a. "installation date must be numeric"—this is a numeric field;

b. "installation date format is CCYYMMDD"—All dates are CCYYMMDD;

c. "installation date > today's date"—installation date cannot be in the future;

d. "installation date > removal date"—removal date cannot be prior to the installation date;

11. removal date: "removal date required"—this is a required field;

a. "removal date must be numeric"—this is a numeric field;

b. "removal date format is CCYYMMDD"—all dates are CCYYMMDD;

c. "removal date > today's date"—removal date cannot be in the future;

d. "removal date < installation date"—removal date cannot be prior to the installation date;

12. reporting type:

a. "reporting type is required"—this is a required field;

b. "reporting type is invalid"—this field must have a value of 1, 2, 3, 4 or 5;

13. record type: "record type required"—this is a required field.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:378.2(H).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2606 (December 2014).

§417. Contact Information

A. Procedural questions concerning this regulation should be referred to:

Mailing Address—
Attention: Impaired Driver Withdrawal Unit
LA DPS Office of Motor Vehicles
P.O. Box 64886
Baton Rouge, LA 70896

Email: Interlock@dps.la.gov
Phone Numbers: (225) 925-6146

B. Technical questions concerning this regulation should be referred to:

Mailing Address—
Attention: DMB Project Leader
Louisiana Dept. of Public Safety
Information Technology Center
8001 Independence Boulevard
Baton Rouge, LA 70806

Email: Interlock@dps.la.gov
Phone Number: (225) 925-6226

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:378.2(H).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2606 (December 2014).

Jill P. Boudreaux
Undersecretary

1412#074

RULE

Department of Public Safety and Corrections
Office of Motor Vehicles

Removal of License Plate when
Owner/Operator is Suspended (LAC 55:III.329)

In accordance with the provisions of R.S. 32:415.2, relative to the authority of the Office of Motor Vehicles, the Office of Motor Vehicles has adopted LAC 55:III, Chapter 3, Subchapter A, §329, to implement the provisions of R.S. 32:415.2 as enacted by Act 802 of the 2014 Regular Session as it relates to the removal of license plates and the revocation of registration privileges when the owner of a motor vehicle has been determined to be operating that motor vehicle with a suspended driver's license, and to provide for the issuance of a hardship license plate if the registration privileges are revoked.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles
Chapter 3. License Plates and Removal of Plates, Registrations, and Title Transactions
Subchapter A. Types of License Plates and Removal of Plates
§329. Removal of License Plate When Owner/Operator Is Suspended

A. At the time of a law enforcement stop, if the operator of the vehicle is found to have a suspended license and it is further determined that operator is the sole owner of the vehicle the following will occur.

1. Notice of suspension ticket will be issued to the operator of the vehicle.

2. A sticker will be placed on the back of the rear windshield of the vehicle being operated.

3. The law enforcement office will remove the plate from the vehicle.

4. The officer will turn the ticket and the plate into the local Office of Motor Vehicles office within three business days.

B. Upon receipt of the notice of suspension, the Office of Motor Vehicles will confirm the operator is the sole owner of the vehicle and their operating privileges were suspended at the time of the violation.

C. The owner/operator of the vehicle has 10 business days upon receiving the violation to clear their driving record of all fines and suspensions with the proper compliance to have their plate returned to them.

D. If the owner does not clear all fines and suspensions within the 10 business days of the issuance of the violation, the Office of Motor Vehicles will destroy the plate. Operators complying with the law after ten business days will be required to purchase a replacement plate and pay any applicable registration fees.

E. After the expiration of the 10 day period, the vehicle shall not be operated on the public streets and highways until the motor vehicle is registered in accordance with this law. In the event the motor vehicle is being driven after the expiration of the temporary sticker, the motor vehicle shall be impounded.

F.1. A hardship license plate will be issued for the vehicle being operated at the time of the violation if the applicant submits an application for hardship plate and provides sufficient documentation and information substantiating the claim that the removal of the vehicle's license plate and the suspension or revocation of his driving privileges will deprive him or his family of the necessities of life, or will prevent him or his family from earning a livelihood.

2. If the department finds that the removal of the vehicle's license plate and the suspension or revocation of his driving privileges will deprive him or his family of the necessities of life, or will prevent him or his family from earning a livelihood, the department may issue a hardship license plate to be placed on the motor vehicle.

3. A hardship license plate shall be a valid plate type on all motor vehicles with the exception of those operating under one of the following plate types at the time of the violation. The following plate types at the time of the violation shall be eligible for reissue of the same plate type. The vehicle record will be flagged as having been issued a notice of suspension and use of the vehicle is being permitted as a result of a departmentally approved hardship:

a. mobility impaired plate;
b. hearing impaired plate;
c. disabled veteran plate;
d. forest plate;
e. gravel plate;
f. city use plate;
g. farm plate.

4. A hardship license plate is not a driver's license, and is not an authorization to drive for a person whose driving privileges are suspended or otherwise denied. Any person operating a motor vehicle with a hardship plate shall possess a valid driver's license at all times, and such person shall comply with all laws regulating driver's licenses and driving privileges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:415.2 (D)(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2607 (December 2014).

Jill P. Boudreaux
Undersecretary

1412#075

RULE

Department of Public Safety and Corrections
Office of Motor Vehicles

Title Transactions (LAC 55:III.395 and 397)

In accordance with the provisions of R.S. 32:705.1 for donations of motor vehicles in connection with a new car dealer transaction and R.S. 32:707(O) for water damaged vehicles which do not meet the salvage threshold, relative to the authority of the Office of Motor Vehicles, the Office of Motor Vehicles has adopted LAC 55:III, Chapter 3, Subchapter D, §395, to implement the provisions of R.S. 32:705.1 as enacted by Act 464 of the 2014 Regular Session as it relates to water damaged vehicles, and has adopted LAC 55:III, Chapter 3, Subchapter D, §397, to implement the provisions of R.S. 32:707(O) as it relates to donated motor vehicles in connection with a transaction at a dealer

licensed by the Louisiana Motor Vehicle Commission. Subchapter D as well as §395 and §397 are new Sections and do not amend or repeal any existing Sections.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles
Chapter 3. License Plates and Removal of Plates, Registrations, and Title Transactions
Subchapter D. Title Transactions
§395. Donations by Manual Gift at a Louisiana Motor Vehicle Commission Licensed Dealer

A. The donation of a titled motor vehicle by manual gift as provided by *Civil Cod*e article 1543 and documented by delivery of the motor vehicle's previously issued certificate of title that is executed by the donor-owner may be submitted to the Office of Motor Vehicles in connection with a motor vehicle transaction by a Louisiana Motor Vehicle Commission licensed dealer.

B. Subsequent to donation of a titled motor vehicle by manual gift authorized in the previous paragraph, the licensed dealer shall cause the donor and the donee to execute the form approved by the department that memorialized the fact the donation was accomplished by manual gift. This completed form, together with the previously issued title, duly endorsed, shall accompany the paperwork submitted by, or on behalf of the dealer, to the Office of Motor Vehicles.

C. Any transaction, which includes a donation by manual gift, submitted by, or on behalf of the dealer, to the Office of Motor Vehicles, which does not include the completed form required in this Section, shall not be processed and shall be returned to the dealer who submitted the transactions.

D. Nothing in this Section shall prohibit a dealer licensed by the Louisiana Motor Vehicle Commission from submitting a transaction which includes a donation by authentic act.

E. Donations of motor vehicles not associated with a transaction by a dealer licensed by the Louisiana Motor Vehicle Commission shall be by authentic act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:705.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2608 (December 2014).

§397. Water Damaged Vehicles

A. A motor vehicle whose power train, computer, or electrical systems have sustained water damage that does not meet the criteria for a salvage title or a certificate of destruction, shall be issued a branded title indicating the vehicle has sustained water damage.

B. The power train shall include the main components that generate power and deliver the power to the road surface, including but not limited to the engine, the transmission or transaxle including associated axles and CV joints, the drive shafts, and the differentials.

C. The insurance company, owner, or dealer, applying for the water damage brand on a motor vehicle which does not meet the criteria for a salvage title or certificate of destruction shall provide documentation satisfactory to the Office of Motor Vehicle documenting the value of the vehicle, the damages sustained, the circumstance that caused the damage, and the amount of the costs of the repairs to the vehicle which establish the vehicles eligibility for the brand authorized in this Section.

D. A vehicle which meets the criteria for a salvage title or a certificate of destructions shall not be issue the certificate of title with the water damage brand authorized in this section. A vehicle which meets the criteria salvage title or certificate of destruction shall be issued the respective title document associated with its damages and the circumstances that caused the damages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:707(O).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:2608 (December 2014).

Jill P. Bourdreaux
Undersecretary

1412#073

RULE

Department of Public Safety
Office of State Police

Explosives—Inventory Reporting and Recordkeeping
(LAC 33:V.10107 and LAC 55:I.1505)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., R.S. 30:2361 et seq., and R.S. 40:1472.1 et seq., hereby amends its rules regulating hazardous materials and explosives to establish a five year retention period for explosives records and to specify inventory reporting requirements for explosives magazines.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Wastes and Hazardous Materials
Subpart 2. Department of Public Safety and Corrections—Hazardous Materials
Chapter 101. Hazardous Material Information Development, Preparedness and Response Act
§10107. Alternate Means of Compliance—Inventory Reporting

A. - C.4.a. ...

b. Facilities with type 2 explosives magazines and/or type 3 explosives magazines as described in LAC 55, Part I, Chapter 15, licensed pursuant to and in full compliance with the Louisiana State Police Explosives Code are exempt from inventory reporting if no hazardous materials other than explosives are present on the facility. However, all incidents or releases involving explosives are subject to the reporting required herein. Facilities with type 1, type 4, and/or type 5 explosives magazines as described in LAC 55, Part I, Chapter 15, shall file annual inventory reports.

5. - 6.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:759 (December 1987), LR 14:802 (November 1988), LR 16:974

(November 1990), LR 27:859 (June 2001), LR 31:693 (March 2005), amended LR 40:2608 (December 2014).

Title 55
PUBLIC SAFETY
Part I. State Police
Chapter 15. Explosives Code
Subchapter A. General
§ 1505. General Administrative Requirements

A. - K.1. ...

L. Licensees shall keep records required by this Chapter on the business premises for five years from the date a transaction occurs or until discontinuance of business or operations by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:2674 (December 2008), LR 35:491 (March 2009), LR 36:550 (March 2010), LR 40:2609 (December 2014).

Jill P. Boudreaux
Undersecretary

1412#044

RULE

Department of Public Safety and Corrections
Uniform Construction Code Council

Uniform Construction Code (LAC 55:VI.301 and 901)

In accordance with the provisions of R.S. 40:1730.22(C) and (D), R.S. 40:1730.26 and R.S. 40:1730.28, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules and in accordance with R.S. 49:953(B), the Administrative Procedure Act, the Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) hereby amends and adopts the following Rule regarding construction codes and registration by replacing the Louisiana one- and two-family supplement to the 2006 *International Mechanical Code* with the 2012 IRC Part V-Mechanical, replacing the 2006 IRC chapter 11 reference with the 2009 IRC chapter 11 reference, adopting appendix G of the 2012 IRC and by allowing currently employed individuals to have provisional certifications if promoted to a position.

Title 55
PUBLIC SAFETY
Part VI. Uniform Construction Code
Chapter 3. Adoption of the Louisiana State Uniform Construction Code
§301. Louisiana State Uniform Construction Code

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective January 1, 2015 the following is hereby adopted as an amendment to the Louisiana State Uniform Construction Code. (The "Louisiana State Plumbing Code" shall replace all references to the "International Plumbing Code" in the following codes.)

1. - 2. …

3.a. *International Residential Code*, 2012 Edition, not including Parts I-Administrative, VII-Plumbing and VIII-Electrical. The applicable standards referenced in that code are included for regulation of construction within this state. The enforcement of such standards shall be mandatory only with respect to new construction, reconstruction, additions to homes previously built to the International Residential Code, and extensive alterations. Appendix G, Swimming Pools, Spas and Hot Tubs is adopted and at the option of a parish, municipality, or regional planning commission, Section AG105 Barrier Requirements may be altered. Appendix J, Existing Buildings and Structures, may be adopted and enforced only at the option of a parish, municipality, or regional planning commission.

a.i. - c.i. …

d. Amend Section R303.4 Mechanical Ventilation. When a blower door test is performed, and the air infiltration rate of a dwelling unit is less than 5 air changes per hour when tested in accordance with the 2009 IRC Section N1102.4.2.1, the dwelling unit shall be provided with whole-house mechanical ventilation in accordance with Section M1507.3.

e. Additionally, IRC shall be amended as follows and shall only apply to the International Residential Code.

i. Adopt and Amend 2012 IRC Section 313.1 Townhouse Automatic Sprinkler System. Per Act No. 685 of the 2010 Regular Session of the Louisiana Legislature, the council shall not adopt or enforce any part of the International Residential Code or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings. Further, no municipality or parish shall adopt or enforce an ordinance or other regulation requiring a fire protection sprinkler system in one- or two-family dwellings. Where no sprinkler system is installed a common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. Electrical installations shall be installed in accordance with the 2011 NEC. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4

(a). Exception: If an owner voluntarily chooses to install an automatic residential fire sprinkler system it shall be installed per Section R313.1.1 Design and installation. Automatic residential fire sprinkler systems for *townhouses* shall be designed and installed in accordance with NFPA 13D and Table 302.1 (2) Exterior Walls-Dwellings with Fire sprinklers may be used for separation requirements.

ii. Adopt and Amend 2012 IRC Section 313.2 One- and Two-Family Dwellings Automatic Fire Systems. Per Act No. 685 of the 2010 Regular Session of the Louisiana Legislature, the Council shall not adopt or enforce any part of the *International Residential Code* or any other code or regulation that requires a fire protection sprinkler system in one- or two-family dwellings. Further, no municipality or parish shall adopt or enforce an ordinance or

other regulation requiring a fire protection sprinkler system in one- or two-family dwellings.

(a). Exception: If an owner voluntarily choses to install an automatic residential fire sprinkler system it shall be installed per Section R313.2.1 Design and installation. Automatic residential fire sprinkler systems shall be designed and installed in accordance with NFPA 13D and Table 302.1(2) Exterior Walls-Dwellings with Fire sprinklers may be used for separation requirements.

iii. Amend Chapter 3, Section R315.2, Where Required in Existing Dwellings. When alterations, repairs or additions occur or where one or more sleeping rooms are added or created in existing dwellings that have attached garages or in existing dwellings within which fuel fired appliances exist, carbon monoxide alarms shall be provided in accordance with Section R315.1.

iv. Substitute Chapter 3, Section R317, Dwelling Unit Separation of the 2006 IRC, in lieu of the Section 313, Automatic Fire Sprinkler Systems of the 2009 IRC. In addition, Chapter 3, Section R 302.2, Townhouses of the 2009 IRC, is amended as follows.

(a). Exceptions

(i). A common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall.

(ii). Electrical installations shall be installed in accordance with Chapters 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

(iii). Chapter 3, Section R302.2.4, Structural Independence of the 2009 IRC, is amended as follows: Exception: Number 5, Townhouses, separated by a common 2-hour fire-resistance-rated wall as provided in Section R302.2.

v. Adopt 2012 IRC Table 602.3 (1) Fastening Requirements.

vi. Amend 2012 IRC Section R703.8 Flashing. Approved corrosion-resistant flashing shall be applied shingle-fashion in a manner to prevent entry of water into the wall cavity or penetration of water to the building structural framing components. Self-adhered membranes used as flashing shall comply with AAMA 711. The flashing shall extend to the surface of the exterior wall finish. Approved corrosion-resistant flashings shall be installed at all of the following locations:

(a). exterior window and door openings. Flashing at exterior window and door openings shall extend to the surface of the exterior wall finish or to the water-resistive barrier for subsequent drainage;

(b). at the intersection of chimneys or other masonry construction with frame or stucco walls, with projecting lips on both sides under stucco copings;

(c). under and at the ends of masonry, wood or metal copings and sills;

(d). continuously above all projecting wood trim;

(e). where exterior porches, decks or stairs attach to a wall or floor assembly of wood-frame construction;

(f). at wall and roof intersections;

(g). at built-in gutters.

vii. Adopt 2012 IRC Section R802.11 Roof tie-down.

viii. Adopt 2012 IRC Table R802.11 Rafters.

ix. Amend Section R806.1 Ventilation Required.

(a). Enclosed attics and enclosed rafter spaces formed where ceilings are applied directly to the underside of roof rafters shall have cross ventilation for each separate space by ventilating openings protected against the entrance of rain or snow. Ventilation openings shall have a least dimension of 1/16 inch (1.6 mm) minimum and 1/4 inch (6.4 mm) maximum. Ventilation openings having a least dimension larger than 1/4 inch (6.4 mm) shall be provided with corrosion-resistant wire cloth screening, hardware cloth, or similar material with openings having a least dimension of 1/16 inch (1.6 mm) minimum and 1/4 inch (6.4 mm) maximum. Openings in roof framing members shall conform to the requirements of Section R802.7. Required ventilation openings shall open directly to the outside air.

x. Amend Section R 1006.1 Exterior Air. Factory-built or masonry fireplaces covered in this chapter shall be equipped with an exterior air supply to assure proper fuel combustion.

f. Substitute Chapter 11, Energy Efficiency of the 2009 IRC, in lieu of Chapter 11 Energy Efficiency of the 2012 IRC.

i. Amend Section N1102.3 Access Hatches and Doors. Access doors from *conditioned spaces* to unconditioned spaces shall be weather-stripped and have a minimum insulation value of a R-4.

ii.. Amend Section N1102.4.2 Air Sealing and Insulation. The air tightness demonstration method of compliance is to be determined by the contractor, design professional or homeowner.

iii.. Amend Section N1102.4.2.1 Testing Option. Tested air leakage is less than 7 ACH when tested with a blower door at a pressure of 50 pascals (0.007 psi). Testing shall occur after rough in and after installation of penetrations of the building envelope, including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances. When the contractor, design professional or homeowner chooses the blower door testing option, blower door testing shall be performed by individuals certified to perform blower door tests by a nationally recognized organization that trains and provides certification exams for the proper procedures to perform such tests. The responsible BCEO shall accept written blower door test reports from these certified individuals to verify the minimum requirements of Section N1102.4.2.1 Testing Option are attained.

(a). During testing:

(i). exterior windows and doors, fireplace and stove doors shall be closed, but not sealed;

(ii). dampers shall be closed, but not sealed; including exhaust, intake, makeup air, back draft, and flue dampers;

(iii). interior doors shall be open;

(iv). exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;

(v). heating and cooling system(s) shall be turned off;

(vi). HVAC ducts shall not be sealed; and

(vii). supply and return registers shall not be sealed.

iv. Amend Section N1102.4.3 Fireplaces, New wood-burning fireplaces shall have outdoor combustion air.

vi. Amend Section N1103.2.2 Sealing, Ducts, air handlers, filter boxes and building cavities used as ducts shall be sealed. Joints and seams shall comply with section M1601.4. Duct leakage testing shall be performed by individuals certified to perform duct leakage tests by a nationally recognized organization that trains and provides certification exams for the proper procedures to perform such tests. The responsible BCEO shall accept written duct leakage test reports from these certified individuals to verify the minimum requirements of Section N1103.2.2 Sealing are attained.

(a). Exception: HVAC Contractors. HVAC contractors, who are not certified to perform duct leakage tests, may perform the test with the responsible BCEO visually verifying test procedures and results on site.

(b). Joints and seams shall comply with section M1601.4. Duct tightness shall be verified by either for the following:

(i). Post-Construction Test. Leakage to outdoors shall be less than or equal to 8 cfm (3.78 L/s) per 100 ft^2 (9.29 m^2) of conditioned floor area or a total leakage less than or equal to 12 cfm (5.66 L/s) per 100 ft^2 (9.29 m^2) of conditioned floor area when tested at a pressure differential of 0.1 inch w.g. (25 Pa) across the entire system, including the manufacturer's air handler end closure. All register boots shall be taped or otherwise sealed during the test.

(ii). Rough-In Test. Total leakage shall be less than or equal to 6 cfm (2.83 L/s) per 100 ft^2 (9.29 m^2) of conditioned floor area when tested at a pressure differential of 0.1 inch w.g. (25 Pa) across the roughed in system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 4 cfm (1.89 L/s) per 100 ft^2 (9.29 m^2) of conditioned floor area.

(c). Exception: Duct tightness test is not required if the air handler and all ducts are located within *conditioned space*.

vii. Amend Section N1103.8.3 Pool Covers. Pool covers shall not be required to meet the energy efficiency requirements of this Section.

viii. Amend Section M1307.3.1 Protection from Impact. Appliances shall not be installed in a location subject to automobile or truck damage except where protected by approved barriers

ix. Amend Section M1507.3.1 System Design. The whole-house ventilation system shall consist of a combination of supply and exhaust fans, and associated ducts and controls. Local exhaust and supply fans are permitted to serve as such a system. Outdoor air ducts connected to the return side of an air handler shall be considered to provide supply ventilation.

x. Amend Section M1507.3.2 System Controls. The whole-house mechanical ventilation system shall be provided with controls that enable manual override and a method of air-flow adjustment.

xi. Amend Section M1507.3.3 Mechanical Ventilation Rate. The whole-house mechanical ventilation system shall be able to provide outdoor air at a continuous rate of at least that determined in accordance with Table M1507.3.3(1).

xii. Amend Section M1507.4 Minimum Required Local Exhaust. Local exhaust systems shall be designed to have the capacity to exhaust the minimum air flow rate as follows.

(a). Kitchen: 100 cfm intermittent or 25 cfm continuous, a balanced ventilation system is required for continuous exhaust.

(b). Bathrooms: exhaust capacity of 50 cfm intermittent or 20 cfm continuous, a balanced ventilation system is required for continuous exhaust.

4.a. *International Mechanical Code* (IMC), 2012 Edition, and the standards referenced in that code for regulation of construction within this state.

4.b. - 7. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), amended LR 37:3065 (October 2011), LR 38:1994 (August 2012), LR 39:2512 (September 2013), LR 40:2609 (December 2014).

Chapter 9. Temporary Exemption to Certification Requirement

§901. Employment after January 1, 2007

A. Upon employment or if currently employed and promoted to a specific certification by a parish, municipality, or other political subdivision, an individual must be granted a provisional certificate of registration without certification by a recognized code organization or testing agency, provided that such individual is under the supervision of a registered code enforcement officer who is certified by the International Code Council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:293 (February 2007), amended LR 35:2821 (December 2009), repromulgated LR 36:329 (February 2010), amended LR 40:2611 (December 2014).

Jill P. Boudreaux
Undersecretary

1412#059

RULE

Department of Revenue
Policy Services Division

Income Tax Credits for Solar Energy Systems
(LAC 61:I.1907)

Under the authority of R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6030, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.1907 relative to income tax credits for solar energy systems.

The primary purpose of this regulation is to amend LAC 61:I.1907 to update the income tax regulation relative to changes resulting from Act 428 of the 2013 Regular Session of the Louisiana Legislature.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered By the Secretary of Revenue
Chapter 19. Miscellaneous Tax Exemptions
§1907. Income Tax Credits for Solar Energy Systems

A. Revised Statute 47:6030 provides an income tax credit for the purchase and installation of a solar electric system, solar thermal system or any combination of components thereof, collectively referred to as a "system," at a single family residence located in Louisiana. In order for costs associated with the purchase and installation of a solar electric system or solar thermal system to qualify for this credit, the expenditure must be made on or after January 1, 2008, and before January 1, 2018.

1. Purchase of Solar Energy System. The amount of the credit for the purchase and installation of a system at a Louisiana residence or for a system which is already installed in a newly constructed home located in Louisiana is equal to 50 percent of the first $25,000 of the cost of a solar electric system, solar thermal system, or any combination of components thereof.

2. Lease of Solar Energy System

a. The amount of the credit for the purchase and installation of a system before January 1, 2014, at a Louisiana residence by a third party through a lease with the owner of the residence is equal to 50 percent of the first $25,000 of the cost of a solar electric system, solar thermal system, or any combination of components thereof.

b. The amount of the credit for the purchase and installation of a system on or after January 1, 2014 and before January 1, 2018, at a Louisiana residence by a third party through a lease with the owner of the residence is equal to 38 percent of the first $25,000 of the cost of a solar electric system, solar thermal system, or any combination of components thereof.

3. Additional Lease of Solar Energy System Restrictions. For purposes of determining the amount of credit for the purchase and installation of a system at a Louisiana residence by a third party through a lease with the owner of the residence, eligible costs of the system shall be subject to the following provisions.

a. For a system purchased and installed on or after July 1, 2013 and before July 1, 2014, the system shall cost no more than four dollars and fifty cents per watt and provide for no more than six kilowatts of energy.

b. For a system purchased and installed on or after July 1, 2014 and before July 1, 2015, the system shall cost no more than three dollars and fifty cents per watt and provide no more than six kilowatts of energy.

c. For a system purchased and installed on or after July 1, 2015 and before January 1, 2018, the system shall cost no more than two dollars per watt and provide for no more than six kilowatts of energy.

B. Definitions

Charge Controller—an apparatus designed to control the state of charge of a bank of batteries.

Grid-Connected, Net Metering System—a solar electric system interconnected with the utility grid in which the customer pays the utility for only the net energy used from the utility minus the energy fed into the grid by the customer. All interconnections must be in accordance with the capacity, safety and performance interconnection standards adopted as part of the appropriate, established net metering rules and procedures of the Louisiana Public Service Commission, the New Orleans City Council, or other Louisiana utility regulatory entity.

Home—a single-family detached dwelling.

Inverter—an apparatus designed to convert direct current (DC) electrical energy to alternating current (AC) electrical energy. Modern inverters also perform a variety of safety and power conditioning functions that allow them to safely interconnect with the electrical grid.

Manufactured or *Produced*—wholly the growth, product, or *manufacture* of the United States or a country to which the United States is a party to an international agreement meeting the criteria of the American Recovery and Reinvestment Act of 2009 (ARRA) or in the case of a *manufactured* good that consists in whole or in part of materials from a non-ARRA compliant country, has been substantially transformed in an ARRA-compliant country into a new and different *manufactured* good distinct from the materials from which it was transformed. This definition has been adopted in accordance with 2 CFR §176.160.

Photovoltaic Panel—a panel consisting of a collection of solar cells capable of producing direct current (DC) electrical energy when exposed to sunlight.

Placed in Service—fully operational and in a current state of delivering solar energy to the qualifying residence in a manner consistent with the intended purpose of the solar energy system.

Residence—a single family detached dwelling. To be considered a *residence*, the physical properties of the space must provide the basic elements of a home, including appropriate and customary appliances and facilities and the occupant must use the facilities as a home. All eligible *residences* must be located in Louisiana.

Solar Electric System—a system consisting of photovoltaic panels with the primary purpose of converting sunlight to electrical energy and all equipment and apparatus necessary to connect, store and process the electrical energy for connection to and use by an electrical load.

Solar Thermal System—a system consisting of a solar energy collector with the primary purpose of converting sunlight to thermal energy and all devices and apparatus necessary to transfer and store the collected thermal energy for the purposes of heating water, space heating, or space cooling.

Supplemental Heating Equipment—a device or apparatus installed in a solar thermal system that utilizes energy sources other than sunlight to add heat to the system, with the exception of factory installed auxiliary heat strips that are an integral component of a specifically engineered solar hot water storage tank.

C. Eligibility for Solar Energy Systems Tax Credits

1. Regardless of the number of system components installed on each qualifying residence, such components shall constitute a single system for each residence for purposes of the tax credit.

2. All solar energy systems must be installed in the immediate vicinity of the residence claiming the credit such that the electrical, mechanical or thermal energy is delivered directly to the residence.

3. In order to claim a tax credit for either a solar electric energy system, solar thermal energy system, or a combination of components thereof, the components of a system must be purchased and installed at the same time as a system.

4. For a taxpayer other than the owner of the residence to claim a tax credit for a solar electric energy system, solar thermal energy system, or combination of components thereof, the taxpayer must provide the department with a copy of the contract in which the owner of the residence has clearly and unambiguously stated that he is not entitled to and will not claim the tax credit and thereby transfers his right to claim the tax credit to the installer, developer or third-party taxpayer. Absent such a contract, the owner of the residence is the only taxpayer eligible to claim the credit and the installer, developer or third-party taxpayer shall have no right to the credit. For an installer, developer, or third-party taxpayer who purchases a system for installation at another person's residence in connection with a lease of the system by the owner of the residence, the transfer of the right to obtain the credit from the homeowner to the installer, developer or third-party taxpayer shall be regarded as taxable consideration received in exchange for the homeowners' right to use or possess the solar energy system. In such instances, the installer, developer or third-party taxpayer shall be responsible for collecting and remitting the sales tax on the full amount of the credit received.

D. Claiming the Solar Energy Systems Tax Credit

1. The credit for the purchase and installation of a solar energy system by a taxpayer at his residence shall be claimed by the taxpayer on his Louisiana individual income tax return for the taxable year in which the system is completed and placed in service. If a taxpayer purchases a newly constructed home with a system already installed, the credit shall be claimed on the tax return for the taxable year in which the act of sale occurred.

2. The credit for the purchase and installation of a solar energy system by a third-party taxpayer at another person's residence through a lease with the owner of the residence shall be claimed by the taxpayer on his Louisiana individual, corporate or fiduciary income tax return for the taxable year in which the system is completed and placed in service.

E. Solar Energy Systems Eligible for the Tax Credit

1. The credit provided by R.S. 47:6030 is only allowed for a complete and functioning solar energy system. Local and state sales and use taxes are an eligible system cost. With respect to each residence, only one tax credit for the purchase and installation of a single system shall be allowed. Any additional system(s) or equipment added at a later date will not qualify for additional credit. This provision also applies to residences which have claimed a solar tax credit prior to July 1, 2013 and shall in no way be construed or interpreted to allow more than one tax credit for any residence.

2. System components purchased on or after July 1, 2013, for all solar electric or solar thermal energy systems must be compliant with the federal American Recovery and Reinvestment Act of 2009. This requirement applies to all credit-eligible components as described below in Subsection E. Components which are manufactured or produced in the United States or in a country with which the United States is a party to an international agreement meeting the criteria of ARRA will generally be regarded as ARRA compliant. For additional information, see *Revenue Information Bulletin 13-013*.

3. Non-ARRA compliant system components purchased prior to July 1, 2013, may qualify for credit provided that:

a. such system components are incorporated into a system that is placed in service prior to January 1, 2014; and

b. the purchaser provides written documentation of the pre-July 1, 2013 date of purchase of the eligible components.

4. Solar Electric Systems. Eligible solar electric systems under the provisions of R.S. 47:6030 include grid-connected net metering systems, grid-connected net metering systems with battery backup, stand alone alternating current (AC) systems and stand alone direct current (DC) systems, designed to produce electrical energy and may include the following.

System Type	Eligible System Components
Grid-Connected, Net Metering Solar Electric Systems	photovoltaic panels, mounting systems, inverters, AC and DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Grid-Connected, Net Metering Solar Electric Systems with Battery Backup	photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC and DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric AC Systems	photovoltaic panels, mounting systems, inverters, charge controllers, batteries, battery cases, AC and DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load
Stand Alone Solar Electric DC Systems	photovoltaic panels, mounting systems, charge controllers, batteries, battery cases, DC disconnects, lightning and ground fault protection, junction boxes, remote metering display devices and related electrical wiring materials from the photovoltaic panels to point of interconnection with the residence or electrical load

5. Solar Thermal Systems. Solar thermal systems eligible under the provisions of R.S. 47:6030 include systems designed to produce domestic hot water, systems designed to produce thermal energy for use in heating and cooling systems and may include the following.

System Type	Eligible System Components
Domestic Solar Hot Water Systems	solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks
Heating and Cooling Thermal Energy Systems	solar thermal collectors, mounting systems, solar hot water storage tanks, pumps, heat exchangers, drain back tanks, expansion tanks, controllers, sensors, valves, freeze protection devices, air elimination devices, photovoltaic panels for PV systems, piping and other related materials from the solar thermal collectors to the solar hot water storage tanks

6. Solar energy systems not installed on the rooftop of the residence but installed on the qualifying property shall constitute a free standing ground mounted system. Ground mounted solar energy systems include but are not limited to single pole mounted structures, multiple pole mounted structures utilizing a foundation if necessary. Additional walls, interior finishes, foundations, roofing structures not directly related to the solar energy system, or any other addition not directly related to the solar energy structure are not eligible system costs. Ground mounted systems must be no more than 8' feet in height at its lowest point if titled unless specific building codes and/or flood plain restrictions apply. Each qualifying free standing ground mounted system must be separately itemized from any and all other energy components included in a taxpayer's submitted Form R-1086.

NOTE: Form R-1086 is used for purposes of claiming the Solar Energy Systems Tax Credit.

7. Any solar energy system for which a tax credit is claimed shall include an operations and maintenance manual containing a working diagram of the system, explanations of the operations and functions of the component parts of the system and general maintenance procedures.

8. All photovoltaic panels, inverters and other electrical apparatus claiming the tax credit must be tested and certified by a Federal Occupational Safety and Health Administration (OSHA) nationally recognized testing laboratory and must be installed in compliance with manufacturer specifications and all applicable building and electrical codes.

9. All photovoltaic systems installed at a tilt angle greater than 5 degrees shall have an azimuth greater than 80 degrees E and no more than 280 degrees W. North facing solar panels generally do not conform to industry best practices unless criteria above are satisfied.

10. All solar thermal apparatus claiming the tax credit must be certified by the Solar Rating and Certification Corporation (SRCC) and installed in compliance with manufacturer specifications and all applicable building and plumbing codes.

11. Applicants applying for the tax credit on either a solar electric or solar thermal system must provide proof of purchase and installation to the Louisiana Department of Revenue detailing the following as applicable to your particular solar energy system installation:

a. type of system applying for the tax credit;

b. output capacity of the system:

i. solar electric systems—total nameplate listed kW of all installed panels;

ii. solar thermal systems—listed SRCC annual BTU or equivalent kWh output;

c. physical address where the system is installed in the state;

d. total cost of the system as applied towards the tax credit separated in an itemized list by:

i. equipment costs;

ii. installation costs;

iii. taxes;

e. make, model, and serial number of photovoltaic panels, inverters, and solar thermal collectors applied for in the tax credit;

f. name and Louisiana contractor's license number of seller/installer;

g. if applicable, copy of the modeled array output report using the PV watts solar system performance calculator developed by the National Renewable Energy Laboratory and available at the website www.nrel.gov/rredc/pvwatts. The analysis must be performed using the default PV watts de-rate factor;

h. copy of a solar site shading analysis conducted on the installation site using a recognized industry site assessment tool such as a solar pathfinder or solmetric demonstrating the suitability of the site for installation of a solar energy system;

i. conveyance certificate, deed or other legal document which evidences the owner of the residence.

j. when a system is installed by a third-party owner, a complete and signed declaration by residential property owner not claiming the solar energy income tax credit;

k. for a system already installed in a newly constructed home located in Louisiana, a copy of the sale agreement or other legal document which evidences the date of sale;

l. for a system other than one which is already installed in a newly constructed home located in Louisiana, a copy of the interconnection agreement for net metering or other document which evidences the effective placed in service date;

m. if applicable, an itemized list of all non-ARRA compliant components incorporated into the system which demonstrates a pre-July 1, 2013 purchase date. Additional documentation, such as an invoice, receipt, or other written documentation demonstrating the date of purchase of such components should be retained and made available for production by the taxpayer upon demand by the Department of Revenue;

n. For all components purchased on or after July 1, 2013, documentation which demonstrates ARRA compliance, such as a receipt, invoice, certification from the distributor, vendor, supplier or manufacturer or any other reasonable documentation which verifies the component was manufactured or produced in the United States or other qualifying country.

F. Costs

1. Eligible Costs. Eligible costs that can be included under the tax credit are reasonable and prudent costs for equipment and installation of the solar energy systems defined in Subsection B and described in Subsection E above.

a. All eligible solar energy systems must be sold and installed by a contractor duly licensed by and in good standing with the Louisiana Contractors Licensing Board. For purposes of satisfying the requirement that a solar energy system be sold by and installed by a person who is licensed by the Louisiana State Licensing Board for Contractors, a lease between a third party and the owner of the residence shall not constitute a "sale."

b. In order for a homeowner who self-installs a solar energy system at the homeowner's own residence to qualify for the solar energy systems tax credit, the homeowner must be licensed by the Louisiana State Board for Contractors.

2. Ineligible Costs. Labor costs for individuals performing their own installations are not eligible for inclusion under the tax credit. For purposes of this Paragraph, "individuals" shall mean natural persons as defined in *Civil Code* article 24. For all other taxpayers, labor costs for unrelated services, including, but not limited to tree trimming and tree removal, are not eligible under the tax credit. Supplemental heating and cooling (HVAC) equipment costs used with solar collectors are not eligible for inclusion under the tax credit. Other items ineligible for a solar energy systems tax credit include, but are not limited to the following: stand alone solar powered attic fans or ventilation systems, solar powered lights, solar day lighting apparatuses, solar powered pool pumps, solar pool heating systems, and all other stand-alone solar device(s).

3. Whenever, in return for the purchase price or as an inducement to make a purchase, marketing rebates or incentives are offered, the eligible cost shall be reduced by the fair market value of the marketing rebate or incentive received. Such marketing rebates or incentives include, but are not limited to, cash rebates, prizes, gift certificates, trips, energy efficiency improvements not directed related to solar energy installation, including, but not limited to spray foam insulation, radiant barrier, window sealing and/or caulking, heating and air conditioning improvements, blower door testing, thermostat upgrades which are not an integral part of the solar energy monitoring system, domestic hot system upgrades not related to solar hot water system insulation, or any other thing of value given by the installer or manufacturer to the customer as an inducement to purchase an eligible solar energy system.

4. Only one solar energy systems tax credit is available for each residence. In addition, in the event of purchase and installation by a third-party taxpayer through a lease with the owner of the residence, only one solar energy systems tax credit is available for each eligible system. Once a solar energy systems tax credit is claimed by a taxpayer for a particular residence or system, that same residence or system is not eligible for any other tax credit pursuant to this Section. If the residential property or system is sold, the taxpayer who claimed the tax credit must disclose his use of the tax credit to the purchaser.

G. Other Tax Benefits Disallowed

1. A taxpayer shall not receive any other state tax credit, exemption, exclusion, deduction, or any other tax benefit for solar property for which the taxpayer has received a solar electric energy system or solar thermal energy system credit under R.S. 47:6030.

2. Exception. The credit may be used in addition to any federal tax credits earned for the same system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6030 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, LR 34:2206 (October 2008), amended LR 36:2048 (September 2010), amended by the Department of Revenue, Policy Services Division, LR 37:3532 (December 2011), LR 39:99 (January 2013), LR 40:2612 (December 2014).

Tim Barfield
Secretary

1412#109

RULE

Department of Revenue
Policy Services Division

Remittance of Tax Under Protest, Suits, or Petitions to Recover (LAC 61:I.4907)

Under the authority of R.S. 47:1576 and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, has amended LAC 61:I.4907.

The primary purpose of this regulation is to amend LAC 61:I.4907 relative to changes resulting from Act 198 of the 2014 Regular Session of the Louisiana Legislature and to more accurately align the regulation with the provisions of R.S. 47:1576.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered By the Secretary of Revenue
Chapter 49. Tax Collection
§4907. Remittance of Tax under Protest, Suits or Petitions to Recover

A. Except as provided in R.S. 47:1576(A)(1)(b), any taxpayer protesting the payment of any amount found due by the secretary or the enforcement of any provision of the tax laws in relation thereto, shall remit to the Department of Revenue the amount due, including tax, interest and penalties. At such time, the taxpayer must give notice of its intention to either: file suit in district court; or file a petition at the Board of Tax Appeals for the recovery of such tax. Accordingly, amounts remitted to the department must be deemed at the time remitted as a payment under protest by including notice of intention to either: file suit in district court; or file a petition at the Board of Tax Appeals for recovery of such tax.

1. Overpayments of income tax designated on the prior year's return as an amount of overpayment to be credited to the next year's return cannot be designated as payment under protest.

2. Pending claims for refund cannot be designated as payment under protest.

B. The taxpayer has 30 days from the date of notice to the Department of Revenue of the intention to file suit or petition for recovery of tax paid under protest to file a suit or petition for the recovery of such tax. However, in instances

when the payment of tax under protest is required before the amount of tax due is determinable, the taxpayer has 30 days from the due date of the return or the extended due date of the return to file suit or petition for recovery of the taxes paid under protest.

C. There shall be no penalty for underpayment of estimated tax with regard to amounts paid under protest and such amounts paid under protest shall not be due until the due date of the return without regard to extensions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1576.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income Tax Division, LR 22:1230 (December 1996), amended by the Department of Revenue, Policy Services Division, LR 40:2615 (December 2014).

Tim Barfield
Secretary

1412#108

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Louisiana Wild Seafood Certification Program
(LAC 76:I.703)

The Wildlife and Fisheries Commission has amended rules and regulations to change the renewal date for participants in the Louisiana Wild Seafood Certification Program (R.S. 56:578.15). The changes to the Louisiana Wild Seafood Certification Program allow for increased convenience for participants of the voluntary program. The seafood certification program strives to increase consumer confidence and increase demand for Louisiana seafood. The primary mission with this origin-based certification program is to build a unified brand that will attract not only consumers but also food service and seafood distribution buyers who want to be sure they are sourcing the best tasting seafood in the world: Louisiana seafood.

Title 76
WILDLIFE AND FISHERIES
Part I. Wildlife and Fisheries Commission and Agencies Thereunder
Chapter 7. Louisiana Wild Seafood Certification Program
§703. Application and Permitting Process

A. - C.4. …

D. Permits are valid for 1 year and expire 12 months from the date of permit approval.

E. - G. …

H. Applications for the LWSCP shall be accepted at any time of the year. Applicants must show proof of having acquired all necessary licenses and permits. All information requested must be provided before the application is processed and a permit issued.

I. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:578.15, R.S. 56:23, and 56:301.4.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of the Secretary, LR 38:2000 (August 2012), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:2616 (December 2014).

Billy Broussard
Chairman

1412#079

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Possession of Potentially Dangerous Wild Quadrupeds, Big Exotic Cats, and Non-Human Primates (LAC 76:V.115)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission have amended the rules and regulations governing the possession of potentially dangerous quadrupeds, big exotic cats, and non-human primates.

Title 76
WILDLIFE AND FISHERIES
Part V. Wild Quadrupeds and Wild Birds
Chapter 1. Wild Quadrupeds
§115. Possession of Potentially Dangerous Wild Quadrupeds, Big Exotic Cats, and Non-Human Primates

A. - G.5. ...

H. Big Exotic Cats. A person who has continually possessed in Louisiana an exotic cat listed in Subparagraph C.1.h. above on August 15, 2006 (the effective date of Act 715 of the Regular Session of 2006) and who obtained the exotic cat by lawful means may continue to possess the exotic cat under the following conditions.

1. No more than one exotic cat meeting this Rule will be permitted. Additional exotic cats cannot be acquired by any means whatsoever, including breeding.

2. A permit will only be issued to the individual who owns the exotic cat or to an individual who is a designee of the owner, where the owner is not an individual. If the permittee is a designee, the individual must agree to comply with all requirements of the permit and these rules.

3. The individuals listed in this Subsection must annually apply for and receive a permit from the department. The permit application shall be on a form provided by the department and require:

a. the name, address, telephone number, driver's license number, and date of birth of applicant;

b. a description of the exotic cat applicant possesses, including the scientific name, sex, age, color, weight, and any distinguishing marks;

c. one or more photographs of the exotic cat and its permanent enclosure;

d. the physical location where the exotic cat is to be kept;

e. proof of ownership of the exotic cat on August 15, 2006. Proof of ownership includes original purchase documents, veterinary records, or other documentation, acceptable to the department, demonstrating ownership;

f. the microchip number of the exotic cat;

g. a health certificate signed by a licensed veterinarian within one year prior to the date of the

application. The certificate shall include the name, address, and license number of the examining veterinarian;

h. a written plan for the quick and safe recapture or destruction in the event of the escape of the exotic cat listed in the permit. This plan must also be filed with the local sheriff's department, and police department if applicable;

i. statement that permittee has legal authority to possess weapons and/or other equipment necessary to carry out the plan provided in Subparagraph H.2.h;

j. signed agreement, on a form provided by the department, indemnifying and holding harmless the state, department, and other applicable public agencies and employees, including agents, contractors, and the general public from any claims for damages resulting from the permitted exotic cat;

k. signed agreement that the permittee will be responsible for any and all costs associated with the escape, capture, and disposition of the permitted exotic cat;

l. proof of liability insurance from an A-rated or higher insurance company in the amount of $100,000, valid and effective continuously for the entire permit term. The policy shall specifically include a provision requiring notice from the carrier to the secretary of the department a minimum of 30 days prior to cancellation of the policy.

4. Permittee or designee must live on the premises or permittee and designees must provide continuous on-site monitoring of the exotic cat. Designee(s) must have the ability to carry out all requirements of the permittee.

5. ...

6. A weapon capable of destroying the animal and a long range delivery method for chemical immobilization shall be kept on the premises at all times. Additionally, the applicant shall provide a signed statement from a licensed veterinarian identifying a designated veterinarian who will be on-call and available at all times to deliver chemical immobilization in the event of an escape.

7. Clearly legible signs, approved by the department, shall be posted and displayed at each possible entrance onto the premises where the permitted exotic cat is located. The signs shall clearly state "Danger, Wild Animal On Premises" with letters of a size and font easily readable from 30 feet away.

8. The permitted exotic cat must be implanted with a microchip by or under the supervision of a licensed veterinarian.

9. The permitted exotic cat must remain in its enclosure on the property listed in the permit at all times and cannot be removed from the enclosure for any reason. However, the exotic cat may be removed for proper medical care for medical emergencies or medical procedures, but only under the direction of a licensed veterinarian.

10. Permittee must notify the department, the local sheriff's department, and police department if applicable, immediately upon discovery that the permitted exotic cat is no longer in its enclosure.

11. Permittee must notify the department prior to any disposition of the permitted exotic cat, including transportation out-of-state. The department reserves the right to supervise and accompany any such disposition.

12. The permitted exotic cat must be kept in a sanitary and safe condition and may not be kept in a manner that results in the maltreatment or neglect of the exotic cat. This includes, but is not limited to:

a. drinking water must be provided in clean containers, pools must be cleaned as needed to ensure good water quality, enclosures must have adequate surface water drainage, and hard floor surfaces must be regularly scrubbed and disinfected;

b. food must be unspoiled and not contaminated, and be of a type and quantity sufficient to meet the nutritional requirements of the permitted exotic cat;

c. fecal and food waste must be removed from enclosures daily and disposed of in a manner that prevents noxious odors and insect and other pests;

d. sufficient shaded areas must be available.

13. In addition to complying with this regulation, permittee must comply with any and all applicable federal, other state, or local law, rule, regulation, ordinance, permit, or other permission. Failure to comply with any such law, rule, regulation, ordinance, permit, or other permission may constitute a violation of this regulation.

I. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(31), R.S. 56:115, R.S. 56:171, and R.S. 56:1904(F).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:1356 (December 1995), amended LR 32:647 (April 2006), LR 33:1153 (June 2007), amended by House Concurrent Resolution 6 of the 2012 Regular Legislative Session, LR 38:1459 (June 2012), amended by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:2616 (December 2014).

Bryan McClinton
Undersecretary

1412#078

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Agricultural Chemistry and Seed Commission

Seeds (LAC 7:XIII.121, 719 and 767)

Under the enabling authority of R.S. 3:1433, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, and the Agricultural Chemistry and Seed Commission intend to adopt these rules and regulations to amend LAC 7:XIII. §121 to include a revised seed laboratory fee schedule; to amend §719 to remove DNA fingerprinting requirements from the smooth cordgrass certification standards, and to create new §767 to establish peanut seed certification standards.

This proposed action will amend LAC 7:XIII.121 to increase the testing service fees for persons requesting a complete purity and germination test on single component samples and for all germination and purity testing services for mixture samples; Tetrazolium tests; seed count tests; and varietal purity tests. This section is also being amended to include the addition of several new testing services and fees: all state noxious weed seed examination; 8 lb. red rice examination; an hourly fee for custom, contaminated or extraordinary samples; and a fee schedule for all similar seed kinds not specifically listed in the fee schedule. The proposed amendments also re-format the fee schedule to make it more understandable to the reader.

In addition, this proposed action will amend LAC 7:XIII.719 to remove the DNA fingerprinting requirements used for the identification of certified smooth cordgrass varieties. These requirements are being removed until such time as more indicative testing methods can be developed.

Finally, this proposed action will promulgate LAC 7:XIII.767, a new Section that is being added to create peanut seed certification standards in order to allow peanut seeds to be certified in Louisiana. Currently, growers are relying on out-of-state certification agencies to provide certified inspection services.

Title 7
AGRICULTURE AND ANIMALS
Part XIII. Seeds
Chapter 1. General Provisions
Subchapter B. Fees
§121. License Fee; Laboratory and Sampling Fees (Formerly §113)

A. Seed Dealer's License. The annual fee for a seed dealer's license shall be $100. The seed dealer's license shall be renewed annually, and is based on the fiscal year July 1 through June 30.

B. Laboratory and Sampling Fees. The following laboratory and sampling fees shall be applicable to all seed testing conducted by LDAF.

1. Purity and Germination Examinations Using Association of Official Seed Analysts (AOSA) or Federal Seed Act (FSA) Procedures

Seed Kind (1,2)	Purity (3,4)	Germination (4)	Tetrazolium viability	Seed kind (1,2)	Purity (3,4)	Germination (4)	Tetrazolium viability
Alfalfa	$10.00	$10.00	$25.00	Leek	$10.00	$10.00	$25.00
Arugula	$10.00	$10.00	$25.00	Lespedeza	$10.00	$10.00	$25.00
Asparagus	$10.00	$10.00	$25.00	Lettuce	$10.00	$10.00	$25.00
Bahiagrass	$20.00	$20.00	$25.00	Melon	$10.00	$10.00	$25.00
Basil, Sweet	$10.00	$10.00	$25.00	Millet	$10.00	$10.00	$25.00
Bean	$10.00	$10.00	$25.00	Mustard	$10.00	$10.00	$25.00
Beet	$10.00	$10.00	$25.00	Oats	$10.00	$10.00	$25.00
Bentgrass	$20.00	$20.00	$25.00	Onion	$10.00	$10.00	$25.00
Bermudagrass	$20.00	$20.00	$25.00	Orchardgrass	$20.00	$20.00	$25.00
Bluegrass	$20.00	$20.00	$25.00	Pak-choi	$10.00	$10.00	$25.00
Broccoli	$10.00	$10.00	$25.00	Parsley	$10.00	$10.00	$25.00
Brussels Sprouts	$10.00	$10.00	$25.00	Peanut	$10.00	$10.00	$25.00
Buckwheat	$10.00	$10.00	$25.00	Peas	$10.00	$10.00	$25.00
Cabbage	$10.00	$10.00	$25.00	Pepper	$10.00	$10.00	$25.00
Cantaloupe	$10.00	$10.00	$25.00	Pine	$10.00	$10.00	$25.00
Carpetgrass	$20.00	$20.00	$25.00	Plantain	$10.00	$10.00	$25.00
Carrot	$10.00	$10.00	$25.00	Pumpkin	$10.00	$10.00	$25.00
Cauliflower	$10.00	$10.00	$25.00	Radish	$10.00	$10.00	$25.00
Celery	$10.00	$10.00	$25.00	Rape	$10.00	$10.00	$25.00
Centipedegrass	$20.00	$20.00	$25.00	Rice	$10.00	$10.00	$25.00
Chicory	$10.00	$10.00	$25.00	Rutabaga	$10.00	$10.00	$25.00
Chives	$10.00	$10.00	$25.00	Rye	$10.00	$10.00	$25.00
Chufa	$10.00	$10.00	$25.00	Ryegrass	$20.00	$20.00	$25.00
Clover	$10.00	$10.00	$25.00	Sage	$10.00	$10.00	$25.00
Collards	$10.00	$10.00	$25.00	Sorghum	$10.00	$10.00	$25.00

Seed Kind (1,2)	Purity (3,4)	Germination (4)	Tetrazolium viability	Seed kind (1,2)	Purity (3,4)	Germination (4)	Tetrazolium viability
Coriander	$10.00	$10.00	$25.00	Soybeans	$10.00	$10.00	$25.00
Corn	$10.00	$10.00	$25.00	Spinach	$10.00	$10.00	$25.00
Cornsalad	$10.00	$10.00	$25.00	Squash	$10.00	$10.00	$25.00
Cotton	$10.00	$10.00	$25.00	Sunflower	$10.00	$10.00	$25.00
Cucumber	$10.00	$10.00	$25.00	Thyme	$10.00	$10.00	$25.00
Dill	$10.00	$10.00	$25.00	Timothy	$20.00	$20.00	$25.00
Eggplant	$10.00	$10.00	$25.00	Tomato	$10.00	$10.00	$25.00
Endive	$10.00	$10.00	$25.00	Triticale	$10.00	$10.00	$25.00
Fescue	$20.00	$20.00	$25.00	Turnip	$10.00	$10.00	$25.00
Gourd	$10.00	$10.00	$25.00	Vetch	$10.00	$10.00	$25.00
Greens	$10.00	$10.00	$25.00	Watermelon	$10.00	$10.00	$25.00
Herb	$10.00	$10.00	$25.00	Wheat	$10.00	$10.00	$25.00
Kale	$10.00	$10.00	$25.00	Zoysiagrass	$20.00	$20.00	$25.00
Kohlrabi	$10.00	$10.00	$25.00	Zucchini	$10.00	$10.00	$25.00
Lab Lab	$10.00	$10.00	$25.00				

(1) Samples of seeds that are unclean, field run or containing high inert matter shall be charged an additional $10.00 per sample.
(2) Fees for tests on seed kinds not listed shall be based on the cost of a kind with a similar test.
(3) Includes Louisiana Noxious Weed Seed Examination
(4) For germination tests of mixtures of two or more kinds of seed, the fee is the sum of the fees established for germination tests for the components of the mixture. For a purity analysis performed in conjunction with a germination analysis of seed mixtures, the fee is the same as for that component of the mixture for which the highest charge would be made if separately analyzed. For purity analysis not performed in conjunction with a germination analysis the fee is the sum of the fees established for the purity tests for the components of the mixture if separately analyzed.

2. All State Noxious Weed Seed Examination—$20. Species appearing on the USDA state noxious-weed seed requirements recognized in the administration of the FSA, reported as number found and rate per unit weight.

3. Seed Count—$10. Used to determine the amount of seed contained within a sample.

4. Seed Vigor Test—$20. Including, but not limited to, accelerated aging and cool germination tests.

5. Varietal Purity—$20. Including, but not limited to, seed and seedling morphology and fluorescence tests.

6. Red Rice Examination, 4 lb.—$10; 8 lb.—$20. Examination of rice sample for the presence of red rice.

7. Herbicide Bioassay—$25.

8. Service Sample taken by LDAF Inspector—$15. Sample taken in accordance with the AOSA or FSA seed sampling procedures.

9. Priority Rush Sample—$25. A priority rush may be requested by the person submitting a sample for testing. Priority rush samples will be processed immediately upon receipt of sample; however, availability of sample results will depend upon the seed kind and the type of tests requested.

10. Hourly Fee—$50. Applies to especially contaminated or extraordinary samples; also used for custom work such as sample preparation and special bulk samples. Total final cost to be negotiated and agreed upon by both parties prior to work being performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended LR 7:164 (April 1981), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 12:825 (December 1986), LR 14:603 (September 1988), LR 29:2632 (December 2003), LR 36:1220 (June 2010), LR 37:1373 (May 2011), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2704 (October 2013), amended LR 40:745 (April 2014), LR 41:

Chapter 7. Certification of Specific Crops/Varieties

Subchapter A. Grasses and Clovers

§719. Smooth Cordgrass (*Spartina alterniflora*) Certification Standards (Formerly §193)

A. - B. …

C. Production Requirements. To be eligible for the production of all certified classes, production ponds and containers/tanks shall be left undisturbed for a minimum of four weeks prior to planting, and found to be free of smooth cordgrass and noxious and objectionable weeds.

1. Pond Requirements of Vegetatively Propagated Stock

a. Ponds shall be contained by levees.

b. Only one variety shall be grown per pond.

c. Ponds of different varieties must be separated by the minimum isolation distance at all points.

d. Ponds must have individual water supplies and water drainage capabilities for each produced variety.

e. All seed heads shall be routinely removed from plants after flowering begins to ensure viable seed are not produced.

f. Vegetative production ponds of the "certified class" only may be located within natural tidal influenced areas.

2. Container/Tank Requirements of Vegetatively Propagated Plant Stock

a. Soil used for container/tank production shall:

i. come from an area that has not produced smooth cordgrass for a minimum of one year; and

ii. be free of visible smooth cordgrass rhizomes and stems prior to transplanting.

b. Only one variety shall be grown per container/tank.

c. Different varieties shall be grown in separate tanks and shall have individual water supplies and drainage capabilities.

d. All seed heads shall be routinely removed from plants after flowering begins to ensure viable seed are not produced.

3. Seed Production Pond Requirements

a. Ponds shall be contained by levees.

b. Ponds containing different varieties must be separated by the minimum isolation distance at all points.

D. Grower Inspections

1. Production ponds, tanks, and containers shall be routinely inspected by the grower to ensure that all requirements of this Section are being met.

E. LDAF Inspections. Production ponds and containers/tanks shall be made accessible for inspection by the grower.

1. Production ponds and containers/tanks shall be inspected by LDAF within four weeks prior to transplanting to ensure production ponds and containers/tanks are free of volunteer smooth cordgrass plants and noxious and objectionable weeds. All ponds and containers/tanks shall be non-flooded at time of pre-plant inspection.

2. Shall be inspected by LDAF a minimum of once a year, after transplanting, to ensure that all requirements of this Section are being met.

3. Additional inspections may be performed at the discretion of LDAF at any time without prior notice.

F. Field Standards Production Ponds/Containers/Tanks

Factor	Foundation and Tested G1 Germplasm	Registered and Tested G2 Germplasm	Certified and Tested G3 Germplasm	Seed Production Fields (All Generations)
Maximum Unit Life (1)	4 years	6 years	Unlimited	5 years
Land Requirements	1 year	1 year	1 year	1 year
Isolation:				
Pond Production	20 ft.	20 ft.	20 ft.	1200 ft.
Tank Production	One variety per tank	One variety per tank	One variety per tank	N/A
Container Production	Different varieties must be separated and clearly identified	Different varieties must be separated and clearly identified	Different varieties must be separated and clearly identified	N/A
Plant Variants:				
Visual Inspections	3 plants per 5,400 ft^2	5 plants per 5,400 ft^2	10 plants per 5,400 ft^2	10 plants per 5,400 ft^2
Harmful Diseases (2)	None	None	None	None
Noxious or Objectionable Weeds (3)	None	None	$\leq$ 5 plants per 5,400 ft^2	$\leq$ 5 plants per 5,400 ft^2
Other crops (4)	None	None	$\leq$ 5 plants per 5,400 ft^2	$\leq$ 5 plants per 5,400 ft^2

(1) Production unit life from date of transplant. No maximum age for a certified class production unit so long as the unit continues to meet all requirements of this Section.

(2) Diseases determined in accordance with the Louisiana Ag Experiment Station and LDAF to seriously affect the quality of seed or vegetatively propagated stock.

(3) Including, but not limited to the following weed species: Salvinia spp. (Salvinia), Cyperus spp. (Sedge), Eleocharis spp. (Spike rush), Phragmites australis (Roseau cane), Typha spp. (Cattail).

(4) Including, but not limited to the following crop species: Spartina patens (Marshhay cordgrass), Spartina cynosuroides (Big cordgrass), Spartina spartinae (Gulf cordgrass), Distichlis spicata (Saltgrass), Schoenoplectus californicus (California bulrush), Paspalum vaginatum (Seashore paspalum).

G. Seed Standards

1. All generations of seed shall contain a pure seed content, excluding coating material, of not less than 90 percent.

2. All seed packages shall be labeled in such a manner as to meet the minimum seed labeling requirement of the Seed Law, this Part, and the Federal Seed Act and accompanying rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Seed Commission, LR 37:2983 (October 2011), LR 39:1761 (July 2013), repromulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 39:2720 (October 2013), amended LR 40:753 (April 2014), LR 41:

Subchapter B. Grain and Row Crop Seeds

§767. Peanut Seed Certification Standards

A. Field Inspection. A field inspection shall be made by LDAF at maturity, but prior to harvesting.

Factor	Standards for classes		
	Foundation	Registered	Certified
Land requirement	1 year	1 year	1 year
Isolation	50 feet	25 feet	25 feet
Other varieties or types	None	0.2%	0.5%

B. Seed Standards. A representative sample of at least one pound of seed in its saleable condition and 1-1/2 pounds of untreated seed shall be submitted to the LDAF for laboratory analysis.

Factor	Standards for classes		
	Foundation	Registered	Certified
Pure seed (minimum allowed)	90.00%	90.00%	90.00%
Inert matter (maximum allowed)	10.00%	10.00%	10.00%
Prohibited weeds (maximum allowed)1	None	None	None
Weed seed (maximum allowed)2	0.01%	0.01%	0.01%
Other kinds including other varieties (maximum allowed)3	None	0.21%	0.52%
Other kinds (maximum allowed)	None	0.01%	0.02%
Other varieties (maximum allowed)	None	0.20%	0.50%
Germination (minimum allowed)	75.00%	75.00%	75.00%

[1]Refer to Section §109.
[2]Total weed seed shall not exceed five seeds per lb.
[3]Other kinds shall not exceed two seeds per lb. for Foundation; two seeds per lb. for Registered; three seeds per lb. for Certified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Agricultural Chemistry and Seed Commission, LR 41:

Family Impact Statement

It is anticipated that the proposed action will have no significant effect on the: (1) stability of the family; (2) authority and rights of parents regarding the education and supervision of their children; (3) functioning of the family; (4) family earnings and family budget; (5) behavior and personal responsibility of children; or (6) ability of the family or a local government to perform the function as contained in the proposed action.

Poverty Impact Statement

It is anticipated that the proposed action will have no significant effect on: (1) household income, assets, and financial security; (2) early childhood or educational development; (3) employment and workforce development; (4) taxes and tax credits; or (5) child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

It is anticipated that the proposed action will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed action to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on: (1) the staffing level requirements or qualifications required to provide the same level of service; (2) the total direct and indirect effect on the cost to the providers to provide the same level of service; or (3) the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed action. Written submissions are to be directed to Lester Cannon, Assistant Director of Seeds Programs Division, Department of Agriculture and Forestry; telephone (225) 925-4733; fax # (225) 237-5659; mailing address, P.O. Box 3596, Baton Rouge, LA 70821. The written submissions must be received no later than 4 p.m. on January 26, 2015. No preamble regarding these proposed regulations is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Seeds

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is estimated that the proposed actions will not have any significant implementation costs or savings to any local governmental units. The proposed actions amend LAC 7:XIII.§121, §719 and creates §767 which establishes Peanut Seed Certification Standards.

LAC 7:XIII. §121 is being amended to increase the testing serviice fee for persons requesting a complete Purity and Germination test on single component samples and for all Germination and Purity testing services for mixture samples; Tetrazolium tests; Seed Count tests; and Varietal Purity tests. This section is also being amended to include the addition of several new testing services and fees; All State Noxious Weed Seed Examination; 8 Lb. Red Rice Examination; an hourly fee for custom, contaminated or extraordinary samples; and a fee schedule for all similar seed kinds not specifically listed in the fee schedule. The proposed amendments also re-format the fee schedule to make it more understandable to the reader.

LAC 7:XIII. §719 is being amended to remove the DNA fingerprinting requirements used for the identification of certified Smooth Cordgrass varieties. These requirements are being removed until such time as more indicative testing methods can be developed.

LAC 7:XIII. §767 is a new section that is being added to create Peanut Seed Certification Standards in order to allow Peanut seeds to be certified in Louisiana. Currently, growers are relying on out-of-state certification agencies to provide certified inspection services.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that there will be an increase in revenue collections by the Department of Agriculture and Forestry in the amount of $7,260 annually as a result of the proposedamendments to §121. Some laboratory service testing

fees will be increased in an attempt to achieve cost recovery due to increased costs for those testing services.

The estimated increase in revenue is determined by using a 3-year average for those samples testtd by the lab in which the fees have been increased. The revenue is further estimated by multiplying the amount of tassociated fee increase to the yearly average number of samples to determine a total estimated increase in revenue. Because it is anticipated that the proposed rule will be effective for only the last six months of FY 14-15, and that samples are received by the lab consistently throughout the year, the increase in revenue for FY 14-15 fiscal year is estimated to be $3,630, or half the estimated yearly increase.

It is anticipated that there may be negligible decreases in revenue collections of the LSY Agriculture Center as a result of the proposed amendments to §719 since the DNA fingerprinting is being removed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Seed owners requesting testing services for those services in which the testing fees have increased will experience additional costs. However, these tests are not mandatory. The testing is a fee for service and will only affect those persons requesting testing services.

Any person applying for certification of Smooth Cordgrass will experience direct economic benefits as a result of the proposed amendments to remove DNA fingerprinting requirements from the Smooth Cordgrass Certification Standards. These persons will no longer be required to have certified cordgrass DNA fingerprinted and therefore are no longer responsible for the associated testing and sampling costs.

No significant effect on the costs or economic benefits of directly affected persons or non-governmental groups from the proposed addition of Peanut Seed Certification Standards is anticipated. Currently, persons applying for certification of Peanut seeds are doing so with an out of state agency with similar costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is not anticipated to have a material effect on competition or employment.

Dane Morgan	Evan Brasseaux
Assistant Commissioner	Staff Director
1412#058	Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services
Economic Stability Section

TANF Use of Benefits and Fines for Retailers
(LAC 67:III.405)

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, Subpart 1, General Administrative Procedures, Chapter 4, Electronics Benefits Issuance System, Section 405, Participation of Retailers.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) block grant, amendment of Section 405 is necessary to prohibit retailers from accepting the electronic benefits transfer card for prohibited goods and services, to prohibit certain retailers from participation in the cash assistance electronic benefits transfer system, to subject noncompliant retailers to civil fines, and to establish procedures regarding notice of violation and appeal process.

The department considers these amendments necessary to comply with Act 842 of the 2014 Regular Session of the Louisiana Legislature.

Title 67
SOCIAL SERVICES
Part III. Economic Stability
Subpart 1. General Administrative Procedures
Chapter 4. Electronics Benefits Issuance System
§405. Participation of Retailers
(Effective October 1, 1997)
[Formerly §403]

A. Retail establishments which are U.S. Department of Agriculture, Food and Nutrition Service (FNS), authorized Supplemental Nutrition Assistance Program benefit redemption points must be allowed the opportunity to participate in the state EBT system. FNS approved retailer may choose to accept EBT cards for cash transactions (FITAP and KCSP). All other retail establishments may participate in the cash access component of the system unless prohibited by R.S. 46:231.14(B) by contacting their commercial debit/credit processor to request to participate in cash access. Retailers participating in cash access will be charged standard commercial connection, lease, and/or transaction fees to interface with the EBT system.

B. In accordance with R.S. 46:231.14, when a retailer or other business establishment is cited for violations of any provision of R.S. 46:231.14(A) or R.S. 46:231.14(B) regarding prohibited retailers, goods and services, the department shall take administrative actions as follows.

1. Fines. Any retailer or other business establishment that violates these regulations shall be subject to the following civil fines:

a. $500 for the first violation;

b. $1,000 for the second violation;

c. $2,500 for the third violation and each violation thereafter.

2. Notice. When a fine is imposed under these regulations, the department shall notify the retailer or other business establishment by letter that a fine has been assessed due to violations cited at the establishment and the right to appeal. The notification may be sent by certified mail or hand delivered to the establishment. If the owner is not present at the establishment, delivery of the written reason(s) for such action may be made to any staff of the establishment. Notice to a staff shall constitute notice to the establishment of such action and the reasons therefore. The letter shall specify the dates and the violation cited for which the fine(s) shall be imposed. Fines are due within 30 calendar days from the date of receipt of the letter unless the retailer or other business establishment requests an appeal.

3. Appeal Procedure for Fines. An appeal process is established by the department in the event the retailer disagrees with the civil fines.

a. The retailer or business establishment shall have 15 calendar days from the receipt of the notice to appeal the decision to the DCFS Appeals Section. A request for appeal shall include a copy of the letter from the department that notes the reasons for assessment of the fine and the specific areas of the decision the appellant believes to be erroneous and/or the specific reasons the decision is believed to have

been reached in error, and shall be mailed to Department of Children and Family Services, Appeals Section, P.O. Box 2944, Baton Rouge, LA 70821-9118.

b. The DCFS Appeals Section shall notify the Division of Administrative Law (DAL) of receipt of an appeal request. DAL shall conduct a hearing in accordance with the Administrative Procedure Act within 30 days of the receipt thereof, and shall render a decision not later than 60 days from the date of the hearing. The appellant will be notified by letter from DAL of the decision, either affirming or reversing the department's decision.

c. If the retailer or business establishment filed a timely appeal and the department's assessment of fines is affirmed by an administrative law judge of the DAL, the fine shall be due within 30 calendar days after mailing notice of the final ruling of the administrative law judge or, if a rehearing is requested, within 30 calendar days after the rehearing decision is rendered. The retailer or business establishment shall have the right to seek judicial review of any final ruling of the administrative law judge as provided in the Administrative Procedure Act. If the appeal is dismissed or withdrawn, the fines shall be due and payable within seven calendar days of the dismissal or withdrawal. If a judicial review is denied or dismissed, either in district court or by a court of appeal, the fines shall be due and payable within seven calendar days after the retailer or business establishment's suspensive appeal rights have been exhausted.

d. If the retailer or business establishment does not appeal within 15 calendar days of receipt of the department's notice, the fine is due within 30 calendar days of receipt of the department's notice of the fine and shall be mailed to Department of Children and Family Services, Fraud and Recovery Unit, P.O. Box 91147, Baton Rouge, LA 70821-9147. If the retailer or business establishment files a timely appeal, the fines shall be due and payable on the date set forth in §405.B.3.c. If the retailer or business establishment withdraws the appeal, the fine is payable within seven calendar days of the withdrawal or on the original date that the fine was due, whichever is later.

4. Collection. If the retailer or business establishment does not pay the fine within the specified timeframe, the department shall pursue civil court action to collect the fines, together with all costs of bringing such action, including travel expenses and reasonable attorney fees. Interest shall begin to accrue at the current judicial rate on the day following the date on which the fines become due and payable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:474.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:106 (January 1998), amended LR 33:1878 (September 2007), repromulgated LR 33:2204 (October 2007), amended by the Department of Children and Family Services, Economic Stability Section, LR 41:

Family Impact Statement

1. What effect will this Rule have on the stability of the family? This Rule will have no effect on the family's stability.

2. What effect will this have on the authority and rights of persons regarding the education and supervision of their children? This Rule will have no effect on the authority and rights of persons regarding the education and supervision of their children.

3. What effect will this have on the functioning of the family? This Rule will have no effect on the functioning of the family.

4. What effect will this have on family earnings and family budget? This Rule will have no effect on family earnings or family budget.

5. What effect will this have on the behavior and personal responsibility of children? This Rule will have no effect on the behavior and personal responsibility of children.

6. Is the family or local government able to perform the function as contained in this proposed Rule? No, these functions are department functions.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule will have no significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed rulemaking is not anticipated to have any 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 January 27, 2015, to Kim Glapion-Bertrand, Deputy Secretary of Programs, Department of Children and Family Services, P.O. Box 94065, Baton Rouge, LA 70804.

Public Hearing

A public hearing on the proposed Rule will be held on January 27, 2015 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Suzy Sonnier
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: TANF Use of Benefits and Fines for Retailers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend Louisiana Administrative Code (LAC), Title 67, Part III, Subpart 1 General Administrative Procedures, Chapter 4 Electronics Benefits Issuance System, and Section 405 Participation of Retailers. To comply with Act 842 of the 2014 Regular Session of the Louisiana Legislature, the proposed rule stipulates that the secretary of the Department of Children and Family Services (DCFS) has authority to amend Section 405—Participation of Retailers as follows:

(1) to prohibit retailers from accepting the electronic benefits transfer card for prohibited goods and services;

(2) to prohibit certain retailers from participation in the cash assistance electronic benefits transfer system;

(3) to subject noncompliant retailers to civil fines; and

(4) to establish procedures regarding notice of violation and appeal process.

The proposed rule will not affect the overall revenues or expenditures of the department. The only cost associated with this proposed rule is the cost of publishing rulemaking. It is anticipated that $1,278 (Federal) will be expended in SFY 14-15 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)

Implementation of this proposed rule may result in increased revenue associated with civil fines imposed by DCFS on retailers or other business establishments that violate any provisions of this proposed rule. Civil fines are as follows:

(1) $500 for the first violation;

(2) $1,000 for the second violation; and

(3) $2,500 for the third violation and each violation thereafter. Monies generated from civil fines will be deposited into the Fraud Detection Fund and appropriated in future fiscal years for enhancement of fraud detection and recovery activities. DCFS cannot determine the number of retailers or business establishments that will be assessed civil fines.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no significant anticipated costs or benefits to recipients receiving cash assistance (Family Independence Temporary Assistance Program – FITAP and the Kinship Care Subsidy Program – KCSP) as a result of this rule. Retailers or other business establishments participating in the state electronic benefits transfer (EBT) system will be responsible for the costs of disabling their Automated Teller Machine (ATM) and Point of Sale (POS) terminals so that FITAP and KCSP recipients may not access cash assistance within restricted establishments. In addition, retailers or other business establishments will be responsible for the costs of preventing payment for prohibited goods and services at their POS terminals.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will not have an impact on competition and employment for low-income families.

Kim Glapion-Bertrand	John D. Carpenter
Deputy Secretary	Legislative Fiscal Officer
1412#072	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities—Alternate Assessments
(LAC 28:XCVII.503 and 505)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*: §503, Types of Alternate Assessments; and §505, Alternate Assessment Participation Criteria. The Elementary and Secondary Education Act (ESEA) allows states to assess one percent of the student population on an alternate assessment based on alternate achievement standards. In Louisiana, this assessment is known as the Louisiana Alternate Assessment, Level 1, or the LAA 1. ESEA stipulates that only students with the most significant cognitive disabilities may be assessed on alternate achievement standards, however, the federal regulations give states the responsibility of developing criteria to define this population. After discussions with parents, educators, advocates, the Special Education Advisory Panel, and the Superintendents' Advisory Council, the LDE recommends these revisions to the LAA 1 participation criteria.

Title 28
EDUCATION
Part XCVII. Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities
Chapter 5. Participation in Statewide Assessments
§503. Types of Alternate Assessments

A. LEAP alternate assessment, level 1 (LAA 1), was developed for students with disabilities who are served under IDEA for whom there is evidence that the student has a significant cognitive disability. LAA 1 is a performance-based assessment designed for students whose instructional program is aligned with the Louisiana extended standards.

B. LEAP alternate assessment, level 2 (LAA 2) based on modified academic achievement standards, was developed for students with persistent academic disabilities who are served under IDEA to participate in academic assessments that are sensitive to measuring progress in their learning. There is evidence the student is having significant academic difficulties in English language arts, reading and/or mathematics. LAA 2 is a criterion-referenced assessment designed for students whose instructional program is aligned with the Louisiana content standards.

1. A student who meets the LAA 2 participation criteria may test in all or in one or more content areas of LAA 2, based on the determination of the IEP team. The IEP team may decide that the student will participate in the LAA 2 assessment in one or more content areas and at the same time participate in the regular statewide assessment (*i*LEAP/LEAP/GEE) for the remaining content areas required at the student's enrolled grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), amended LR 41:

§505. Alternate Assessment Participation Criteria

A. LEAP Alternate Assessment, Level 1 (LAA1)

1. The student has a disability that significantly impacts cognitive function and/or adaptive behavior. This may be demonstrated in the following ways:

a. For students who have not completed the fifth grade, an eligible student is functioning three or more standard deviations below the mean in cognitive functioning and/or adaptive behavior.

b. For students who have completed fifth grade, an eligible student is functioning 2.3 or more standard deviations below the mean in cognitive functioning and/or adaptive behavior.

c. Students who have completed the fifth grade functioning between 2.0 and 2.29 or more standard deviations below the mean in cognitive functioning and/or

adaptive behavior may be eligible for LAA 1 participation if the IEP team provides additional empirical evidence an LAA 1 identification is appropriate for the student.

2. The student requires extensive modified instruction aligned with the Louisiana extended standards to acquire, maintain, and generalize skills.

3. The decision to include the student in LAA 1 is not solely based on the following:

a. student's placement;
b. excessive or extended absences;
c. disruptive behavior;
d. English language proficiency;
e. student's reading level;
f. student's disability according to Bulletin 1508;
g. social, cultural, and/or economic differences;
h. anticipated impact on school performance scores;
i. administrative decision;
j. expectation that the student will not perform well on the LEAP, iLEAP, GEE or LAA 2.

B. - B.4.j. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), amended LR 37:886 (March 2011), LR 41:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., January 8, 2015, to Kimberly Tripeaux, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Kimberly Tripeaux
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities Alternate Assessments

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs to the state or to local school districts as a result of these policy revisions.

The Elementary and Secondary Education Act (ESEA) allows states to assess one percent of the student population on an alternate assessment based on alternate achievement standards. In Louisiana, this assessment is known as the Louisiana Alternate Assessment, Level 1, or the LAA 1. ESEA stipulates that only students with the most significant cognitive disabilities may be assessed on alternate achievement standards, however, the federal regulations give states the responsibility of developing criteria to define this population. After discussions with parents, educators, advocates, the Special Education Advisory Panel, and the Superintendents' Advisory Council, the LDE recommends these revisions to the LAA 1 participation criteria. The policy revisions retain the three standard deviations or below requirement for students who have not completed fifth grade and allow students who have completed the fifth grade to be classified as LAA 1 participations if they meet certain criteria.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1412#033	Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Finanical Assistance

Scholarship/Grant Programs
Personally Identifiable Information
and TOPS Core Curriculum
(LAC 28:IV.113, 301, 502, 703, 803, 1703, 2103, and 2113)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its scholarship/grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking implements Act 837 of the 2014 Regular Session of the Louisiana Legislature by providing policies and procedures for the collection, receipt, use, protection and destruction of personally identifiable information. These procedures include requirements for consent from a parent or guardian for the public schools to collect and disclose certain personally identifiable information related to eighth through twelfth grade students to LOSFA to make it possible for the agency to guide and motivate these students to prepare for and achieve eligibility for college financial aid programs, and to allow LOSFA to determine eligibility for financial aid programs, including the Taylor Opportunity Program for Students (TOPS).

This rulemaking implements Acts 566, 733, and 737 of the 2014 Regular Session of the Louisiana Legislature by amending the TOPS core curriculum, including provisions for additional credit for certain advance placement courses; and the TOPS Tech core curriculum, including the deletion of a requirement to earn one unit of chemistry or applied chemistry.

This rulemaking extends the maximum length of an exception for parental leave to the equivalent of one academic year (college) per pregnancy. (SG15159NI)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 1. Scope
§113. Personally Identifiable Information (PII)

A. LASFAC recognizes that personally identifiable information must be collected and maintained to determine whether a student meets the initial and continuing eligibility requirements for state and federal financial aid programs administered by LASFAC, and when required by law for use in preparing and submitting reports required by state and federal law.

B. LASFAC is required by the TOPS statute to inform "all students of the availability of the assistance...early enough in their schooling that a salutary motivational effect is possible."

C. It is the intent and policy of LASFAC that:

1. LOSFA will collect and maintain only that PII necessary to fulfill LASFAC's program responsibilities and duties, including but not limited to:

a. providing information to participating students beginning in the eighth grade that will guide and motivate students to prepare for and to achieve eligibility for financial aid programs to attend postsecondary education;

b. determining the initial eligibility of participating students for financial aid;

c. determining the continuing eligibility of students awarded financial aid;

d. making payments for students who have been awarded financial aid; and

e. submitting reports and assessments required by state or federal law regarding the effectiveness of the financial aid programs administered by LOSFA;

2. LOSFA will maintain and comply with policies and procedures to protect PII from disclosure to third parties/entities that have not been authorized to have access by:

a. state or federal law;

b. the parent or legal guardian of the person to whom the PII applies, if the person is not at least 18 years old or judicially emancipated or emancipated by marriage; or

c. the person to whom the PII applies, if the person is at least 18 years old or judicially emancipated or emancipated by marriage;

3. LOSFA will ensure that LOSFA employees will have access only to that PII that is necessary to perform their duties;

4. LOSFA will provide information to parents, legal guardians, students and schools regarding:

a. requirements for consenting to the release of PII to LOSFA;

b. possible college access advantages provided to students by consenting to the release of PII to LOSFA; and

c. adverse consequences of withholding consent for release of PII to LOSFA;

5. LOSFA will develop and use consent forms that inform students, parents, and legal guardians of:

a. purpose(s) for which the PII will be used;

b. who will have access to the PII;

c. how long the PII will be retained by LOSFA; and

d. how the PII will be destroyed at the end of the retention period;

6. LOSFA will destroy PII that is no longer necessary to fulfill LASFAC's program responsibilities and duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 41:

Chapter 3. Definitions

§301. Definitions

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

* * *

Articulated Courses for College Credit—courses offered by the Louisiana School for Math, Science and the Arts for which eligible Louisiana colleges have agreed to give college credit if the student successfully completes the course and attends a participating college.

* * *

Honors Courses—a rigorous high school course used to complete the TOPS core curriculum approved as an *honors course* for grading on a 5.00 scale by the Board of Elementary and Secondary Education and the Board of Regents.

* * *

Legal Guardian—

a. an adult appointed by a court of competent jurisdiction to have custody and care of a minor, and who demonstrates the requirement to provide the primary support for such minor. Also referred to as a *court ordered custodian*;

b. for the purposes of consenting to the collection and disclosure of personally identifying information, the student's parent, *legal guardian*, or other person responsible for the student.

* * *

Personally Identifiable Information or *PII*—personal information about an individual that can be used on its own or with other information to identify, contact, or locate a single individual.

* * *

Skill and Occupational Training—

a. any and all certificate, diploma, associate of applied technology, and associate of applied science programs offered by eligible colleges/universities; and

b. any coordinated and comprehensive course of study offered by eligible colleges/universities which qualifies a student upon completion to sit for testing leading to and/or meeting national and/or state professional/occupational licensure and/or certification requirements;

c. any training leading to an industry-based certification, a certificate of applied science or a certificate of technical sciences approved by the Workforce Investment Council offered by a provider recognized by the Louisiana Workforce Commission.

* * *

Talented Course—a course developed and provided to fulfill an individualized education program for a student who has been deemed to be gifted pursuant to R.S. 17:1941 et seq., as implemented in state Board of Elementary and Secondary Education policy.

* * *

TOPS Cumulative High School Grade Point Average—

a. - e. ...

f. effective for high school graduates beginning with academic year (high school) 2017-2018, the TOPS cumulative grade point average will be calculated by dividing the total number of quality points earned on the courses used to complete the TOPS core curriculum by the total units earned to complete the TOPS core curriculum.

Quality points equal the credit for the course multiplied by the value assigned to the letter grade.

The quality points for courses used to complete the TOPS core curriculum, except for Advanced Placement, International Baccalaureate, Gifted and Talented, Honors, Articulated Courses for College Credit and Dual Enrollment courses approved by the Board of Regents and the State Board of Elementary and Secondary Education, used to complete the TOPS core curriculum on a 5.00 scale, shall be converted to a 4.00 scale utilizing the following formula:

An "A" shall equal 4.0.
A "B" shall equal 3.0.
A "C" shall equal 2.0.
A "D" shall equal 1.0.
An "F" shall equal zero ("0.0").

The quality points for Advanced Placement, International Baccalaureate, Gifted and Talented, Honors, Articulated Courses for College Credit and Dual Enrollment courses approved by the Board of Regents and the State Board of Elementary and Secondary Education used to complete the TOPS core curriculum shall be converted to a 5.00 scale as follows:

An "A" shall equal 5.0.
A "B" shall equal 4.0.
A "C" shall equal 3.0.
A "D" shall equal 2.0.
An "F" shall equal zero ("0.0").

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:

Chapter 5. Applications, Federal Grant Aid and ACT Test

§502. Consent Required to Process Applications and Deadlines

A. To process an application for financial aid or to allow participation in LOSFA programs to provide guidance and motivation in preparing for and achieving eligibility for

financial aid programs, certain student personally identifiable information (PII) must be provided to LASFAC. The PII required depends on the financial aid program for which the student is applying. If the required PII is not provided, an applicant will not be determined to be eligible.

B. The submission of an application for a financial aid program administered by LASFAC or for participation in LOSFA programs to provide guidance and motivation in preparing for and achieving eligibility for financial aid programs constitutes consent for the student's school to collect and disclose the student's PII to LOSFA, and for LOSFA to collect, maintain, and use the PII for the program in which the student has indicated a desire to participate, if submitted by:

1. a student who is judicially emancipated, or emancipated by marriage, or who is 18 years old or older; or
2. a parent or legal guardian on behalf of a student who is not at least 18 years old and who is not emancipated.

C. To grant consent for a public school to collect the student's PII and disclose it to LOSFA, the student, parent or legal guardian, as applicable, must sign a consent form provided by the public high school that includes the following:

1. purpose(s) for which the PII will be used;
2. who will have access to the PII;
3. how long the PII will be retained by LOSFA; and
4. how the PII will be destroyed at the end of the retention period.

D. Submission of one of the following constitutes consent for LOSFA to collect, maintain, and use the PII included in the submission for the purposes of determining eligibility for financial aid:

1. free application for federal student aid (FAFSA) naming LOSFA as a recipient;
2. ACT score naming LOSFA as a recipient;
3. ACT WorkKeys score naming LOSFA as a recipient;
4. SAT score naming LOSFA as a recipient;
5. TOPS on-line application.

E. The required information for consideration for initial eligibility for a TOPS award, includes, but is not limited to, all the following student information:

1. full name;
2. date of birth;
3. Social Security number;
4. student high school transcript data, including but not limited to:
   a. month and year of high school graduation;
   b. the course code for each course completed;
   c. the grade for each course completed;
   d. the term and year each course is completed;
   e. designation of each advanced placement, International Baccalaureate®, honors, gifted and talented, articulated course for college credit, and dual enrollment course;
   f. the grading scale for each course reported; and
   g. the high school attended for each course reported;
5. ACT, ACT WorkKeys, and/or SAT scores;
6. FAFSA data;
7. college transcript data as set forth in Section 1903.

F. The required information for consideration for eligibility for other awards, grants and programs may include, but is not limited to, the following student information:

1. the information set forth in Subsection E above;
2. student disciplinary data;
3. family income;
4. dual enrollment high school and college transcript data;
5. foster care status;
6. ACT plan score;
7. school lunch program status;
8. standardized test scores;
9. grade point average for each semester and cumulative grade point average.

G. Deadlines to Provide Consent to a Public School for the Release of a Student's PII to LOSFA

1. For participation in LOSFA's program for guidance and motivation to prepare for and to achieve eligibility for financial aid programs, the parent or legal guardian, as applicable, should provide consent by the eighth grade.
2. For eligibility for payment of a TOPS award for the fall semester immediately following high school graduation, the student, parent or legal guardian, as applicable, should provide consent no later than January 15 of the year of graduation.
3. The final date for receipt of consent is the January 15 immediately following the final deadline for receipt of the student's FAFSA or on-line application. See Section 505 below.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 41:

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

§703. Establishing Eligibility

A. - A.5.a.i.(e). …

* * *

(f). beginning with the graduates of academic year (high school) 2013-14 through 2016-2017, at the time of high school graduation, an applicant must have successfully completed 19 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows;

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (1 unit) or Applied Algebra 1A and 1B (2 units)
1	Algebra II
2	Geometry, Calculus, Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III, Advanced Math – Pre-Calculus, Advanced Math – Functions and Statistics, Integrated Mathematics III
1	Biology
1	Chemistry
2	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)

Units	Course
1	American History
2	World History, Western Civilization, World Geography or History of Religion
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit)
1	Fine Arts Survey; (or substitute one unit of a performance course in music, dance, or theater; or substitute one unit of a visual art course; or substitute one unit of a studio art course; or substitute one unit of drafting)
2	Foreign Language, both units in the same language

(g). beginning with the graduates of academic year (high school) 2017-2018, at the time of high school graduation, an applicant must have successfully completed 19 units of high school course work that constitutes a core curriculum and is documented on the student's official transcript as approved by the Louisiana Department of Education as follows;

Units	Course
English - 4 Units	
1	English I
1	English II
1	English III, AP English Language Arts and Composition, or IB English III (Language A or Literature and Performance)
1	English IV, AP English Literature and Composition, or IB English IV (Language A or Literature and Performance)
Math - 4 Units	
1	Algebra I
1	Geometry
1	Algebra II
1	One unit from: Algebra III; Advanced Math- Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL
Science - 4 Units	
1	Biology I
1	Chemistry I
2	Two units from: Earth Science; Environmental Science; Physical Science; Agriscience I and Agriscience II (one unit combined); Chemistry II or AP Chemistry or IB Chemistry II; AP Environmental Science or IB Environmental Systems; Physics I, AP Physics B, or IB Physics I; AP Physics C: Electricity and Magnetism, AP Physics C: Mechanics, or IB Physics II; AP Physics I and AP Physics II; Biology II or AP Biology or IB Biology II
Social Studies - 4 Units	
1	U.S. History or AP U.S. History or IB U.S. History
1	Civics, Government, AP US Government and Politics: Comparative, or AP US Government and Politics: United States
2	Two units from: Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics Economics, AP Macroeconomics AP Microeconomics
Foreign Language - 2 Units	
2	Foreign Language, both units in the same language, which may include: AP Chinese Language and Culture, AP French Language and Culture, AP German Language and Culture, AP Italian Language and Culture, AP Japanese Language and Culture, AP Latin, AP Spanish Language and Culture, French IV IB, French V IB, Spanish IV IB, and Spanish V IB
Art - 1 Unit	
1	One unit of Art from: Performance course in Music, Dance, or Theatre; Fine Arts Survey; Arts I, II, III, and IV; Talented Art I, II, III, and IV; Talented Music I, II, III, and IV; Talented Theater Arts I, II, III, and IV; Speech III and IV (one unit combined); AP Art History; AP Studio Art: 2-D Design; AP Studio Art: 3-D Design; AP Studio Art: Drawing; AP Music Theory; Film Study I IB; Film Study II IB; Music I IB; Music II IB; Art Design III IB; Art Design IV IB; Theatre I IB; or Drafting
NOTE: AP = Advanced Placement IB = International Baccalaureate	

ii.(a). - ii.(d). …

* * *

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

Core Curriculum Course(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III
Any listed core course or its equivalent.	Any core curriculum course taken by a student who has been deemed to be gifted and talented pursuant to R.S. 17:1941 et seq., as implemented in State Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted and talented course and shall fulfill the core curriculum requirement in its given subject area.

(f). For students graduating in academic year (high school) 2017-2018 and after, the courses listed in the tables below have been approved by the Board of Regents and the state Board of Elementary and Secondary Education to be converted to a 5.00 scale when used to complete the core curriculum, and shall be considered equivalent to the identified core courses and may be substituted to satisfy

corresponding core courses for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a.

(i). Advanced Placement Courses

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

(ii). International Baccalaureate® Courses

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

(iii). Gifted and Talented Courses

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

(iv). Dual Enrollment Courses

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Advanced Math–Pre Calculus	Trigonometry	CMAT 1223
Advanced Math-Functions and Statistics	Introductory Statistics	CMAT 1303

TOPS Core Course	Dual Enrollment	
	Common Course Name	Common Course Code
Algebra III	College Algebra	CMAT 1213
Arabic	Elementary Arabic I Elementary Arabic II	CARB 1013/1014 CARB 1023/1024
Art	Art History I or II Art Structure/2-D Design Beginning Drawing	CART 2103/2113 CART 1113 CART 2203
Biology I	General Biology I General Biology I (Science Majors)	CBIO 1013 CBIO 1033
Biology II	General Biology I General Biology I (Science Majors) General Biology II General Biology II (Science Majors)	CBIO 1013 CBIO 1033 CBIO 1023 CBIO 1043
Calculus	Applied Calculus Calculus I Calculus II	CMAT 2103 CMAT 2113-5 CMAT 2123-5
Chemistry I	General Chemistry Survey I Chemistry I Chemistry I (Science Majors)	CCEM 1013 CCEM 1103 CCEM 1123
Chemistry II	General, Organic and Biochemistry General Chemistry Survey I Chemistry I Chemistry I (Science Majors) Chemistry II Chemistry II (Science Majors)	CCEM 1003 CCEM 1013 CCEM 1103 CCEM 1123 CCEM 1113 CCEM 1133
Earth Science	Physical Geology Historical Geology	CGEO 1103 CGEO 1113
Economics	Economic Principles Macroeconomics Microeconomics	CECN 2113 CECN 2213 CECN 2223
English III	English Composition I English Composition II American Literature I American Literature II Major American Writers	CENL 1013 CENL 1023 CENL 2153 CENL 2163 CENL 2173
English IV	English Composition I English Composition II British Literature I British Literature II Major British Writers World Literature I World Literature II Major World Writers Introduction to Fiction Introduction to Literature Introduction to Poetry and/or Drama	CENL 1013 CENL 1023 CENL 2103 CENL 2113 CENL 2123 CENL 2203 CENL 2213 CENL 2223 CENL 2303 CENL 2323 CENL 2313
Environmental Science	Environmental Science	CEVS 1103
Fine Arts Survey	Exploring the Arts Introduction to Visual Arts Dance Appreciation Music Appreciation	CART 1013 CART 1023 CDNC 1013 CMUS 1013
French	Elementary French I Elementary French II Intermediate French I Intermediate French II	CFRN 1013/1014 CFRN 1023/1024 CFRN 2013/2014 CFRN 2023
German	Elementary German I Elementary German II Intermediate German I Intermediate German II	CGRM 1013/1014 CGRM 1023/1024 CGRM 2013 CGRM 2023
History Of Religion	World Religions	CPHL 2213
Latin	Elementary Latin I Elementary Latin II Intermediate Latin I Intermediate Latin II	CLTN 1013/1014 CLTN 1023/1024 CLTN 2013 CLTN 2023
Physical Science	Physical Science I	CPHY 1023
Physics I	Physics I (Algebra/Trigonometry Based) Physics I (Lecture and Lab) Physics I (Calculus Based)	CPHY 2113 CPHY 2114 CPHY 2133
Pre-Calculus	Algebra and Trigonometry	CMAT 1233
Probability and Statistics	Introductory Statistics	CMAT 1303
Spanish	Elementary Spanish I Elementary Spanish II Intermediate Spanish I Intermediate Spanish II	CSPN 1013/1014 CSPN 1023/1024 CSPN 2013/2014 CSPN 2023
Theatre (Performance)	Acting I or II Introduction to Theatre	CTHE 2103/2113 CTHE 1013
US Government or Civics	Introduction to American Government Introduction to State and Local Government Introduction to Comparative Government	CPOL 2013 CPOL 2113 CPOL 2213
US History	American History I or II	CHIS 2013/2023
Western Civilization	Western Civilization I or II	CHIS 1013/1023
World Geography	World Regional Geography	CGRG 2113
World History	World Civilization I or II	CHIS 1113/1123

A.5.a.iii.(a). - J.4.b.ii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

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Chapter 8. TOPS-Tech Award

§803. Establishing Eligibility

A. - A.6.a.i. …

ii. for students graduating in the 2000-2001 school year through the 2012-2013 school year, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum;

Core Curriculum—TOPS-Tech Award	
Units	Course
1	English I
1	English II

Core Curriculum—TOPS-Tech Award	
Units	**Course**
1	English III
1	English IV or substitute 1 unit of Business English
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
1	Chemistry or Applied Chemistry
1	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization, or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
Remaining Core Courses Shall Be Selected from One of the Following Options:	
Option 1—Total of 17 units	
1	Fine Arts Survey or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	
Option 2—Total of 19 Units	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

iii. for students graduating through the 2001-2002 school year, the TOPS-Tech core curriculum as follows;

Core Curriculum—TOPS-Tech Award	
Units	**Course**
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (1 unit) or Applied Algebra IA and 1B (2 units)
1	Algebra II
1	Geometry or Applied Geometry, Trigonometry, Calculus or comparable Advanced Mathematics
1	Biology
1	Chemistry or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, Physics, Physics II or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute 2 units of performance courses in music, dance or theater; or 2 units of studio art or 2 units of visual art courses; or 1 elective from among the other subjects listed in this core curriculum)
2	In a single Foreign Language. (1 unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (2 units).
1/2	Computer Science, Computer Literacy or Business Computer Applications (or substitute at least 1/2 unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least 1/2 unit of an elective from among the other subjects listed in this core curriculum)

iv. for students graduating in the 2013-2014 school year and thereafter, the high school course work documented on the student's official transcript as approved by the Louisiana Department of Education constituting the following TOPS-Tech core curriculum.

Core Curriculum—TOPS-Tech Award	
Units	**Course**
1	English I
1	English II
1	English III
1	English IV or substitute 1 unit of Business English
1	Algebra I; or both Algebra I, Part 1 and Algebra I, Part 2; or both Applied Mathematics I and Applied Mathematics II
2	Geometry, Applied Mathematics III, Algebra II, Financial Mathematics, Advanced Mathematics I [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Functions and Statistics], Discrete Mathematics, or Probability and Statistics (2 units). Integrated Mathematics I, II, and III may be substituted for Algebra I, Geometry and Algebra II, and shall be considered the equivalent of the 3 required math units
1	Biology
2	Earth Science, Environmental Science, Physical Science, Integrated Science, Biology II, or Chemistry or Applied Chemistry, Chemistry II, Physics, Physics II, or Physics for Technology or Agriscience I and II (both for 1 unit)
1	American History
1	World History, Western Civilization, or World Geography
1	Civics and Free Enterprise (1 unit combined) or Civics (1 unit, nonpublic)
Remaining Core Courses Shall Be Selected from One of the Following Options:	
Option 1—Total of 17 units	
1	Fine Arts Survey or drafting (one unit) or substitute 2 units of performance courses in music, dance, or theater; or substitute 2 units of visual art courses; or substitute 2 units of studio art courses; or a course from the Career and Technical Program of studies that is approved by the BESE (must be listed under the Vocational Education Course Offerings in Bulletin 741 or the updates to Bulletin 741); or substitute 1 unit as an elective from among the other subjects listed in this core curriculum
2	Foreign Language, Technical Writing, Speech I or Speech II

Core Curriculum—TOPS-Tech Award	
Units	**Course**
1	One unit from the secondary computer education program of studies that is approved by the BESE
or	
Option 2—Total of 19 Units	
4	In a career major comprised of a sequence of related specialty courses. In order for a student to use this option, the courses for the career major must be approved by BESE.
1	Credit in a basic computer course.
1	In related or technical fields. A related course includes any course which is listed under the student's major. A technical course is one that is listed in the approved career option plan for the high school at which the course is taken.

A.6.b. - B.4.b.ii. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007), LR 35:230 (February 2009), LR 36:491 (March 2010), LR 36:2270 (October 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 41:

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1703. High School's Certification of Student Achievement

A. - B.2.b.viii. …

c. Commencing with the 2014-2015 academic year (high school), for each student for whom the school has been granted consent to collect and disclose PII to LOSFA, Louisiana public high schools as defined in §1703.A.1 above shall collect the following reportable data elements for each year of attendance for those students in the ninth through twelfth grades:

i. verification that the school has been granted written consent to collect and disclose the student's PII to LOSFA from the student's parent or legal guardian, if the student is not at least 18 or judicially emancipated; or by the student, if the student is at least 18 or judicially emancipated;

ii. student's full name, date of birth, and Social Security number;

iii. transcript data, including, but not limited to:

(a). student's BESE identification number;

(b). month and year of high school graduation;

(c). the course code for each course completed;

(d). the grade for each course completed;

(e). the term and year each course is completed;

(f). designation of each advanced placement, International Baccalaureate®, honors, gifted and talented, articulated course for college credit, and dual enrollment course;

(g). the grading scale for each course reported; and

(h). the high school attended for each course reported.

d. Commencing with the 2014-15 academic year (high school), certification from all approved non-public Louisiana high schools as defined in §1703.A.2 and 3 above shall contain, but is not limited to, the following reportable data elements:

i. student's full name, date of birth, and Social Security number;

ii. transcript data, including, but not limited to:

(a). month and year of high school graduation;

(b). the course code for each course completed;

(c). the grade for each course completed;

(d). the term and year each course is completed;

(e). designation of each advanced placement, International Baccalaureate®, honors, gifted and talented, articulated course for college credit, and dual enrollment course;

(f). the grading scale for each course reported; and

(g). the high school attended for each course reported.

B.3. - D.2.b. …

3. commencing with the 2014-2015 academic year (high school), the submission of the required data by the high school headmaster or principal or designee of Louisiana public high schools as defined in §1703.A.1 above shall constitute a certification that:

a. the school has complied with the requirements of R.S. 17:3913.K to:

i. beginning in the eighth grade, annually at the beginning of each school year, provide a form to be signed by the parent or legal guardian of each student enrolled in the school, whereby the student's parent or legal guardian may provide consent or deny consent for the collection and disclosure of the student's personally identifiable information as follows:

(a). full name;

(b). date of birth;

(c). Social Security number; and

(d). transcript data, including, but not limited to:

(i). student's BESE identification number;

(ii). month and year of high school graduation;

(iii). the course code for each course completed;

(iv). the grade for each course completed;

(v). the term and year each course is completed;

(vi). designation of each advanced placement, International Baccalaureate®, honors, gifted and talented, articulated course for college credit, and dual enrollment course;

(vii). the grading scale for each course reported; and

(viii). the high school attended for each course reported;

ii. use a form provided by LOSFA or a form substantially similar to LOSFA's form that:

(a). provides notification of exactly what items of student information will be collected and that disclosure of the student information collected will be restricted to Louisiana postsecondary educational institutions and the Office of Student Financial Assistance to be used solely for the purpose of processing applications for admission and for state and federal financial aid;

(b). requires acknowledgment that the failure to provide written consent for the collection and disclosure of the student's information may result in delays or may prevent successful application for admission to a postsecondary educational institution and for state and federal student financial aid;

iii. collect the personally identifiable information for each student for whom consent was provided;

4. commencing with the 2003 academic year (high school), if a student is determined to be eligible for a TOPS award based on data that is incorrect and the student was in fact ineligible for a TOPS award or the level awarded, the high school must reimburse LASFAC for the amount paid in excess of what the student was eligible for.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:643 (April 1998), amended LR 24:1912 (October 1998), LR 25:258 (February 1999), LR 26:1998 (September 2000), LR 26:2269 (October 2000), repromulgated LR 27:1863 (November 2001), amended LR 29:880 (June 2003), LR 30:1165 (June 2004), LR 40:57 (January 2014), LR 41:

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - D.3. ...

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement. A student who has been declared ineligible for TOPS, TOPS-Tech, TOPS Teacher, the Rockefeller State Wildlife Scholarship or the Louisiana GO Youth Challenge Program because of failure to meet the initial or continuous enrollment requirements may request reinstatement in that program based on one or more of the following exceptions.

1. Parental Leave

a. Definition. The student/recipient is pregnant or caring for a newborn or newly adopted child less than one year of age.

b. Certification Requirements. The student/recipient must submit:

i. a completed exception request form including official college transcripts; and

ii. a written statement from a doctor of medicine who is legally authorized to practice certifying the date of diagnosis of pregnancy and the anticipated delivery date or the actual birth date or a copy of the hospital's certificate of live birth or a copy of the official birth certificate or equivalent official document or written documentation from the person or agency completing the adoption that confirms the adoption and date of adoption.

c. Maximum Length of Exception. Up to the equivalent of one academic year (college) per pregnancy.

E.2. - G.5.b.iii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 41:

§2113. Revision of the Core Curricula

A. LASFAC is authorized by law, subject to prior approval by BESE, to determine a high school level course to be equivalent to a course described in the core curricula or to authorize the name change of a core curricula course, including necessary changes to equivalencies and course names for advanced placement and International Baccalaureate® courses as prescribed by the College Board or the International Baccalaureate Foundation.

B. The determination of a course as equivalent to a course included in the definition of core curriculum shall be limited to those courses identified in the secondary programs of study contained in the *Louisiana Handbook for School Administrators* (LDE Bulletin 741).

C. Prior to initiating rulemaking to determine course equivalents or to authorize a name change, LASFAC must seek the written comments and recommendation of the Louisiana Board of Regents.

D. Only those recommendations for a name change or for the designation of an equivalent course which have been submitted by a local school board or other equivalent education agency for private schools will be considered by LASFAC and such recommendations shall be submitted directly to the Office of Student Financial Assistance, Attention: Legal Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:1921 (October 1998), amended LR 27:1220 (August 2001), repromulgated LR 27:1871 (November 2001), amended LR 41:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG15159NI) until 4:30 p.m., January 9, 2015, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs Personally Identifiable Information and TOPS Core Curriculum

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The overall fiscal impact from rules implementing Act 837 of the 2014 Regular Session is indeterminable, but could be significant if the Louisiana Office of Student Financial Assistance (LOSFA) is unable to obtain information needed to determine eligibility for financial aid and scholarship programs from the Unique Statewide Student Identifier System developed by the contractor selected by Louisiana Department of Education (LDE). On October 1, 2014 the LDE released a request for proposal (RFP) to develop a Unique Statewide Student Identifier System to comply with Act 837 of the 2014 Regular Legislative Session. It is unclear from review of the RFP if LOSFA will be able to obtain information needed to determine eligibility for financial aid and scholarship programs in FY 16 and thereafter, including the Taylor Opportunity Program for Students (TOPS) Program, from the Unique Statewide Student Identifier System developed by the contractor selected by LDE. The RFP states that the contract is tentatively scheduled to begin on or about January 5, 2015. Furthermore, the RFP states that the system shall be operational by May 1, 2015, and that all public students must be assigned a unique identification number by June 1, 2015. It is unclear when LOSFA will know if and how the new system will provide the information needed to determine eligibility for financial aid and scholarship programs in FY 16 and thereafter. However, LOSFA may need to develop its own student information system if the LDE system cannot provide the needed information. There is no way to estimate the costs to LOSFA to develop the agency's own student information tracking system if necessary, but the costs and the time required to create the system would be significant.

Considering the statutory and regulatory requirements for obtaining contractual services, LOSFA would not be able to develop an automated system prior to the agency's timelines in calendar year 2015 to determine eligibility for financial aid and scholarship programs for academic year 2015-16. The alternative would be to create a system by which school districts would report all data needed to determine TOPS eligibility to LOSFA and to create a system for determining whether students have met the core curriculum requirements and required grade point average and integrating this new system into LOSFA's existing Award System which would increase staffing needs and operating expenses by an indeterminable amount.

State costs will increase by an estimated $1.24 million per year beginning in Fiscal Year 2018-2019 due to Act 733 that adds talented, honors and articulated courses to the list of courses that use a 5 point scale in calculating the TOPS Core Curriculum GPA. Rules implementing TOPS Core Curriculum changes in Act 566, TOPS Tech Core Curriculum changes in Act 737, and changes clarifying parental leave exceptions will not have significant impacts on state costs. There are no estimated implementation costs or savings to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Some parents will be required to fully fund their student's postsecondary education due to their decision to not share student data needed to determine eligibility for financial aid and scholarship programs per Act 837.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will not be affected by the proposed change.

George Badge Eldredge	Evan Brasseaux
General Counsel	Staff Director
1412#039	Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Finanical Assistance

Scholarship/Grant Programs
TOPS Continuation Requirements
(LAC 28:IV.301, 501, 503, 505, 507, 701, 703, 705, 801, 805, 1903, and 2103)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its scholarship/grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5, and R.S. 17:3048.6).

This rulemaking amends the scholarship and grant rules provide that students with the TOPS Opportunity, Performance and Honors Awards must meet the same continuation requirement if they are enrolled in academic or technical programs. Beginning with the 2015-16 academic year, all postsecondary courses attempted and grades earned will be used to determine whether these students have met the requirement to earn at least 24 hours each year and to maintain the minimum required cumulative grade point average. (SG15158NI)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 3. Definitions
§301. Definitions

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

* * *

Academic Year (College)—begins with the fall term of the award year and concludes immediately before the next fall term commences unless specifically provided otherwise in these rules. All intersessions and summer sessions are included.

* * *

Academic Year (TOPS)—for students who are eligible for a TOPS Tech, Opportunity, Performance or Honors Award:

a. through the 2007-2008 *academic year*, the two- and four-year college and university *academic year* begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the spring term of the award year. Intersessions ending during the *academic year* are included in the *academic year*. The two- and four-year college and university *academic year* does not include summer sessions or intersessions that do not end during the *academic year*;

b. during the 2008-2009 *academic year*, the *academic year* begins with the fall term of the award year, includes the winter term, if applicable, and concludes with the completion of the intersession immediately following the spring term of the award year. Intersessions ending during the *academic year*, including the intersession immediately following the spring term, are included in the *academic year*. The two- and four-year college and university *academic year* does not include summer sessions or other intersessions;

c. during the 2009-2010 and 2010-2011 *academic years*, the *academic year* begins with the fall term of the award year and concludes with the completion of the spring term of the award year or the intersession immediately following the spring term if such intersession ends no later than June 15, whichever is later. Any intersession or term that begins and ends during the *academic year* is included. The two- and four-year college and university *academic year* does not include other intersessions or summer sessions. See the definition of *intersession* below;

d. beginning with the 2011-2012 *academic year* and thereafter, the *academic year* begins with the fall term of the award year and concludes immediately before the next fall term commences. All intersessions and summer sessions are included.

* * *

Average Award Amount (TOPS-Tech)—is applicable to those students awarded the TOPS-Tech and TOPS Opportunity, Performance, and Honors Awards who attend a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or who attend an eligible cosmetology or proprietary school and are enrolled in a vocational, technical education certificate or diploma program or non-academic undergraduate degree program, and is determined by dividing the total dollar value of awards, which are made to students enrolled in the same types of programs in the prior academic year (TOPS) at eligible public colleges and universities that do not offer academic degrees at the baccalaureate level, by the total number of students that received the awards.

* * *

Award Year—the academic year (TOPS) during which a TOPS award is paid.

* * *

Eligible Colleges or Universities—Louisiana public colleges or universities and regionally accredited independent colleges or universities in the state that are members of the Louisiana Association of Independent Colleges and Universities; for recipients of the TOPS Tech Award only, beginning with the 2009-2010 academic year (TOPS), and for recipients of the TOPS Tech, Opportunity, Performance and Honors Award, beginning with the 2010-2011 academic year (TOPS), any school that has a valid and current certificate of registration issued by the state Board of Cosmetology in accordance with law and that is accredited by an accrediting organization recognized by the United States Department of Education and any proprietary school that has a valid and current license issued by the Board of Regents in accordance with law and that is accredited by an accrediting organization recognized by the United States Department of Education.

* * *

Program Year (Non-Academic Program)—Repealed.

* * *

Returning Student—a student who graduated from high school beginning with academic year (high school):

a. 2001-2002, and met all the academic requirements for a TOPS award, but who enrolled for the first time as a full-time student no later than the deadline established in §703.A.4 in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a full-time student in an eligible college or university; or

b. who was determined eligible for a TOPS Opportunity, Performance or Honors Award and enrolled for the first time as a full-time student no later than the deadline established in §703.A.4 in an eligible college or university in Louisiana, subsequently enrolled in an out-of-state postsecondary institution accredited by a regional accrediting organization recognized by the United States Department of Education and, thereafter, returns to Louisiana and enrolls as a full-time student in an eligible college or university during or after the 2009-2010 academic year (TOPS).

* * *

TOPS Cumulative Grade Point Average (Academic)—through the 2014-15 academic year (TOPS), the grade point average calculated by LOSFA on all academic courses taken by a student at postsecondary institutions to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS award. The cumulative grade point average shall be calculated on a 4.00 scale and must include all academic courses from all postsecondary institutions attended for which the student has been awarded a grade. Academic courses taken at a college or university while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled must be included in the calculation. Grades earned in non-academic courses and courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

TOPS Cumulative Grade Point Average (Non-Academic)—through the 2014-15 academic year (TOPS), the grade point average calculated by LOSFA on all non-academic courses taken by a student at postsecondary institutions to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS award. The cumulative grade point average shall be calculated on a 4.00 scale and must include all non-academic courses from all postsecondary institutions attended for which the student has been awarded a grade. Non-academic courses taken at a college or university while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled must be included in the calculation. Grades earned in academic courses and courses taken on a pass/fail basis are not considered in the calculation of the cumulative grade point average.

TOPS Cumulative Grade Point Average (Opportunity, Performance, Honors)—beginning with the 2015-16 academic year (TOPS), the grade point average for students with the TOPS Opportunity, Performance and Honors Awards shall be calculated by LOSFA on all courses taken by a student at postsecondary institutions.

a. These courses shall include those taken at postsecondary institutions while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled.

b. The average for these courses shall be calculated on a 4.00 scale and shall include all courses for which the student has been awarded a grade. The average shall not include courses graded on a pass/fail basis.

c. This average will be used to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Opportunity, Performance or Honors Award.

TOPS Cumulative Grade Point Average (TOPS Tech)—beginning with the 2015-2016 academic year (TOPS) the grade point average for a student with the TOPS Tech Award shall be calculated by LOSFA on all courses taken by a student at postsecondary institutions while enrolled in a skill, occupational or technical program.

a. These courses shall include all those taken in skill, occupational or technical programs at postsecondary institutions while the student was still in high school and at postsecondary institutions other than the institution at which the student is currently enrolled.

b. The average for these courses shall be calculated on a 4.00 scale and shall include all courses while enrolled in a skill, occupational or technical program for which the student has been awarded a grade. The average shall not include courses graded on a pass/fail basis.

c. This average will be used to determine whether the student has maintained steady academic progress and whether the student has met the minimum grade point average required to maintain eligibility for continuation of a TOPS Tech Award.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65 (January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:

Chapter 5. Applications, Federal Grant Aid and ACT Test

§501. Initial Application

A. Initial Application for High School Graduates of 2002-2003 or Earlier

1. Except as provided in Subparagraph A.2.b below, all new applicants for Louisiana scholarship and grant programs must apply for federal aid by completing the free application for federal student aid (FAFSA) for the academic year following the year the student graduated from high school. For example, if the student will graduate from high school in school year 2002-2003, submit the 2003-2004 version of the FAFSA.

2. All new applicants for TOPS Opportunity, Performance, Honors and TOPS-Tech Awards who graduate from high school during the 2001-2002 or 2002-2003 academic years (high school) must apply for federal aid by completing the free application for federal student aid (FAFSA) for the academic year (TOPS) the applicant will be a first-time, full-time student. For example, if the applicant will graduate from high school in the 2002-2003 academic year (high school) and does not intend to enroll as a first-time, full-time student until the fall semester of 2004, he must submit the 2004-2005 version of the FAFSA.

A.2.a. - C.2. …

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), LR 24:1900 (October 1998), amended LR 26:1994 (September 2000), repromulgated LR 27:1846 (November 2001), amended LR 29:554 (April 2003), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:1060 (May 2005), LR 41:

§503. Application Deadlines for High School Graduates of 2003 and Earlier

A. - B.1.a. …

b. For applicants graduating from high school during or after the 2001-2002 academic year (high school), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a

student's initial FAFSA application is the July 1 immediately preceding the academic year (TOPS) in which the applicant will be a first-time, full-time student.

B.1.c. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), LR 24:1900 (October 1998), amended LR 25:655 (April 1999), LR 25:2396 (December 1999), LR 26:1994 (September 2000), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 28:1760 (August 2002), LR 29:554 (April 2003), LR 30:1471 (July 2004), LR 30:2016 (September 2004), LR 33:440 (March 2007), LR 41:

§505. Application Deadlines for High School Graduates and Home Study Completers of 2004 and Later and Eligible Non-Graduates

A.1. - A.3. …

B. Deadline for Payment for the Academic Year (TOPS) Immediately Following High School Graduation

1. Beginning with the 2007-2008 academic year (TOPS), to be determined eligible for payment of TOPS awards for the academic year (TOPS) immediately following the academic year (high school) of high school graduation, students must submit the initial FAFSA or on-line application so that it is received no later than the July 1 immediately following the academic year (high school) of graduation.

2. Beginning with the 2007-2008 academic year (TOPS), students will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning with the academic year (TOPS) immediately after the student's one year anniversary of high school graduation if their initial FAFSA or on-line application is received after the July 1 immediately following the academic year (high school) of high school graduation and no later than the final deadline set forth in Subsection C, below, and if the student was enrolled during the preceding academic year (TOPS), the student has met the requirements for continuing eligibility.

3.a. Beginning with the 2010-2011 academic year (TOPS), students whose initial FAFSA or on-line application is received on or before July 1 immediately following the one year anniversary of high school graduation will receive payment of their TOPS award as provided in §701.E beginning with the first semester, quarter or term the student enrolls for the first time as a full-time student in an eligible college or university; provided that no payment of a TOPS award shall be made until the initial FAFSA or on-line application has been received and the applicant has been determined eligible for a TOPS award.

3.b. - 4.b. …

C. Final Deadline for Full TOPS Award

1.a. Except as provided below, through the 2006-2007 academic year (TOPS), in order to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the on-line application is July 1 immediately prior to the academic year (TOPS) he first enrolls as a first-time freshman in an eligible college or university.

b. Beginning with the 2007-2008 academic year (TOPS), in order receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or on-line application is July 1 immediately prior to the academic year (TOPSe) immediately following the one year anniversary of high school graduation.

c.i. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during the 2004-2005 academic year (TOPS) are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2004-2005 academic year (TOPS) if their initial FAFSA or on-line application was received no later than October 29, 2004;

(b). with the 2005-2006 academic year (TOPS) if their initial FAFSA or on-line application was received after October 29, 2004, and no later than July 1, 2005, and, if the student enrolled as a full-time student during the 2004-2005 academic year (TOPS), the student has met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2005 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2005 if their initial FAFSA or on-line application was received no later than July 1, 2005.

iii. Students who graduated from high school during the 2003-2004 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during either the 2004-2005 academic year (TOPS) or fall semester of 2005 are eligible for a reduced TOPS award (see Subsection 505.D, below) beginning with the fall semester of 2005, if their initial FAFSA or on-line application was received after July 1, 2005 and no later than October 31, 2005, and, if the student enrolled as a full-time student during the 2004-2005 academic year (TOPS), the student has met the requirements for continuing eligibility.

d.i. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during the 2005-2006 academic year (TOPS) will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2005-2006 academic year (TOPS) if their initial FAFSA or on-line application is received no later than October 31, 2005;

(b). with the 2006-2007 academic year (TOPS) if their initial FAFSA or on-line application is received after October 31, 2005, and no later than July 1, 2006, and, if the student enrolled as a full-time student during the 2005-2006 academic year (TOPS), the student met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2006 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2006 if their initial FAFSA or on-line application was received no later than July 1, 2006.

iii. Students who graduated from high school during the 2004-2005 academic year (high school) and enrolled as a first-time freshman in an eligible college or university during either the 2005-2006 academic year (TOPS) or fall semester of 2006 are eligible for a reduced TOPS award (see Subsection 505.D, below) beginning with the fall semester of 2006, if their initial FAFSA or on-line application was received after July 1, 2006, and no later than October 30, 2006, and, if the student enrolled as a full-time student during the 2005-2006 academic year (TOPS), the student met the requirements for continuing eligibility.

e.i. Students who graduate from high school during the 2005-2006 academic year (high school) and enroll as a first-time freshman in an eligible college or university during the 2006-2007 academic year (TOPS) will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning:

(a). with the 2006-2007 academic year (TOPS) if their initial FAFSA or on-line application is received no later than October 30, 2006;

(b). with the 2007-2008 academic year (TOPS) if their initial FAFSA or on-line application is received after October 30, 2006, and no later than July 1, 2007, and, if the student enrolled as a full-time student during the 2006-2007 academic year (TOPS), the student met the requirements for continuing eligibility.

ii. Students who graduated from high school during the 2005-2006 academic year (high school) and enrolled as a first-time freshman in an eligible college or university beginning the fall semester of 2007 are eligible to receive the full benefits of a TOPS award as provided in §701.E beginning the fall semester of 2007 if their initial FAFSA or on-line application was received no later than July 1, 2007.

iii. Students who graduate from high school during the 2005-2006 academic year (high school) and enroll as a first-time freshman in an eligible college or university during either the 2006-2007 academic year (TOPS) or the fall semester of 2007 are eligible for a reduced TOPS award (see Subsection 505.D, below) beginning with the fall semester of 2007, if their initial FAFSA or on-line application is received after July 1, 2007, and no later than October 29, 2007, and, if the student enrolled as a full-time student during the 2006-2007 academic year (TOPS), the student met the requirements for continuing eligibility.

2. Returning Students

a. Beginning with the 2002-2003 through the 2004-2005 academic year (TOPS), in order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of a student's initial FAFSA or the on-line application is May 1 of the academic year (TOPS) he first enrolls as a full-time student in an eligible college or university.

b. Beginning with the 2005-2006 academic year (TOPS), in order for a returning student to receive the full benefits of a TOPS award as provided in §701.E, the final deadline for receipt of the student's initial FAFSA or the on-line application is the July 1 immediately following the academic year (TOPS) he first enrolls as a full-time student in an eligible college or university.

C.3. - E. …

F. Renewal FAFSA

1.a. Through the 2004-2005 academic year (TOPS), in order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA so that it is received by May 1 of each academic year (TOPS) after initial eligibility is established.

b. Beginning with the 2005-2006 academic year (TOPS), in order to remain eligible for TOPS awards, a student who is eligible for federal grant aid must file a renewal FAFSA so that it is received by the July 1 immediately preceding each academic year (TOPS) after initial eligibility is established.

2. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition are not required to submit a renewal FAFSA.

3.a. In the event of a budgetary shortfall, applicants who do not file a renewal FAFSA or who do not complete all sections of the FAFSA will be the first denied a TOPS award.

b. Students who can demonstrate that they do not qualify for federal grant aid because of their family's financial condition and do not want to be the first denied a TOPS award must file a renewal FAFSA so that it is received by the July 1 immediately preceding each academic year (TOPS) after initial eligibility is established.

4. All recipients of Louisiana Scholarship and Grant Programs other than TOPS and the Rockefeller Wildlife Scholarship Program must submit a renewal FAFSA for each academic year (TOPS) the student enrolls.

G. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

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§507. Final Deadline for Submitting Documentation of Eligibility

A. LASFAC will continue to process eligibility for both new and renewal applicants during each award year until July 1 after the spring term of that award year.

B.1. Through the 2004-2005 academic year (TOPS), all documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than May 1 of the award year. For example, to receive an award for the 2004-2005 award year, LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 2005.

2. Beginning with the 2005-2006 academic year (TOPS) through the 2010-11 academic year (TOPS), all documentation and certifications necessary to establish

student initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than July 1 immediately following the academic year (TOPS) the student is first eligible for payment of a TOPS award . For example, if a student's initial FAFSA is received no later than July 1, 2007, for that student to receive an award for the 2007-2008 academic year (TOPS), LASFAC must have in its possession all documents relevant to establishing eligibility by July 1, 2008.

3. Beginning with the 2011-12 academic year (TOPS), all documentation and certifications necessary to establish student initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, applicant confirmation forms, promissory notes, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than January 15 immediately following the final deadline for receipt of the student's FAFSA or on-line application. For example, if a student's graduates from high school in May 2011, the final deadline for receipt of the student's FAFSA or on-line application is July 1, 2012, and the deadline for receipt of all documents relevant to establishing eligibility is January 15, 2013.

C. Returning Students

1. Returning students, who graduated high school during the 2001-2002 academic years (high school) and who enroll in an eligible college or university in the spring semester 2003, must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

2. Returning students, who enroll in an eligible college or university in the fall semester of 2003 through the spring semester of 2005, must submit documentation that establishes TOPS eligibility no later than May 1 of the academic year (TOPS) the student enrolls in an eligible college or university. For example, a student who seeks to enroll in an eligible college or university in the fall semester of 2003 must submit documentation that establishes TOPS eligibility no later than May 1, 2004.

3.a. Returning students, who enroll in an eligible college or university in academic year (TOPS) 2005-2006 or academic year (TOPS) 2006-2007, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (TOPS) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than April 15 following the July 1 deadline.

b.i. To receive the full benefits of a TOPS award as provided in §701.E, returning students, who enroll in an eligible college or university in the fall semester of 2007 or later, must submit an application to return from an out-of-state college no later than July 1 immediately following the academic year (TOPS) the student enrolls as a full-time student in an eligible college or university and must submit any supporting documentation required by the application no later than January 15 following the July 1 deadline.

b.ii. - c.vii.…

4.a. Beginning with the 2007-2008 academic year (TOPS), all documentation and certifications necessary to establish a returning student's initial eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of student aid reports, ACT and/or SAT scores, residency affidavits, proof of citizenship or permanent residency status and other documents that may be utilized in determining eligibility, must be received by LASFAC no later than January 15 immediately following the deadline for receipt of the student's FAFSA or on-line application.

b.- b.iii. …

D.1. A student who successfully completed an undergraduate degree prior to or during the 2001-2002 academic year (TOPS) and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1, 2004.

2. A student who successfully completes an undergraduate degree during the 2002-2003 through the 2004-2005 academic year (TOPS) and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than May 1 of the academic year (TOPS) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2003-2004 academic year (TOPS), the student must submit the required documents no later than May 1, 2004.

3. A student who successfully completes an undergraduate degree during the 2005-2006 academic year (TOPS) or later and wishes to receive his remaining award eligibility to attend a postgraduate school must provide the documentation and certifications required to establish student eligibility no later than July 1 immediately following the academic year (TOPS) the student seeks to receive his remaining award eligibility. For example, to receive the remaining award for the 2006-2007 academic year (TOPS), the student must submit the required documents no later than July 1, 2007.

E. The reduction of the student's period of eligibility for this award under §507.C above shall not be cumulative with any reduction under §505.D or §509.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 28:447 (March 2002), LR 30:1161 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 32:2238 (December 2006), LR 33:2357 (November 2007), LR 34:1389 (July 2008), LR 34:1884 (September 2008), LR 36:312 (February 2010), LR 38:3157 (December 2012), LR 41:

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

§701. General Provisions

A. - E.1.b. …

2.a. The TOPS Performance Award provides a $400 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C, or 701.E.2.b. The stipend will be paid for each qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

3.a. The TOPS Honors Award provides an $800 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C or 701.E.3.b. The stipend will be paid for each qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight semester limit for TOPS.

3.b. - 5.a. …

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree receive an amount equal to the *average award amount (TOPS-Tech)*, as defined in §301, plus any applicable stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS). The stipend will be paid for each qualified summer session, semester, quarter, term or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight-semester limit for TOPS.

6. - 11.c. …

F. Beginning with the 2000-2001 academic year (TOPS) and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of $200 per qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. prior to June 18, 1999, the student was determined by the administering agency to be eligible for a Performance Award, but who chose either by submission of a completed award confirmation form or by not sending in a completed award confirmation form to receive an Opportunity Award and was awarded an opportunity award; and

2. the student, once enrolled at an eligible institution, has continuously met all requirements to maintain continued state payment for a Performance Award.

G. Beginning with the 2000-2001 academic year (TOPS) and continuing for the remainder of their program eligibility, students who meet each of the following requirements shall be awarded a stipend in the amount of $400 per qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid which shall be in addition to the amount determined to equal the tuition charged by the public college or university attended or, if applicable, the amount provided for attendance at an eligible nonpublic college or university:

1. - 2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

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§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1.a. for students graduating in academic year (high school) 2001-2002 and prior, be a United States citizen, provided however, that a student who is not a citizen of the United States but who is eligible to apply for such citizenship shall be deemed to satisfy the citizenship requirement, if within 60 days after the date the student attains the age of majority, the student applies to become a citizen of the United States and obtains such citizenship within one year after the date of the application for citizenship. Those students who are eligible for U.S. citizenship and who otherwise qualify for a TOPS award, will continue to satisfy the citizenship requirements for a TOPS award for one year after the date of the student's application for citizenship, at which time, if the student has not provided proof of U.S. citizenship to the Office of Student Financial Assistance, the student's TOPS award will be suspended until such time as proof of citizenship is provided and canceled if such proof is not provided by May 1 of the following academic year (TOPS). Students cancelled solely due to their failure to become a United States citizen within one year after the date of application shall be reinstated to their award if they are a United States

citizen or a permanent resident as defined by the Bureau of Citizenship and Immigration Services and were eligible to apply for United States citizenship when cancelled and have met the requirements for maintaining eligibility for the award;

1.b. - 4.f. …

g. all students must apply for an award by July 1 of the academic year (high school) in which they graduate to establish their initial qualification for an award, except as provided by §503.D. For a student entitled to defer acceptance of an award under §703.A.4.b or d that student must apply by July 1 of the academic year (high school) in which the student graduates, except as provided by §503.D:

i. and, if enrolling in an academic program, must also apply by July 1 prior to the academic year (TOPS) in which the student intends to first accept the award, and by July 1 of every year of eligibility thereafter, except as provided in §501.B; or

ii. and, if enrolling in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, must also apply by the July 1 immediately after the start of the academic year (TOPS) in which the student intends to first accept the award, and by July 1 of every year of eligibility thereafter, except as provided in §501.B;

A.5.a. - H.1.c. …

2. A returning student who fails to enroll by the deadline established in §703.A.4 or to maintain full-time enrollment or to earn 24 hours during an academic year (TOPS) while enrolled in an out-of-state college or university, shall not be eligible for a TOPS award unless granted an exception in accordance with §2103.

H.3. - J.4.b.ii. …

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

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§705. Maintaining Eligibility

A. - A.5. …

6. minimum academic progress:

a.i. in an academic undergraduate program at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or term in the academic year (TOPS), including any hours earned during an intersession ending during the academic year. These hours shall include remedial course work required by the institution, but shall not include hours earned during qualified summer sessions, summer sessions or intersessions that do not end during the academic year or by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

ii. beginning in the 2008-2009 and through the 2010-2011 academic year (TOPS), in an academic undergraduate program at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter in the academic year (TOPS), including any hours earned during an intersession ending during the academic year or immediately following the spring term. These hours shall include remedial course work required by the institution, but shall not include hours earned during qualified summer sessions, summer sessions or intersessions that do not end during the academic year or intersessions that do not immediately follow the spring term or by advanced placement course credits. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

iii. beginning in the 2011-2012 academic year (TOPS), in an academic undergraduate program at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter, intersession and summer session in the academic year (TOPS) (includes any hours earned during any intersession and/or summer session ending before the following fall semester or quarter). These hours shall include remedial course work required by the institution and hours for repeated courses, but shall not include hours by advanced placement course credits, by credit by exam, or through the College-Level Examination Program. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

b. in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree at an eligible college or university, by the end of each academic year (TOPS), earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or quarter, intersession and summer session in the academic year (TOPS) (includes any hours earned during any intersession and/or summer session ending before the following fall semester or quarter). These hours shall include remedial course work required by the institution and hours for repeated courses, but shall not include hours by advanced placement course credits, by credit by exam, or through the College-Level Examination Program. Unless granted an exception for cause by LASFAC, failure to earn 24 hours during the academic year (TOPS) will result in permanent cancellation of the recipient's eligibility; or

c. in an academic graduate or professional program at an eligible college or university, by the end of each academic year (TOPS), earn at least the total college credit hours required by the college or university for full-time enrollment for each semester or quarter as determined by totaling the earned hours reported by the institution for each semester or quarter, intersession and summer session in the academic year (TOPS) (includes any hours earned during any intersession and/or summer session ending before the following fall semester or quarter). These hours shall not include hours by advanced placement course credits, by credit by exam, or through the College-Level Examination Program. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; or

d. in an eligible cosmetology or proprietary school, meet the federal grant aid steady academic progress requirement at that school; and

7. maintain steady academic progress as defined in §301; and

8.a. Through the 2014-15 academic year (TOPS), maintain at an eligible college or university, by the end of the spring semester, quarter, or term, a TOPS cumulative college grade point average on a 4.00 maximum scale of at least:

i. a 2.30 with the completion of 24 but less than 48 credit hours, a 2.50 after the completion of 48 credit hours, for continuing receipt of an Opportunity Award, if enrolled in an academic program; or

ii. a 2.50, for continuing receipt of an Opportunity Award, if enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree; and

b. beginning the 2015-16 academic year (TOPS), maintain at an eligible college or university, by the end of the spring semester or quarter, a TOPS cumulative college grade point average (Opportunity, Performance, Honors) on a 4.00 maximum scale of at least:

i. a 2.30 with 24 but less than 48 earned credit hours for continuing receipt of an Opportunity Award, if enrolled for the spring semester or quarter in an academic program; or

ii. a 2.50 with 24 but less than 48 earned credit hours for continuing receipt of an Opportunity Award, if enrolled for the spring semester or quarter in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree; or

iii. a 2.50 with 48 or more earned credit hours for continuing receipt of an Opportunity Award, if enrolled for the spring semester or quarter in any program of study; and

c. a 3.00 for continuing receipt of either a Performance or Honors Award; or

d. the minimum grade necessary to maintain good standing, if enrolled in a graduate or professional program; or

e. meet the federal grant aid steady academic progress requirement at that school, if enrolled in an eligible cosmetology or proprietary school; and

B.1. Students failing to meet the requirements listed in §705.A.7 or §705.A.8.a, b, d, or e may have their tuition awards reinstated upon regaining "steady academic progress" (see §301) and/or attainment of the required TOPS cumulative grade point average, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

2. If the two-year period is interrupted due to a student's active duty in the United States Armed Forces, the two-year period will be extended for a length of time equal to the student's active duty service.

3. Students who fail to meet the requirements of §705.A.8.c, shall no longer be eligible for the stipend authorized for the Performance and Honors Awards, but shall be eligible to receive the award amount for the Opportunity Award if they meet the continuation requirements of §705.A.8.a, b, d. or e.

4.a. A student shall have one semester or quarter after the spring semester or quarter of 2016 for which the TOPS award will be paid to meet the requirements of §705.A.8.b if the student:

i. failed to meet the requirements listed in §705.A.8.b solely because the calculation of the TOPS cumulative grade point average (Opportunity, Performance, Honors) at the end of the spring semester or quarter of 2016 includes both hours and grades for courses taken before the 2015-16 academic year (TOPS) in both academic and technical courses of study; and

ii. was a high school graduate or home study completer who enrolled for the first time as a full-time student in an eligible postsecondary institution before the 2015-16 academic year (TOPS); and

iii. not suspended after the spring semester or quarter of 2014-15 academic year (TOPS).

b. The TOPS award of a student who meets the requirements of §705.B.4.a shall not be suspended unless the student fails to meet the requirements of §705.A.8.b by the end of the fall semester or quarter of 2016 in which case:

i. the student's TOPS award shall be suspended effective at the end of the fall semester or quarter of 2016; and

ii. the provisions of §705.B.1 and 2 shall apply.

c. If a student does not enroll full-time for the fall semester or quarter of 2016 and any subsequent consecutive semesters or quarters and is granted an exception for all of those semesters or quarters, the provisions of §705.B.4.b shall be extended to the end of the next semester or quarter during which the student enrolls full-time and for which the student's TOPS award is paid.

C. - D.3. …

E. Natural Disaster Maintaining Eligibility Requirements

1. To continue receiving the TOPS Opportunity, Performance or Honors Awards, a displaced student must meet all of the criteria in §705.A-D above, except as follows.

a. The TOPS award of a displaced student who enrolls for the first time as a full-time student in an eligible out-of-state college or university during the 2005-2006 academic year (TOPS) and subsequently enrolls at a Louisiana eligible college or university shall not be reduced due to enrollment in an eligible out-of-state institution during the 2005-2006 academic year (TOPS).

b. The TOPS award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006

academic year (TOPS) shall not be cancelled due to such out-of-state enrollment.

c. The TOPS award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006 academic year (TOPS) shall not be reduced for those semesters or terms such displaced student was enrolled in an eligible out-of-state institution during the 2005-2006 academic year (TOPS).

d. The period of suspension of a TOPS award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or term in which the student does not enroll on a full-time basis in an eligible college or university during the 2005-2006 academic year (TOPS).

2. - 3. …

F.1. A student who successfully completes a baccalaureate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a graduate or professional school at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an undergraduate degree and has met the requirements for continued eligibility set forth in §705.A.6. The remaining eligibility may not be used to pursue a second undergraduate degree.

2. Beginning with the 2012-2013 academic year (TOPS), a student who successfully completes any type of technical, vocational, or academic credential other than a baccalaureate degree without having exhausted his period of award eligibility shall receive an award for the remainder of his eligibility if he enrolls in a program of study leading to a baccalaureate degree, to a vocational or technical certificate or diploma, or to a non-academic degree at an eligible college or university no later than the fall semester immediately following the first anniversary of the student's completion of an associate's degree and has met the requirements for continued eligibility set forth in §705.A.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:637 (April 1998), amended LR 24:1904 (October 1998), LR 25:257 (February 1999), LR 25:656 (April 1999), LR 25:1091 (June 1999), LR 26:67 (January 2000), LR 26:688 (April 2000), LR 26:1996 (September 2000), LR 26:2001 (September 2000), repromulgated LR 27:1853 (November 2001), amended LR 28:447 (March 2002), LR 28:772 (April 2002), LR 28:2332 (November 2002), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1163 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:437 (March 2007) , LR 34:1390 (July 2008), LR 36:491 (March 2010), LR 36:2856 (December 2010), LR 38:3159 (December 2012), LR 40:1002 (May 2014), LR 41:

Chapter 8. TOPS-Tech Award

§801. General Provisions

A. - D.2. …

3. Beginning with the 2010-2011 academic year (TOPS), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students with the TOPS-Tech Award participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus a sum of $300 per semester or $600 per program year (nonacademic program) to be applied toward the cost of books and other instructional materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 26:1997 (September 2000), repromulgated LR 27:1854 (November 2001), amended LR 36:2856 (December 2010), LR 41:

§805. Maintaining Eligibility

A. To continue receiving the TOPS-Tech Award, the recipient must meet all of the following criteria:

1. have received the TOPS-Tech Award for not more than two years or the equivalent number of terms and summer sessions, provided that not attending a summer session shall not reduce the number of eligible terms; and, except as provided by §805.C, or unless reduced as required by §503.D;

2. - 4. …

5. continue to enroll and accept the TOPS Tech Award as a full-time student in an eligible college or university defined in §301, and maintain an enrolled status throughout the academic year (TOPS) (Enrollment in a summer session is optional and is not required to meet this requirement.), unless granted an exception for cause by LASFAC; and

6. …

7. maintain, by the end of the spring term, a TOPS cumulative college grade point average (TOPS Tech) of at least 2.50 on a 4.00 maximum scale, provided that this requirement does not apply to a student who is enrolled in a cosmetology or proprietary school that is an eligible college or university and the student has met the federal grant aid steady academic progress requirement at that school; and

8. earn a total of at least 24 college credit hours as determined by totaling the earned hours reported by the institution for each semester or term in the academic year (TOPS). Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility, provided that this requirement does not apply to a student who is enrolled in a cosmetology or proprietary school that is an eligible college or university and the student has met the federal grant aid steady academic progress requirement at that school.

B. - D.1. …

a. The TOPS Tech Award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006 academic year (TOPS) shall not be cancelled due to such out-of-state enrollment.

b. The TOPS Tech Award of a displaced student who has been enrolled in a Louisiana eligible college or university and who subsequently enrolls as a full-time student in an eligible out-of-state institution during the 2005-2006 academic year (TOPS) shall not be reduced for those

semesters or terms such displaced student was enrolled in an eligible out-of-state institution during the 2005-2006 academic year (TOPS).

c. The period of suspension of a TOPS Tech Award for a displaced student due to the student not meeting a requirement to maintain a minimum grade point average or to make steady academic progress shall be extended on a one-for-one basis for each semester or other term in which the student does not enroll on a full-time basis in an eligible college or university during the 2005-2006 academic year (TOPS).

d. A TOPS Tech Award may be used by a displaced student during the 2005-2006 academic year (TOPS) to enroll on a full-time basis in an academic program at a Louisiana eligible college or university to take courses that contribute to the pursuit of a skill or occupation. In such case, the award amount shall be at the same as the opportunity award for that institution.

D.2. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998) amended LR 25:1091 (June 1999), LR 26:68 (January 2000), LR 26:689 (April 2000), LR 26:1997, 2002 (September 2000), repromulgated LR 27:1856 (November 2001), amended LR 28:774 (April 2002), LR 28:2332 (November 2002), LR 29:880 (June 2003), LR 29:2373 (November 2003), LR 30:781 (April 2004), LR 30:1165 (June 2004), LR 30:2019 (September 2004), LR 31:3115 (December 2005), LR 33:438 (March 2007), LR 35:1489 (August 2009), LR 38:3160 (December 2012), LR 40:1002 (May 2014), LR 41:

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions

§1903. Responsibilities of Post-Secondary Institutions

A. - A.2.h. …

3. Beginning with the 2013-2014 academic year (TOPS), an institution shall also report:

a. a student's completion of program of study;

b. whether the program of study was academic or technical;

c. type of credential (degree, certificate, diploma, baccalaureate);

d. semester of completion.

B. - B.9. …

10.a. upon the school's certification that a student who is eligible for a TOPS-Tech Early Start Award is enrolled in an industry-based occupational or vocational education credential program in a top demand occupation institutions, shall bill for, and LASFAC will pay the institution, for each such recipient according to the following schedule.

Credit Hours	Payment
1	$50
2	$100
3	$150
4	$200
5	$250
6	$300

b. The maximum that may be billed is $300 per semester and $600 per academic year (TOPS).

c. Institutions may not bill for summer semesters or sessions.

B.11.a. - G.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, 17:3041.10-3041.15, 17:3041.21-3041.26, R.S. 17:3048.1, and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:1233 (July 2009), LR 35:1490 (August 2009), LR 35:1491 (August 2009), LR 36:2857 (December 2010), LR 40:282 (February 2014), LR 40:1003 (May 2014), LR 41:

Chapter 21. Miscellaneous Provisions and Exceptions

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. - C.3.b. …

D. Procedure for Requesting Exceptions to the Initial and Continuous Enrollment Requirement

1. The student should complete and submit an application for an exception, with documentary evidence, to the office as soon as possible after the occurrence of the event or circumstance that supports the request. Through the 2000-2001 academic year (TOPS), the student must submit application for an exception no later than May 30 of the academic year the student requests reinstatement. Commencing with the 2001-2002 academic year (TOPS), the student must submit the application for exception no later than six months after the date of the notice of cancellation, except that a returning student must submit the application for exception no later than six months after the date of the notice of ineligibility due to failure to meet the continuing eligibility requirements of §705. The deadline for filing the exception shall be prominently displayed on the notice of cancellation. If the applicant for an exception is a dependent student, a parent or court ordered custodian of the dependent student may submit the application for exception on behalf of the applicant.

D.2. - G.3. …

4.a. For the 2005-2006 academic year (TOPS), displaced students are not required to enroll as full-time students, to maintain continuous enrollment or to earn at least 24 hours during the 2005-2006 academic year (TOPS).

b. Displaced students may enroll on a part-time basis in an eligible college or university without losing TOPS eligibility. Upon request by the student, the eligible college or university may bill for these part-time students.

c. The terms of eligibility for a displaced student whose part-time enrollment is paid by TOPS will be reduced by one full semester (term) for each semester (term) (part- or full-time) paid.

d. Institutions must document the displaced student's request for part-time payment of the award.

e. If a displaced student enrolls in an eligible college or university during the 2005-2006 academic year

(TOPS) and receives grades, those grades will be included in calculating the student's cumulative grade point average.

5.a. For the 2005-2006 academic year (TOPS), students who are not displaced students, but due to the effects of a natural disaster were unable to enroll for the first time as full-time students by the deadline or to enroll as full-time students or to maintain continuous enrollment or to earn at least 24 hours during the academic year (TOPS), may submit a request for an exception in accordance with §2103.D, based on one of the circumstances listed in §2103.E, or in accordance with the following procedures for the circumstances described in this Subsection.

i.- ii. …

b. Natural Disaster Exception (for other than displaced students)

i. Definition. The effects of a natural disaster prevented the student/recipient from enrolling as a full-time student or continuing enrollment or earning 24 hours during the 2005-2006 academic year (TOPS).

ii. - iii. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 41:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG15158NI) until 4:30 p.m., January 9, 2015, by email to LOSFA.Comments@la.gov or by mail to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs
TOPS Continuation Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed changes will require that the TOPS cumulative grade point average (GPA) for students with the TOPS Opportunity, Performance and Honors (OPH) Awards be calculated based on the grades for all courses attempted, whether in technical or academic programs, beginning with the 2015-16 academic year. These changes should not result in any additional costs to the program. Currently, GPA for OPH students is calculated separately for courses attempted in academic programs and courses attempted in technical programs. For most of the OPH students, the calculation of the GPA using all courses attempted will not change their TOPS status. The calculation of GPA by combining grades may result in the short-term suspension of the TOPS Award for a few students. However, inclusion of grades from technical courses in the calculation of overall GPA per the proposed rules will likely allow students to raise their cumulative GPA faster and meet cumulative TOPS GPA requirements sooner than under current rules. Furthermore, the proposed rules will grant these students one term to bring their grades up to the minimum required.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The calculation of GPA by combining grades may result in the short-term suspension of the TOPS Award for a few students (estimated to be less than 205 or less than 0.5% of all OPH recipients). However, inclusion of grades from technical courses in the calculation of overall GPA per the proposed rules will likely allow students to raise their cumulative GPA faster and meet cumulative TOPS GPA requirements sooner than exclusion of such grades for OPH awards under current rules. Furthermore, the proposed rules will grant these students one paid term to bring their grades up to the minimum required.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from the proposed change.

George Badge Eldredge
General Counsel
1412#011

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Finanical Assistance

Scholarship/Grant Programs
TOPS Tech Early Start Award
(LAC 28:IV.1003)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its scholarship/grant rules (R.S. 17:3021-3025, R.S. 3041.10-

3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking adds definitions to the TOPS Tech Early Start Program rules, including a definition of *technical* or *applied course*. (SG15160NI)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 10. TOPS-Tech Early Start Award
§1003. Definitions

Approved Training Program—a program provided by an approved training provider of technical and/or applied courses toward a credential in a top demand occupation.

Approved Training Provider—a Louisiana provider recognized by the Louisiana Workforce Commission and approved by the state Board of Elementary and Secondary Education to provide technical and/or applied courses toward a credential in a top demand occupation.

Credential-Industry-Based Certification—a certificate of applied science or a certificate of technical sciences approved by the Workforce Investment Council.

Technical or *Applied Course*—a course required for a credential in a top demand occupation.

Top Demand Occupation—an occupation identified by the Occupation Forecasting Conference as being in top demand in Louisiana and recognized by the State Industry-Based Certification Leadership Council.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1, R.S. 17:3048.1 and R.S. 17:3048.5.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 31:3110 (December 2005), amended LR 41:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG15160NI) until 4:30 p.m., January 9, 2015, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Scholarship/Grant Programs
TOPS Tech Early Start Award

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

A Notice of Intent published 9/20/2014 proposed changes to modify the Scholarship and Grant Program Rules to implement TOPS Tech Early Start (TTES) program requirements enacted by Act 737 of the 2014 Regular Session of the Louisiana Legislature. The proposed changes in that Notice of Intent included several changes in Section 1003 that are not yet final. Those changes are repeated in this proposed rule to avoid confusion and are not new changes. This proposed rule change only adds the following definition to Section 1003 that was not included in the previous Notice of Intent: Technical or Applied Course–a course required for a credential in a top demand occupation. Adding this definition to Section 1003 clarifies that TTES funding can be used to pay for any course that leads to completion of a TTES eligible technical program. The student must still pursue a certificate or degree in an approved field to participate in the program. Thus, student eligibility is not affected so program expenditures should not be impacted by this change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no additional costs or economic benefits to directly affected persons or nongovernmental groups from this proposed change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from the proposed change.

George Badge Eldredge
General Counsel
1412#047

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Tuition Trust Authority
Office of Student Financial Assistance

START Saving Program (LAC 28:VI.301)

The Louisiana Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 et seq.). This rulemaking revises the residency requirements for account owners and beneficiaries to include individuals who are lawfully residing in the United States and have a valid Social Security number. (ST15157NI)

Title 28
EDUCATION
Part VI. Student Financial Assistance—Higher Education Savings
Chapter 3. Education Savings Account
§301. Education Savings Accounts

A. - E.2. …

F. Citizenship Requirements. Both an account owner who is not a legal entity and the beneficiary must meet the following citizenship requirements:

1. be a United States citizen; or

2. be a permanent resident of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor and provide copies of USCIS documentation with the submission of the owner's agreement; or

3. be lawfully residing in the United States and have a valid Social Security number.

G. - H.2. …

3. By signing the owner's agreement:

a. the account owner who is a natural person, other than a natural person classified as an account owner under §303.A.5, certifies that:

i. both account owner and beneficiary are United States citizens or permanent residents of the United States as defined by the U.S. Citizenship and Immigration Services (USCIS) or its successor or be lawfully residing in the United States and have a valid Social Security number; and

(a). if permanent residents have provided copies of USCIS documentation with the submission of the application and owner's agreement; or

(b). if in the United States lawfully with a valid Social Security number have provided the visa or other document(s) from the USCIS evidencing lawful residency and a copy of the Social Security card from the Social Security Administration; and

ii. the information provided in the application is true and correct;

H.3.b. - I. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998), LR 24:1269 (July 1998), LR 25:1794 (October 1999), LR 26:2262 (October 2000), LR 27:1878 (November 2001), LR 28:450 (March 2002), LR 28:778 (April 2002), LR 28:2334 (November 2002), LR 30:786 (April 2004), LR 33:443 (March 2007), LR 36:313 (February 2010), LR 41:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (ST15157NI) until 4:30 p.m., January 9, 2015, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: START Saving Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Under current START Program rules, START account owners and beneficiaries must be a citizen or permanent resident of the United States. The proposed rule adds individuals who are lawfully in Louisiana who are neither United States citizens nor permanent residents as a category of individuals eligible to be a START Program account owner or beneficiary. To qualify, these individuals must have a social security number and primarily includes the following: students at Louisiana colleges who have student visas, foreign nationals working in Louisiana with a work visa, and individuals who were granted asylum status to live and work indefinitely in the United States.

It is anticipated that the number of new START accounts that would be opened due to this proposed eligibility change would be very small thus having a minimal impact on Earnings Enhancement disbursements. Any increase in Earnings Enhancement disbursements that occurs due to this proposed change should be within the current State General Fund appropriation level for Earning Enhancements and would not require any additional state funding.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Primarily, students at Louisiana colleges who have student visas, foreign nationals working in Louisiana with a work visa, and individuals who were granted asylum status to live and work indefinitely in the United States will be able to use a START account to help pay for qualified higher education expenses and receive any tax benefits due under federal and state laws.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

George Eldredge
General Counsel
1412#012

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Environmental Assessment—Reissued Permits
(LAC 33:IX.2905)(WQ090)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.2905.B (WQ090).

This Rule identifies facilities and permit changes considered minor for the purposes of R.S. 30:2018 when they are associated with permit renewal applications. This Rule also provides the department flexibility with respect to classification of additional changes as mionor during the permit renewal process. It will clearly specify when an environmental assessment should accompany the reissuance of an existing permit. The basis and rationale of this Rule are to clarify what constitutes a minor modification for the purposes of R.S. 30:2018(A) and (G). This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality
Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program
Chapter 29. Transfer, Modification, Revocation and Reissuance, and Termination of LPDES Permits
§2905. Minor Modifications of Permits

A. - A.8. …

B. In addition to the modifications identified in Paragraphs A.1-8 of this Section, the following changes associated with renewal applications shall be considered minor modifications for the purposes of R.S. 30:2018(E)(4):

1. changes to existing outfall descriptions;

2. changes to production or flow rate increases achieved through better efficiency or increased demand without the construction or addition of new unit(s) or outfall(s);

3. the addition of outfalls previously permitted under another LPDES permit;

4. the addition of waste load allocations assigned by total maximum daily loads or Clean Water Act §303(d) impairment; and

5. any other changes determined to be minor by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:46 (January 2001), repromulgated LR 30:231 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2431 (October 2005), LR 35:654 (April 2009), amended by the Office of the Secretary, Legal Division, LR 41:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ090. Such comments must be received no later than February 3, 2015, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ090. These proposed regulations are available on the internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Public Hearing

A public hearing will be held on January 27, 2015, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 North Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Environmental Assessment Reissued Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no significant implementation costs or savings to state or local government units as a result of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections or state or local governmental units resulting from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no significant costs and/or economic benefits to directly affected persons or non-governmental groups from the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition or employment as a result of the proposed rule.

Herman Robinson	Evan Brasseaux
Executive Counsel	Staff Director
1412#053	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Racing Commission

Controlled Medication (LAC 35:I.1725)

The Louisiana State Racing Commission hereby gives notice that it intends to publish and adopt the following Rule by Notice of Intent. The proposed amendment in conjunction with LAC 35:I.1505 changes the amount of medication allowed to be given for the therapeutic and/or nonsteroidal and/or anti-inflammatory medications listed in the List of Controlled Therapeutic Medications published by the Association of Racing Commissioners International, Inc. Louisiana is a member of the Association of Racing Commissioners International, Inc., and therefore has a vote on including medications from this list. Currently, there are 26 medications on this list. These medications consist of category 3, 4, or 5 medication, drug, or substance as defined and listed by the Association of Racing Commissioners International, Inc., Drug Testing and Quality Assurance Program's uniform classification guidelines for foreign substances. The Rule memorializes the current rule which provides that detection of any category 1 or 2 medication, drug, or substance as defined and listed by the Association of Racing Commissioners International, Inc., Drug Testing and Quality Assurance Program's uniform classification guidelines for foreign substances constitutes a violation.

Title 35
HORSE RACING
Part I. General Provisions
Chapter 17. Corrupt and Prohibited Practices
§1725. Controlled Medication

A. Controlled medications are permitted in Louisiana as set forth in the list of controlled therapeutic medications published by the Association of Racing Commissioners International, Inc. and shall only be administered as therein prescribed and regulated at the threshold levels set forth in said list.

B. The controlled therapeutic medications list as published by the Association of Racing Commissioners International, Inc., shall be maintained on the commission website and at the domicile office and be made available to the public upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), LR 4:287 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 41:

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.

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 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments 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 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner, III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Controlled Medication

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 change. The current drug testing contract with Louisiana State University provides for the drug testing of nearly 8,000 samples annually. The same number of horses will be tested at no additional cost to the laboratory.

The proposed administrative rule change, in conjunction with the proposed changes to the Therapeutic and/or Nonsteroidal and/or Anti-Inflammatory Medication rule (LAC 35:I.1505), will bring Louisiana into uniformity with reforms regarding the medication of race horses both nationally and internationally.

The proposed rule change specifically adopts by reference the List of Controlled Therapeutic Medications published by the Association of Racing Commissioners International, Inc. and provides the manner in which the Commission will maintain the list.

Currently 34 states have adopted or are in the process of adopting the uniform medication reforms.

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)

Trainers, veterinarians, and owners could be impacted by the proposed administrative rule in that it sets forth the only therapeutic, nonsteroidal, and/or anti-inflammatory medications that may be administered to a horse by the guidelines of the Association of Racing Commissioners International, Inc.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner, III
Executive Director
1412#005

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Racing Commission

Pre-Race Testing (LAC 35:I.1787)

The Louisiana State Racing Commission hereby gives notice that it intends to publish and adopt the following Rule by Notice of Intent. The proposed amendment changes the amount of allowable phenylbutazone from 5.0 micrograms per milliliter of blood to 2.0 micrograms per milliliter of blood in a racehorse scheduled to race that is being pre-race tested. Currently, the Louisiana State Racing Commission does not conduct pre-race testing. The proposed administrative rule change, in conjunction with the proposed changes to LAC 35:I.1725 and LAC 35:I.1505, will serve to bring Louisiana into uniformity with the national medication reform taking place regarding medicating race horses nationally and internationally. Approximately 34 states have adopted or have begun the process to adopt the uniform medication reform. This will ensure that if the Louisiana State Racing Commission does conduct pre-race testing, the allowable amount of phenylbutazone will not conflict with the amount adopted elsewhere in the rules.

Title 35
HORSE RACING
Part I. General Provisions
Chapter 17. Corrupt and Prohibited Practices
§1787. Pre-Race Testing

A - G. …

H. Whenever pre-race laboratory test reports indicate the presence of a prohibited medication or drug in the sample taken from a horse scheduled to race, particularly, but not limited to specific maximum by quantitative determination of 2.0 micrograms phenylbutazone per milliliter of blood, stewards shall scratch the horse from the race. On the first offense a penalty of not less than $100, nor more than $200, shall be assessed the trainer. Upon second or multiple offenses for positive tests, the stewards shall take whatever action they deem appropriate, consistent with law and the *Rules of Racing*.

I. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 8:140 (March 1982), amended LR 12:419 (July 1986), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 41:

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.

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 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments 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 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner, III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Pre-Race Testing

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 change. The current drug testing contract with Louisiana State University provides for the drug testing of nearly 8,000 samples annually. The same number of horses will be tested at no additional cost to the laboratory.

The proposed administrative rule change, in conjunction with the proposed changes to the Therapeutic and/or Nonsteroidal and/or Anti-Inflammatory Medication rule (LAC 35:I.1505) and the Controlled Medication rule (LAC 35:I.1725), will bring Louisiana into uniformity with reforms regarding the medication of race horses both nationally and internationally.

The proposed rule change ensures that if Louisiana State Racing Commission does conduct pre-race testing, the allowable amount of phenylbutazone will be in compliance with the amount set forth by the Controlled Medications rule (LAC 35:I.1725). The proposed amendment to this rule brings the maximum level of detection for phenylbutazone from 5.0 micrograms per milliliter of blood to 2.0 micrograms per milliliter of blood, which is the allowable amount set forth in the other proposed amended rules relating to the uniform medication reform (LAC 35:I.1505 and LAC 35:I.1725). Currently the Louisiana State Racing Commission does not conduct this form of pre-race testing, but has the authority to do so if a governing body of horse racing asks them to perform it. The Louisiana State Racing Commission currently uses Total Dissolved Carbon Dioxide Testing (as outlined LAC 35:I.1720) or "Milkshaking" as a form of pre-race testing.

Currently 34 states have adopted or are in the process of adopting the uniform medication reforms.

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)

Trainers, veterinarians, and owners could be impacted by the proposed administrative rule in that it changes the amount of controlled therapeutic medications that can be given to a horse prior to a race.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner, III	Evan Brasseaux
Executive Director	Staff Director
1412#004	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Racing Commission

Therapeutic and/or Nonsteroidal
and/or Anti-Inflammatory Medication
(LAC 35:I.1505)

The Louisiana State Racing Commission hereby gives notice that it intends to publish and adopt the following Rule by Notice of Intent. The proposed amendment in conjunction with LAC 35:I.1725 changes the amount of medication allowed to be given for the therapeutic and/or nonsteroidal and/or anti-inflammatory medications listed in the list of controlled therapeutic medications published by the Association of Racing Commissioners International, Inc. Louisiana is a member of the Association of Racing Commissioners International, Inc., and therefore has a vote on including medications from this list. Currently, there are 26 medications on this list. These medications consist of category 3, 4, or 5 medication, drug, or substance as defined and listed by the Association of Racing Commissioners International, Inc., Drug Testing and Quality Assurance Program's uniform classification guidelines for foreign substances. The Rule memorializes the current Rule which provides that detection of any category 1 or 2 medication, drug, or substance as defined and listed by the Association of Racing Commissioners International, Inc. Drug Testing and Quality Assurance Program's uniform classification guidelines for foreign substances constitutes a violation.

Title 35
HORSE RACING
Part I. General Provisions
Chapter 15. Permitted Medication
§1505. Therapeutic and/or Nonsteroidal and/or Anti-Inflammatory Medication

A. No nonsteroidal and/or anti-inflammatory medication and/or therapeutic medication of any kind may be administered to or used on a horse in training and eligible to be raced at a race meeting in this state except by a licensed veterinarian or a licensed trainer, or under his or her personal order; provided, however, that any such medication given hypodermically may only be administered by a licensed veterinarian. The nonsteroidal, anti-inflammatory medications and/or therapeutic medication of any kind shall only be allowed to be administered as is set forth in Chapter 17, Section 1721 and Section 1725. All other category 3, 4 and 5 medications as listed by the Association of Racing Commissioners International, Inc., Drug Testing and Quality Assurance Program's uniform classification guidelines for foreign substances may not be administered within 24 hours of a race in which a horse is entered to race.

B. ...

C. Detection of any Category 1 or 2 medication, drug, or substance as defined and listed by the Association of Racing Commissioners International, Inc. Drug Testing and Quality Assurance Program's Uniform Classification Guidelines for Foreign Substances constitutes a violation.

AUTHORITYNOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:142.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 9:547 (August 1983), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 37:1393 (May 2011), LR 38:1408 (June 2012), LR 39:1281 (May 2013), LR 41:

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.

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 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments 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 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner, III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Therapeutic and/or Nonsteroidal and/or Anti-Inflammatory Medication

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 change. The current drug testing contract with Louisiana State University provides for the drug testing of

nearly 8,000 samples annually. The same number of horses will be tested at no additional cost to the laboratory.

The proposed administrative rule change, in conjunction with the proposed changes to the Controlled Medication rule (LAC 35.I.1725), will bring Louisiana into uniformity with reforms regarding the medication of race horses both nationally and internationally.

The proposed rule change sets forth that the only therapeutic, nonsteroidal, and/or anti-inflammatory medications that may be administered to a horse are those specifically set forth by the Controlled Medication rule (LAC 35.I.1725). The proposed rule change maintains the current rule that prohibits administration of Category 3, 4, and 5 medications to a horse within 24 hours of a race. The proposed rule change also maintains that detection of Category 1 or 2 medications, drugs, or substances is a violation.

Currently 34 states have adopted or are in the process of adopting the uniform medication reforms.

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)

Trainers, veterinarians, and owners could be impacted by the proposed administrative rule in that it changes the amount of controlled therapeutic medications that can be given to a horse prior to a race.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner, III	Evan Brasseaux
Executive Director	Staff Director
1412#003	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Tax Commission

Ad Valorem Taxation
(LAC 61:V.101, 304, 703, 907, 1103, 1307, 1503, 2503, 3101, 3103, 3105, 3106, 3107 and 3501)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal sections of the Louisiana Tax Commission real/personal property rules and regulations for use in the 2015 (2016 Orleans Parish) tax year.

The full text of this proposed Rule may be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the Louisiana Tax Commission hereby submits the following Family Impact Statement.

1. The Effect on the Stability of the Family. Implementation of these proposed rules will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parent Regarding the Education and Supervision of Their Children. Implementation of these proposed rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. Implementation of these proposed rules will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. Implementation of these proposed rules will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. Implementation of these proposed rules will have no effect on the behavior and responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in these Proposed Rules. Implementation of these proposed rules will have no effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed rules until 4 p.m., January 9, 2015, at the following address: Charles Abels, Tax Commission Administrator, Louisiana Tax Commission, P.O. Box 66788, Baton Rouge, LA 70896.

James D. "Pete" Peters
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Ad Valorem Taxation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules reflect annual changes in valuation procedures for taxation purposes based on the most recent available data. There are no estimated state costs or savings associated with the proposed rules. The impact on local governmental workload and paperwork cannot be quantified, but is expected to be minimal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

On average, these revisions will generally decrease certain 2015 real and personal property assessments for property of similar age and condition in comparison with the latest available equivalent assessments. However, the assessments of certain property types will increase compared to prior year. Composite multiplier tables for assessment of most personal

property will decrease by an estimated 1.5%. Specific valuation tables for assessment of pipelines will decrease by an estimated 2.5% (onshore -3.5% and offshore -1.5%). Oil & gas wells will increase by an estimated 4.5% in all regions. Drilling rigs will remain the same on average (land rigs, no change, jack-ups +.5%, semisubmwesible rigs +.5% and well service land only rigs -1.5%). The net effect determined by averaging these revisions is estimated to decrease assessments by .3% and estimated local tax collections by $2,685,000 in FY 15/16 on the basis of the existing statewide average millage. However, these revisions will not necessarily affect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset by millage adjustment provisions of Article VII, Section 23 of the state Constitution. The proposed rule also stipulates the calculation for depreciation of surface equipment using actual age when reported.

There is no impact to state governmental units

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The affects of these new rules on assessments of individual items of equivalent real and personal property will generally be lower in 2015 compared to the last year of actual data. Specific assessments will depend on the age and condition of the property subject to assessment. Taxpayers will be impacted based on the changes to the valuation guidelines for assessments as listed in Section II. The magnitude will depend on the taxable property for which they are liable. Regardless of the guidelines adopted by the Tax Commission, all taxpayers continue to have the right to appeal the assessments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. In as much as the proposed changes in assessments are relatively small and there will no longer be any charges for the updates, the impact is expected to be minimal.

James D. "Pete" Peters
Chairman
1412#052

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Office of Financial Institutions

Lender Education (LAC 10:XI.Chapter 11)

Under the authority of and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., R.S. 9:3554(A)(5), R.S. 9:3554(B), and R.S. 9:3578.8(A) and (B), the commissioner of the Office of Financial Institutions hereby gives notice of intent to adopt the following Rule to provide for the education of lender personnel which engage in the business of making deferred presentment transactions or small loans.

Title 10
FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES AND UCC
Part XI. Consumer Credit
Chapter 11 Lender Education

§1101. Application

A. This Chapter applies to all persons licensed by the commissioner pursuant to the Louisiana consumer credit law (LCCL) and the Louisiana Deferred Presentment and Small Loan Act (LDPSLA) who engage in the business of making small loans and deferred presentment transactions pursuant to the LDPSLA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., R.S. 9:3554(A)(5), R.S. 9:3554(B), and R.S. 9:3578.8(A) and (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 41:

§1103. Definitions

A. Unless the context otherwise requires, as determined by the commissioner in his discretion, all terms used in this Chapter 11 shall have the same meanings as in the Louisiana consumer credit law, (LCCL), R.S. 9:3510 et seq., as amended, and the Louisiana Deferred Presentment and Small Loan Act, (LDPSLA), R.S. 9:3578.1 et seq., as amended. In addition, unless the context otherwise requires, as determined by the commissioner in his discretion, the following definitions set forth in Subsection B below, apply in this Chapter 11.

B. Definitions

Chapter—this *Chapter* 11 of Part XI of Title 10 of the *Louisiana Administrative Code*.

Commissioner—the *commissioner* of the Office of Financial Institutions for the state of Louisiana.

Deferred Presentment Transaction—a transaction made pursuant to a written agreement whereby a licensee:

a. accepts a check from the issuer dated as of the date it was written;

b. agrees to hold the check for a period of time not to exceed 30 days prior to negotiation or presentment;

c. pays to the issuer of the check the amount of the check less the fee permitted in R.S. 9:3578.4(A). The amount paid to the issuer of the check may not exceed $350.

LCCL—the Louisiana Consumer Credit Law, R.S. 9:3510 et seq., as amended.

LDPSLA—the Louisiana Deferred Presentment and Small Loan Act, R.S. 9:3578.1 et seq., as amended.

Lender Personnel—a person(s), as defined in R.S. 9:3516(24.1), who is employed by, contracted with, or engaged in the performance of services, that involve the general public, including, but not limited to, those that offer, market, negotiate, and/or sell deferred presentment transactions or small loans by or for a person licensed by the commissioner pursuant to the LCCL and the LDPSLA.

Person(s)—all *persons*, as defined in R.S. 9:3516(24.1) of the LCCL, licensed by the commissioner pursuant to the LCCL and the LDPSLA who engage in the business of making small loans and deferred presentment transactions pursuant to the LDPSLA.

Small Loan—a consumer loan, as defined in R.S. 9:3516(14), of $350 or less, made for a term of 60 days or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., R.S. 9:3554(A)(5), R.S. 9:3554(B), and R.S. 9:3578.8(A) and (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 41:

§1105. Required Education

A. Each person shall provide education to all lender personnel annually no later than January 1 of each year and to all new lender personnel within the first month upon attainment of this status or designation and each calendar year thereafter no later than January 1. The education material to be utilized by the person shall be provided to

persons by the commissioner electronically, through email transmissions, the website of the Office of Financial Institutions, or otherwise, as deemed appropriate by the commissioner. Such education shall consist of certain elements related to compliance with the LCCL, LDPSLA, and this Chapter, including but not limited to, those items enumerated in Subsection B below.

B. Elements:

1. all fees and charges allowed in connection with, and limitations pertaining to deferred presentment transactions and small loans, specifically the education shall include instruction regarding the 16.75 percent maximum fee limitation and $45 cap, the documentation fee limitation, the default interest limitation for one year and beginning one year after contractual maturity, the delinquency fee limitation, and that no other fees or charges are allowable;

2. all rebates provided for in connection with deferred presentment transactions and small loans;

3. all prohibited acts specified in R.S. 9:3578.6 of the LDPSLA;

4. provisions of Acts 2014, No. 636 of the Louisiana Legislature, regarding deferred presentment transactions and small loans, and specifically those provisions regarding the repeal of the one-time delinquency charge authorized by R.S. 9:3527(A)(1), and the extended payment plan provision contained in R.S. 9:3578.4.1, and limitations in connection with the same; and

5. any other educational information provided to the person by the commissioner subsequently, electronically, through email transmissions, the website of the Office of Financial Institutions, or otherwise, and determined by the commissioner to be related to persons engaging in the business of making deferred presentment transactions and small loans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., R.S. 9:3554(A)(5), R.S. 9:3554(B), and R.S. 9:3578.8(A) and (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 41:

§1107. Administration

A. Each person subject to this chapter shall retain such minimum records to show full compliance of the requirements set forth hereunder, which minimum records are deemed necessary by the commissioner, and set forth by the commissioner electronically, through email transmissions, the website of the Office of Financial Institutions, or otherwise, as deemed appropriate by the commissioner. This Chapter does not replace the person's responsibilities to comply with any other applicable record retention requirements, or to create, implement, and maintain its own comprehensive record retention program, consistent with the person's strategic goals and objectives. Such records may be retained in various forms as approved by the commissioner, including but not limited to, hard copies, photocopies, computer printouts or microfilm, microfiche, imaging, or other types of electronic media storage that can be readily accessed and reproduced into hard copies.

B. The commissioner may enforce this chapter pursuant to authority and in the manner provided to him, by the laws under his jurisdiction, including but not limited to R.S. 6:121.1, R.S. 9:3554, R.S. 9:3555, R.S. 9:3556, R.S. 9:3556.1, R.S. 9:3556.2, R.S. 9:3556.3, and R.S. 9:3578.8, and including but not limited to, the issuance of orders assessing civil money penalties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., R.S. 9:3554(A)(5), R.S. 9:3554(B), and R.S. 9:3578.8(A) and (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 41:

§1109. Severability

A. If any Section, term, or provision of any of these rules, LAC 10:XI.1101-1109, is for any reason declared or adjudged to be invalid, such invalidity shall not affect, impair, or invalidate any of the remaining rules, or any term or provision thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., R.S. 9:3554(A)(5), R.S. 9:3554(B), and R.S. 9:3578.8(A) and (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Financial Institutions, LR 41:

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 Statement

This Rule has no known adverse economic impact on small business as described in R.S. 49:965.5.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments regarding this proposed Rule no later than 5 p.m., January 10, 2015, to Susan H. Rouprich, General Counsel, Post Office Box 94095, Baton Rouge, LA 70804-9095, or by hand delivery to 8660 United Plaza, Second Floor, Baton Rouge, LA 70809.

John Ducrest, CPA
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Lender Education

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no significant anticipated costs or savings to state or local governmental units as a result of the proposed rule. The proposed rule provides for requirements for annual education of lender personnel who market, negotiate and/or sell deferred presentment transactions or small loans. The training material costs provided by the Office of Financial Institutions (OFI) will likely be minimal and will be provided within the agency's existing budgetary resources.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections for the state or any local governmental units as a result of promulgation of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated cost to directly affected persons or non-governmental groups. The proposed rule change requires

licensed lenders to provide annual education to personnel who market, negotiate, and/or sell deferred presentment and small loans. The training materials will be provided electronically to licensees by the OFI. The only direct impact to presentment lenders will be the time it takes to review the training materials.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Promulgation of the proposed rule will have no effect on competition and employment as all licensed payday lenders will be required to provide the same education as generated by the OFI.

John Ducrest, CPA	Evan Brasseaux
Commissioner	Staff Director
1412#048	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Embalmers and Funeral Directors

License, Internship and Inspection
(LAC 46:XXXVII.707, 901, 903, 907, 909, 1107 and 2001)

The Board of Embalmers and Funeral Directors proposes to amend LAC 46:XXXVII.Chapters 7, 9 and 11 pursuant to the authority granted by R.S. 37:840 and in accordance with the provisions of the Administrative Procedures Act, R.S. 40:950 et seq. The board finds it necessary to revise, amend and/or add provisions of the rules, regulations, and procedures relative to providing useful guidance and information for the purpose of improving regulatory compliance and to enhance understanding of these changes.

Title 46
PROFESSIONAL AN OCCUPATIONAL STANDARDS
Part XXXVII. Embalmers and Funeral Directors

Chapter 7. License

§707. Licensure by Endorsement Requirements

A. Any person desiring a temporary license in Louisiana for an embalmer and funeral director or a funeral director license, shall before practicing, make application on forms furnished by the board. Said application shall be accompanied by a permit fee as established by the board, which is not refundable. If applicant meets all requirements, the secretary shall issue a temporary license. The board cannot, at its discretion, extend the temporary license period.

B.1. - C. Repealed.

D.1. The temporary license entitles the licensee to practice embalming and/or funeral directing in this state. However, it shall become null and void if the original license is revoked, suspended, or lapsed.

2. - 3. Repealed.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840 and R.S. 37:842.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended LR 11:688 (July 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2821 (December 2004), LR 41:

Chapter 9. Internship

§901. Requirements for an Embalmer and Funeral Director License

A. Any person desiring to engage in the practice of embalming and funeral directing in this state, except those holding a temporary license, shall serve as an intern within the state of Louisiana.

1. - 5. Repealed.

6. The employment of the intern at the funeral home may be verified by the board. Verification of employment may be made by presenting the quarterly returns submitted either to the Internal Revenue Service or the Louisiana Department of Revenue and Taxation, or, alternatively, some other official form used to verify employment which is acceptable to the board.

7. The board registered supervisor shall certify or verify the cases and the contact hours that the intern worked during the month.

8. Any internship shall be considered stale/null and void and unavailable for consideration after the passage of 10 years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:277 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 16:769 (September 1990), amended LR 30:2823 (December 2004), LR 34:2400 (November 2008), LR 41:

§903. Requirements for a Funeral Director License

A. Any person desiring to engage in the profession of funeral directing in this state, except those holding a temporary license, shall serve as an intern within the state of Louisiana.

1. The employment of the intern at the funeral home may be verified by the board. Verification of employment may be made by presenting the quarterly returns submitted either to the Internal Revenue Service or the Louisiana Department of Revenue and Taxation, or, alternatively, some other official form used to verify employment which is acceptable to the board.

2. The board registered supervisor shall certify or verify the cases and the contact hours that the intern worked during the month.

3. Any internship shall be considered stale/null and void and unavailable for consideration after the passage of 10 years.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:10 (January 1989), LR 19:744 (June 1993), LR 30:2823 (December 2004), LR 34:2400 (November 2008), LR 41:

§907. Affidavits Required

A. When tenure of internship is completed, an affidavit by both the intern and the person under whose supervision he or she served, shall be filed not later than 15 days with the board. Said affidavit shall list the number of bodies embalmed and/or funerals assisted in and the number of contact hours served.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended March 1974, promulgated LR 5:278

(September 1979), repromulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2824 (December 2004), LR 41:

§909. Notification to Licensed Person

A. The secretary of the board, upon notification by the applicant, will inform the licensed person responsible for the supervision and the training of the intern of the rules and regulations concerning the internship and that he or she will be responsible to the board for the application and enforcement of these rules and regulations.

B. Repealed.

C. Each intern is required to file a complete case report for each individual case handled during the internship which must be signed by the individual licensee who was supervisor of that case and must also file a monthly report providing the board with a summary of the cases worked during that period and the number of contact hours served which shall be signed by the licensee designated as the supervisor of the intern. The report is due on the tenth day of the month and delinquent on the fifteenth day. Delinquent reports may result in the loss of credit for that month.

1. It shall be a requirement and responsibility of the intern to make these reports monthly and to have them in the office of the secretary on the date specified. Failure to perform as specified in this rule will mean automatic loss of that monthly credit. Failure of the licensed supervisor to perform as agreed or to in any way falsify the records of the internship will cause a fine to be levied in accordance with the provisions of R.S. 37:850 for said violation.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, promulgated LR 5:278 (September 1979), amended LR 11:946 (October 1985), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 15:11 (January 1989), LR 30:2824 (December 2004), LR 41:

Chapter 11. Funeral Establishments

§1107. Inspection

A. - B. …

1. area for displaying funeral merchandise which may consist of but not be limited to full size caskets, cuts, photographs or electronic images;

a. a minimum of three adult caskets of a variety of styles and quality must be kept on premises, one of which must consist of the minimal adult casket on the establishment's casket price list;

2. …

a. floors, tile, cement, linoleum, or like composition, finished with a glaze surface or epoxy flooring.

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Embalmers and Funeral Directors, August 1966, amended November 1972, February 1973, amended LR 4:295 (August 1973), LR 4:356 (September 1978), LR 5:278 (September 1979), amended by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 20:191 (February 1994), LR 20:1380 (December 1994), LR 30:2825 (December 2004), LR 41:

Chapter 20. Fees

§2001. Fees

A. - A.11. …

12. A fee of $100 from each person applying for a temporary license within this state;

13. …

AUTHORITY NOTE: Adopted in accordance with R.S. 37:840 and 37:845.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Embalmers and Funeral Directors, LR 30:2828 (December 2004), amended LR 41:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Professional and Occupational Standards for Embalmers and Funeral Directors should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;

2. the authority and rights of parents regarding the education and supervision of their children;

3. the functioning of the family;

4. a family's earnings and budget;

5. the behavior and personal responsibility of children; or

6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

This proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not impact or affect a provider. "Provider" means an organization that provides services for individuals with developmental disabilities as defined in HCR 170 of the 2014 Regular Session of the Legislature. In particular, the proposed Rule has no effect or impact on a provider in regard to:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the provider to provide the same level of service;

3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Kim W. Michel, Executive Director, Louisiana State Board of Embalmers and Funeral Directors, 3500 North Causeway Blvd., Suite 1232, Metairie, LA 70002. Written comments must be submitted to and received by the board within 30 days of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Kim W. Michel
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: License, Internship and Inspection

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no estimated implementation cost or savings due to the proposed rule changes except for the publication of the proposed rules estimated at $450. In FY 15. The proposed rule changes codify legislative action per Act 264 of the 2014 Regular Session of the Louisiana Legislature, specifically with regard to licensure and internships of embalmers/funeral directors. The proposed rule changes additionally modify requirements regarding casket displays in funeral homes, allowing alternative to the previous minimum of six full sized caskets on display.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

To the degree that the expanded internship options under Act 264 of 2014 may result in additional applicants to the relevant embalmer/funeral director positions, the board may realize a modest, but indeterminable increase in revenues through licensure application.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The expansion of internship opportunities as detailed in Act 264 of 2014 may facilitate additional individuals seeking to enter into the profession of embalmer/funeral director. The proposed rule changes may enable funeral homes to limit costs associated with the previous requirements to display a minimum of six full-sized caskets, with new rule requiring only three caskets.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not expected to have a significant effect on competition and/or employment, but the expansion of internship opportunities as detailed in Act 264 may ease entry into the profession of embalmer/funeral director.

Kim W. Michel	Evan Brasseaux
Executive Director	Staff Director
1412#071	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Dispenser Reporting to Prescription Monitoring Program
(LAC 46:LIII.2901 and 2911)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend Chapter 29, Prescription Monitoring Program, of its rules by updating the definition of drugs of concern in §2901 to remove tramadol drug products, and further, by revising the deadline by which pharmacies and other dispensers of prescriptions for controlled substances are required to report those transactions to the PMP database, as indicated in §2911.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 29. Prescription Monitoring Program
Subchapter A. General Operations
§2901. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them unless the context clearly indicates otherwise.

* * *

Drugs of Concern—drugs other than controlled substances as defined by Rule which demonstrate a potential for abuse, including any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, esters, ethers, isomers, and salts of isomers (whenever the existence of such salts, esters, ethers, isomers, and salts of isomers is possible within the specific chemical designation):

a. butalbital when in combination with at least 125 milligrams of acetaminophen per dosage unit.

b. Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1345 (July 2007), amended LR 36:755 (April 2010), effective September 1, 2010, LR 39:314 (February 2013), LR 41:

Subchapter B. Data Collection
§2911. Reporting of Prescription Monitoring Information

A. Each dispenser shall submit to the board information regarding each prescription dispensed for a controlled substance.

B. Each dispenser shall submit the required information by electronic means no later than the next business day after the date of dispensing.

C. If the dispenser is unable to submit prescription information by electronic means, he may apply to the board for a waiver. The board may grant a waiver to that requirement; if so, the waiver shall state the format and frequency with which the dispenser shall submit the required information. The waiver shall expire one year after the date of issue, unless terminated sooner by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007), amended LR 39:314 (February 2013), LR 41:

Family Impact Statement

In accordance with section 953 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The effect on the stability of the family. We anticipate no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. We anticipate no effect on the functioning of the family.

4. The effect on family earnings and family budget. We anticipate no effect on family earnings and the family budget.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. We anticipate no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on household income, assets, and financial security. We anticipate no impact on household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. We anticipate no impact early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. We anticipate no positive impact on employment and workforce development.

4. The effect on taxes and tax credits. We anticipate no impact on taxes or tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. We anticipate no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

In accordance with section 965 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The establishment of less stringent compliance or reporting requirements for small businesses. The removal of tramadol drug products from the definition of 'drugs of concern' is required by the scheduling of that drug by the federal government in Schedule IV of the federal list of controlled substances. All pharmacies, regardless of size, are required to comply with those federal requirements. The deadline to report prescription transactions to the PMP database is the same for all pharmacies, regardless of size.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no exemptions to the reporting deadlines for small businesses.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no exemptions to the reporting requirements for small businesses.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. There are no design standards in the proposed Rule.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate minimal costs to the provider to implement the requirements of the proposed Rule.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

Public Comments

There are no exemptions for small businesses. Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, January 28, 2015 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either

orally or in writing. The deadline for the receipt of all comments is 12 noon that same day.

Malcolm J. Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Dispenser Reporting to Prescription Monitoring Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule will result in a cost of approximately $2,000 for printing costs of the proposed and final Rules in FY 15. The proposed Rule changes the deadline by which dispensers of prescriptions for controlled substances must report those transactions to the Prescription Monitoring Program (PMP) database as per Act 472 of the 2014 Regular Session of the Louisiana Legislature. The proposed Rule also removes tramadol from the definition of a 'drug of concern' as made necessary by a scheduling action taken by the U.S. Drug Enforcement Administration in August of 2014.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections of state or local governmental units from the proposed Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule directly affects pharmacies and other dispensers of prescriptions for controlled substances. The proposed Rule will change the deadline by which such dispensers are required to report their controlled substance prescription transactions to the PMP database, in conformance with Act 472 of the Louisiana Legislature – from no later than seven days after dispensing to no later than the next business day. Most dispensers use an automated reporting process to report their transactions to the database, and will now do so on a daily basis. The proposed Rule could create an indeterminable cost for any dispenser that does not use an automated reporting system or a minimal one-time cost to adjust the reporting schedules within the automated systems. Dispensers will make a one-time change to the tramadol record in their master drug file to indicate its status in Schedule IV.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule will not have any effect on competition or employment.

Malcolm J. Broussard	Evan Brasseaux
Executive Director	Staff Director
1412#036	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Expiration Date of Schedule II Prescriptions
(LAC 46:LIII.2745 and 2747)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend Chapter 27, Controlled Dangerous Substances, of its rules, in compliance with Act 865 of the 2014 Legislature, by changing the expiration date of prescriptions written for controlled substances listed in schedule II, as indicated in §2745 and §2747, from 6 months to 90 days.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 27. Controlled Dangerous Substances
Subchapter F. Production, Distribution and Utilization
§2745. Prescriptions

A. - E.4. …

F. Controlled Substances Listed in Schedule II

1. - 1.h. …

2. Expiration Date of Prescriptions. A prescription for a controlled substance listed in schedule II shall expire 90 days after the date of issue. No pharmacist shall dispense any controlled substance pursuant to an expired prescription.

F.3. - G.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2149 (October 2008), amended LR 41:

§2747. Dispensing Requirements

A. …

B. Prescriptions for Controlled Substances Listed in Schedule II

1. - 2.c. …

3. Expiration Date. A pharmacist shall not dispense a prescription for a controlled substance listed in schedule II more than 90 days after the date of issue of the prescription.

B.4. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2152 (October 2008), amended LR 41:

Family Impact Statement

In accordance with section 953 of title 49 of *the Louisiana Revised Statutes*, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The effect on the stability of the family. We anticipate no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. We anticipate no effect on the functioning of the family.

4. The effect on family earnings and family budget. We anticipate no effect on family earnings and the family budget.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. We anticipate no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on household income, assets, and financial security. We anticipate no impact on household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. We anticipate no impact early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. We anticipate no positive impact on employment and workforce development.

4. The effect on taxes and tax credits. We anticipate no impact on taxes or tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. We anticipate no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

In accordance with section 965 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The establishment of less stringent compliance or reporting requirements for small businesses. The expiration date of prescriptions is applicable to all pharmacies regardless of size.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no exemptions to the reporting deadlines for small businesses.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no exemptions to the reporting requirements for small businesses.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. There are no design standards in the proposed Rule.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate minimal costs to the provider to implement the requirements of the proposed Rule.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

Public Comments

A public hearing on this proposed Rule is scheduled for Wednesday, January 28, 2015 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 noon that same day.

Malcolm J. Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Expiration Date of Schedule II Prescriptions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule will result in a cost of approximately $2,000 for printing costs of the proposed and final Rules in FY 15. The proposed Rule changes the expiration date of prescriptions written for controlled substances listed in Schedule II, from six months to ninety days, as per Act 865 of the 2014 Regular Session of the Louisiana Legislature.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections of state or local governmental units from the proposed Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule directly affects prescribers of controlled substances listed in Schedule II, the pharmacies that dispense those prescriptions, and the patients that receive those medications. The proposed Rule will change the expiration date of prescriptions for controlled substances listed in Schedule II, from six months to ninety days. Since such prescriptions cannot be called into a pharmacy, the prescriptions must be (1) written and then manually signed by the prescriber and given to a patient, or in the alternative, (2) electronically generated, signed, and transmitted to a pharmacy in accordance with federal security standards. Regardless of their method of communication, they cannot be refilled. Pharmacies will not be able to dispense such prescriptions more than 90 days after their date of issuance by the prescriber. Prescribers may incur minimal costs for generating a new prescription. In the event the prescriber elects to issue a written prescription, the patient may or may not incur a charge for an office visit to the prescriber, but there may also be transportation or other costs.

In the alternative, the prescriber may elect to issue the prescription electronically directly to the pharmacy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule will not have any effect on competition or employment.

Malcolm J. Broussard	Evan Brasseaux
Executive Director	Staff Director
1412#035	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal and replace LAC 48:I.Chapter 44 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the licensing of abortion facilities in order to clarify the licensing requirements and staffing provisions (*Louisiana Register*, Volume 39, Number 8).

Since 2010, the Louisiana Legislature has enacted several Acts which amended the laws governing abortion services and the *Louisiana Children's Code*. In December of 2013, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated a Notice of Intent which proposed to repeal and replace the licensing standards governing outpatient abortion facilities to revise and clarify these provisions in order to comply with enacted legislation (*Louisiana Register*, Volume 39, Number 12). As a result of the comments received, the department abandoned the Notice of Intent published in the December 20, 2013 edition of the *Louisiana Register*.

After further consideration, the department now proposes to repeal and replace the provisions governing the licensing standards for abortion facilities in order to incorporate the changes imposed by legislation, and to further revise and clarify these provisions.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 44. Abortion Facilities
Subchapter A. General Provisions
§4401. Definitions

Abortion—any surgical procedure performed, after pregnancy has been medically verified, with the intent to cause the termination of the pregnancy, other than for the purpose of:

1. producing a live birth;
2. removing an ectopic pregnancy; or
3. removing a dead fetus caused by a spontaneous *abortion*.

Active Admitting Privileges—the physician is a member in good standing of the medical staff of a hospital that is currently licensed by the department, with the ability to admit a patient and to provide diagnostic and surgical services to such patient.

1. The hospital shall be located not further than 30 miles from the location at which the abortion is performed or induced, and shall provide obstetrical or gynecological health care services.
2. Violations of *active admitting privileges* provisions shall be fined not more than $4,000 per violation.

Administrator—the person responsible for the day-to-day management, supervision, and operation of the outpatient abortion facility.

Change of Ownership (CHOW)—transfer of ownership to someone other than the owner listed on the initial licensing application or license renewal application.

Coerced Abortion—the use of force, intimidation, threat of force, threat of deprivation of food and shelter, or the deprivation of food and shelter by a parent or any other person in order to compel a female child to undergo an abortion against her will, whether or not the abortion procedure has been attempted or completed.

CRNA—a certified registered nurse anesthetist licensed by the Louisiana State Board of Nursing who is under the supervision of the physician performing the abortion or an anesthesiologist who is immediately available if needed as defined in the medical staff bylaws and in accordance with applicable licensing boards. A *CRNA* is an advanced practice registered nurse educated in the field of nurse anesthesia and certified according to the requirements of a nationally recognized certifying body such as the Council on Certification of Nurse Anesthetists or the Council on Recertification of Nurse Anesthetists, as approved by the board and who is authorized to select and administer anesthetics or ancillary services to patients under their care.

Department—the Department of Health and Hospitals (DHH).

Facility Need Review (FNR)—pursuant to R.S. 40:2116, a process that requires licensure applicants to prove the need for the services prior to applying for licensure.

First Trimester—the time period up to 14 weeks after the first day of the last menstrual period.

General Anesthesia—any drug, element, or other material which, when administered, results in a controlled state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including a loss of ability to independently maintain an airway and respond purposefully to physical stimuli or verbal command.

Gestational Age—the age of the unborn child as measured by the time elapsed since the first day of the last menstrual period as determined by a physician and confirmed through the use of an ultrasound.

Health Standards Section (*HSS)* —the Department of Health and Hospitals, *Health Standards Section*.

Medical Director—a physician who is responsible for all of the medical care provided to patients in the outpatient abortion facility, and for the ethical and professional practices of the medical staff.

OSFM—the Department of Public Safety and Corrections, Office of State Fire Marshal, Public Safety Services.

OPH—the Department of Health and Hospitals, Office of Public Health.

Outpatient Abortion Facility—any outpatient facility or clinic, other than a hospital or an ambulatory surgical center as defined by applicable state law, in which any second trimester or five or more first trimester abortions per calendar year are performed.

Patient—the woman receiving services from an outpatient abortion facility.

Peer Review—the evaluation of work by one or more persons of similar competence to the producers of the work.

Physician—a doctor who possesses a current license to practice medicine in Louisiana, is in good standing with the Louisiana State Board of Medical Examiners, and whose license does not restrict the doctor from performing the services at the outpatient abortion facility.

Physician Assistant (PA)—an individual who is currently approved by, licensed by, and in good standing with the Louisiana State Board of Medical Examiners to perform medical services under the supervision of a physician or group of physicians who are licensed by and registered with the Louisiana State Board of Medical Examiners to supervise a *physician assistant* and who is acting within the scope of all applicable state laws and the individual's professional license.

Products of Conception—placenta, amniotic sac or membrane, embryo, or fetal elements that result from a human pregnancy.

Second Trimester—the time period from 14 to 23 weeks after the first day of the last menstrual period.

Secretary—the *secretary* of the Louisiana Department of Health and Hospitals.

Telecommunications—any means of transmitting messages at a distance, including but not limited to:

1. telephones;
2. cell phones;
3. pagers; or
4. other similar devices which foster communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4403. General Licensing Provisions

A. It shall be unlawful for outpatient abortion facilities in the initial licensing application process to accept patients or provide abortion services until licensed by the Department of Health and Hospitals (DHH). The department is the only licensing authority for outpatient abortion facilities in Louisiana.

B. Types of Licenses. The department shall have the authority to issue the following types of licenses:

1. full initial license;
2. provisional initial license;
3. full renewal license; and
4. provisional license.

C. An outpatient abortion facility shall be in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to an abortion or abortion procedures before the outpatient abortion facility will be issued an initial license to operate.

D. An outpatient abortion facility license shall:

1. be issued only to the person or entity named in the initial licensing application;
2. be valid only for the outpatient abortion facility to which it is issued and only for the physical address named in the initial licensing application;
3. be valid for one year from the date of issuance, unless revoked or suspended, prior to that date, or unless a provisional initial license or provisional license is issued;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the outpatient abortion facility;
5. not be subject to sale, assignment, donation, or other transfer, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

E. An outpatient abortion facility licensed by the department may only perform first and second trimester abortions pursuant to R.S. 40:2175.3.

F. A separately licensed outpatient abortion facility shall not use a name which is substantially the same as the name of another such facility licensed by the department. An outpatient abortion facility shall not use a name which is likely to mislead the patient or their family into believing it is owned, endorsed, or operated by the state of Louisiana.

G. No branches, satellite locations, or offsite campuses shall be authorized for an outpatient abortion facility.

H. Plan Review Process. Submission of plan review to the Office of the State Fire Marshall is required for initial licensure, major renovation, and change of location.

1. Applicants are required to refer to the OSFM for laws, rules, and editions of adopted codes and standards applicable to plan review by the OSFM.

2. One complete set of plans and specifications (construction documents), with application and review fee, shall be submitted to the OSFM for review.

3. Plan review submittal to the OSFM shall be in accordance with applicable state laws, rules, regulations, and the following.

a. Modifications to Physical Environment which involve Major Renovations. Any proposed change to the physical environment which involves major renovations shall require plan review for compliance with requirements applicable at the time of the proposed change.

i. Painting, re-tiling floors, installation of carpet, and repairing of roof damage or reroofing are not considered to be major renovations. Normal maintenance of a building does not require plan review by the OSFM.

ii. Major renovations may require a physical environment survey pursuant to §4407.D.5 and §4445.A.3.

b. The specific requirements outlined in the physical environment section of this Chapter.

c. Where services or treatment for four or more patients can be accommodated at more than one time, requirements applicable to Ambulatory Health Care occupancies, as defined by the most recently state-adopted edition of National Fire Protection Association (NFPA) 101, shall apply.

d. Where services or treatment for three or less patients can be accommodated at more than one time,

requirements applicable to construction of business occupancies, as defined by the most recently state-adopted edition of NFPA 101, shall apply.

4. Upon approval, one copy of the documents reviewed by the OSFM and one copy of the OSFM plan review letter shall be submitted to the department. Electronic transfer of documents by the OSFM to the department is allowed to satisfy this requirement.

5. Waivers. When a requirement of these rules regarding plan review would impose a hardship, financial or otherwise, but would not adversely affect the health and safety of any patient, the outpatient abortion facility may submit a waiver request to the department, with supporting documentation. The issuance of a waiver by the department does not apply to the OSFM requirements for approval, which must be addressed exclusively by the outpatient abortion facility with the OSFM or the state health officer, as appropriate to the subject matter.

a. Waivers are granted only at the discretion of the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4405. Initial Licensing Application Process

A. The initial licensing application process requires submission and approval of plans and specifications (construction documents) and requires submission and approval of an initial licensing application packet, including but not limited to, a facility need review approval letter. No outpatient abortion facility shall accept patients or provide abortion services until in compliance with the provisions of this Chapter.

B. Plan Review Approval. All plans and specifications (construction documents) submitted by, or on behalf of, the outpatient abortion facility are required to be submitted and approved by the Office of State Fire Marshal (OSFM) as part of the licensing application process.

C. Initial Licensing Application Packet. An initial licensing application packet for an outpatient abortion facility shall be obtained from the department. A complete initial licensing application packet shall be submitted to the department for approval and onsite survey. The applicant may not provide outpatient abortion services until properly licensed by the department.

D. To be considered complete, the initial licensing application packet shall include the following:

1. a completed outpatient abortion facility initial licensing application and the non-refundable initial licensing fee;

2. a copy of the approval letter of the architectural facility plans for the outpatient abortion facility by the OSFM;

3. a copy of the on-site inspection report with approval for occupancy from the OSFM;

4. a copy of the health inspection report from the Office of Public Health (OPH);

5. an organizational chart identifying the name, position, and title of each person composing the governing body and key administrative personnel;

6. a floor sketch or drawing of the premises to be licensed;

7. pursuant to R.S. 40:2116, a copy of the facility need review approval letter; and

8. any other documentation or information required by the department for licensure, including but not limited to, a copy of any waiver approval letter, if applicable.

E. If the initial licensing application packet is incomplete as submitted, the applicant shall be notified in writing of the missing information and shall have 90 calendar days from receipt of the notification to submit the additional requested information. If the additional requested information is not timely submitted to the department within 90 calendar days, the initial licensing application shall be closed. If an initial licensing application is closed, an applicant who is still interested in operating an outpatient abortion facility must submit a newly completed initial licensing application packet and a new non-refundable initial licensing fee to begin the initial licensing application process again, subject to any facility need review approval.

F. Initial Licensing Surveys. Upon receipt of a complete initial licensing application packet, the department shall conduct an on-site initial licensing survey prior to issuing a full initial license. The initial licensing survey shall be announced.

1. If it is determined that the applicant is not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, and a potential threat to the health, safety, and welfare of the patients is presented, the department shall deny the initial licensing application.

2. If it is determined that the applicant is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, the department shall issue a full initial license to the applicant.

3. If it is determined that the applicant is not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, and welfare of the patients, the department may issue a provisional initial license.

G. Full Initial License. The full initial license issued by the department shall be valid until the expiration date shown on the license unless the license is revoked or suspended prior to that date.

H. Provisional Initial License. The provisional initial license issued by the department shall be valid for a period not to exceed six months.

1. When a provisional initial license is issued by the department, the applicant shall submit a plan of correction to the department for approval and also shall be required to correct all deficiencies prior to the expiration of the provisional initial license.

2. Upon receipt of the applicant's plan of correction, the department shall conduct an unannounced follow-up survey, either on-site or by administrative desk review, to ensure the applicant is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures.

a. Following the follow-up survey, if it is determined that the applicant has corrected all deficiencies and has maintained compliance during the period of the provisional license, the department shall issue a full initial license for the remainder of the year.

b. Following the follow-up survey, if it is determined that the applicant has failed to correct all deficiencies, the provisional initial license shall expire unless otherwise determined by the department. The applicant shall be required to submit a newly completed initial licensing application packet and a new non-refundable initial licensing fee to begin the initial licensing application process again subject to any facility need review approval.

I. Informal Reconsideration and Administrative Appeal. The outpatient abortion facility does not have the right to request an informal reconsideration and/or an administrative appeal of the issuance or the expiration of a provisional initial license. An outpatient abortion facility that has been issued a provisional initial license is considered licensed and operational for the term of the provisional initial license. The issuance of a provisional initial license is not considered to be a denial of an initial licensing application, denial of a license renewal application, or license revocation for the purposes of this Chapter.

1. Informal Reconsideration. An outpatient abortion facility that has been issued a provisional initial license has the right to request an informal reconsideration regarding the validity of the deficiencies cited during the follow-up survey.

a. The request for an informal reconsideration must be in writing and received by HSS within five calendar days of receipt of the statement of deficiencies. If a timely request for an informal reconsideration is received, HSS shall schedule the informal reconsideration and notify the outpatient abortion facility in writing.

b. The request for an informal reconsideration must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

c. Correction of a deficiency or deficiencies cited in a follow-up survey shall not be the basis for an informal reconsideration.

d. The outpatient abortion facility shall be notified in writing of the results of the informal reconsideration.

2. Administrative Appeal. An outpatient abortion facility that has been issued a provisional initial license has the right to request an administrative appeal regarding the validity of the deficiencies cited during the follow-up survey.

a. The request for an administrative appeal must be in writing and received by the Division of Administrative Law (DAL), or its successor, within 15 days of receipt of the statement of deficiencies cited during the follow-up survey.

b. The request for an administrative appeal must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

c. Correction of a deficiency or deficiencies cited in a follow-up survey shall not be the basis for an administrative appeal.

d. Upon expiration of the provisional initial license, the outpatient abortion facility shall immediately cease and desist providing abortion services unless the DAL, or its successor, issues a stay of the expiration.

e. Stay of the Expiration. The request for a stay of the expiration must be submitted with the request for an administrative appeal and received by the DAL, or its successor, within 15 days of receipt of the statement of deficiencies.

i. Following a contradictory hearing and only upon a showing that there is no potential harm to the patients being served by the outpatient abortion facility, the stay may be granted by the DAL, or its successor.

f. If a timely request for an administrative appeal is received, the DAL, or its successor, shall conduct the administrative appeal in accordance with the Administrative Procedure Act.

i. If the final decision of the DAL, or its successor, is to remove all deficiencies, the outpatient abortion facility's license shall be granted/re-instated upon the payment of any licensing fees, outstanding sanctions, or other fees due to the department.

ii. If the final decision of the DAL, or its successor, is to uphold any of the deficiencies thereby affirming the expiration of the provisional initial license, the outpatient abortion facility shall:

(a). immediately cease and desist providing abortion services as an outpatient abortion facility;

(b). return the outpatient abortion facility license to the department; and

(c). notify the department in writing of the secure and confidential location where the patient medical records will be stored, including the name, physical address, and contact person, within 10 days of the rendering of the administrative appeal judgment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4407. Survey Activities

A. Any applicant or outpatient abortion facility shall be subject to licensing surveys conducted by department surveyors to ensure that an applicant or outpatient abortion facility is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound

requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, and also to ensure there is no present threat to the health, safety, and welfare of the patient.

B. Any applicant or outpatient abortion facility subject to licensing surveys conducted by the department shall:

1. allow department surveyors access to any and all requested documents and information on the licensed premises, including, but not limited to, patient medical records and outpatient abortion facility records that are relevant or necessary for the survey;

2. allow department surveyors access to interview any staff or other persons as necessary or required; and

3. not interfere with or impede the survey process for department surveyors while conducting any survey.

C. The department is entitled to access all books, records, or other documents maintained by or on behalf of the outpatient abortion facility on the licensed premises to the extent necessary to ensure compliance with this Chapter. Ensuring compliance includes permitting photocopying by the department or providing photocopies to the department of any records or other information by or on behalf of the outpatient abortion facility as necessary to determine or verify compliance with this Chapter.

D. Types of Surveys. The department shall have the authority to conduct the following types of surveys.

1. Initial Licensing Surveys. The department shall conduct an on-site initial licensing survey to ensure the applicant is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures prior to issuing a full initial license. All initial licensing surveys shall be announced.

2. Annual Licensing Surveys. The department shall conduct an annual licensing survey. All annual licensing surveys shall be unannounced.

3. Complaint Surveys. The department shall conduct complaint surveys when a complaint is lodged against an outpatient abortion facility in accordance with R.S. 40:2009.13 et seq. All complaint surveys shall be unannounced.

4. Follow-up Surveys. The department may conduct a follow-up survey to ensure the outpatient abortion facility has corrected all deficiencies cited in the previous survey and is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures. All follow-up surveys shall be unannounced.

5. Physical Environment Survey

a. An announced on-site survey to ensure the outpatient abortion facility is compliant with the applicable physical environment regulations due to the following:

i. major renovations of a currently licensed outpatient abortion facility; or

ii. relocation of a currently licensed outpatient abortion facility.

b. A physical environment survey may be conducted alone or conducted in conjunction with another survey.

E. Statement of Deficiencies. Following any survey, the department surveyors shall complete the statement of deficiencies documenting relevant findings including the deficiency, the applicable governing rule, and the evidence supporting why the rule was not met including, but not limited to, observations, interviews, and record review of information obtained during the survey. The outpatient abortion facility shall receive a copy of the statement of deficiencies.

1. Display. The following statements of deficiencies issued by the department to the outpatient abortion facility must be posted in a conspicuous place on the licensed premises:

a. the most recent annual licensing survey statement of deficiencies; and

b. any follow-up and/or complaint survey statement of deficiencies issued after the most recent annual licensing survey.

2. Public Disclosure. Any statement of deficiencies issued by the department to an outpatient abortion facility shall be available for disclosure to the public within 30 calendar days after the outpatient abortion facility submits an acceptable plan of correction to the deficiencies or within 90 days of receipt of the statement of deficiencies, whichever occurs first.

F. Plan of Correction. The department may require a plan of correction from an outpatient abortion facility following any survey wherein deficiencies have been cited. The fact that a plan of correction is accepted by the department does not preclude the department from pursuing other actions against the outpatient abortion facility as a result of the cited deficiencies.

G. Informal Reconsideration. The applicant and/or outpatient abortion facility shall have the right to request an informal reconsideration of any deficiencies cited during any initial licensing survey, annual licensing survey, and follow-up survey.

1. The request for an informal reconsideration must be in writing and received by HSS within 10 calendar days of receipt of the statement of deficiencies. If a timely request for an informal reconsideration is received, HSS shall schedule the informal reconsideration and notify the outpatient abortion facility in writing.

2. The request for an informal reconsideration must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

3. Correction of the deficiency or deficiencies cited in any survey shall not be the basis for an informal reconsideration.

4. The outpatient abortion facility may appear in person at the informal reconsideration and may be represented by counsel.

5. The outpatient abortion facility shall receive written notice of the results of the informal reconsideration.

6. The results of the informal reconsideration shall be the final administrative decision regarding the deficiencies and no right to an administrative appeal shall be available.

H. Complaint Survey Informal Reconsideration. Pursuant to R.S. 40:2009.13 et seq., an outpatient abortion facility shall have the right to request an informal reconsideration of the validity of the deficiencies cited during any complaint survey, and the complainant shall be afforded the opportunity to request an informal reconsideration of the findings.

1. The department shall conduct the informal reconsideration by administrative desk review.

2. The outpatient abortion facility and/or the complainant shall receive written notice of the results of the informal reconsideration.

3. Except for the right to an administrative appeal provided in R.S. 40:2009.16(A), the results of the informal reconsideration shall be the final administrative decision and no right to an administrative appeal shall be available.

I. Sanctions. The department may impose sanctions as a result of deficiencies cited following any survey. A sanction may include, but is not limited to:

1. civil fine(s);
2. revocation of license;
3. denial of license renewal application;
4. immediate suspension of license; and
5. any and all sanctions allowed under federal or state law or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4409. Changes in Outpatient Abortion Facility Information or Key Administrative Personnel

A. An outpatient abortion facility license shall be valid for the person or entity named as the outpatient abortion facility and for the physical address provided by the applicant on the initial licensing application or by the outpatient abortion facility in the licensing renewal application submitted to the department.

B. Change of Information. Any change regarding the outpatient abortion facility's entity name, "doing business as" name, mailing address, telephone number, or any combination thereof, shall be reported in writing to the department within five calendar days of the change. Any change regarding the entity name or "doing business as" name requires a change to the outpatient abortion facility license and shall require a $25 fee for the issuance of an amended license.

C. Change of Key Administrative Personnel. Any change regarding the outpatient abortion facility's key administrative personnel shall be reported in writing to the department within five calendar days of the change. For the purposes of this Chapter, key administrative personnel includes the administrator and medical director, and the outpatient abortion facility shall provide the individual's name, hire date, and qualifications as defined in this Chapter.

D. Change of Ownership. A change of ownership (CHOW) of an outpatient abortion facility shall be reported in writing to the department at least five calendar days prior to the change. Within five calendar days following the change, the new owner shall submit to HSS all legal documents relating to the CHOW, an initial licensing application packet, and the non-refundable initial licensing fee. Once all required documentation and information is submitted and complete, HSS will review. If the CHOW is approved, the department shall issue a new license in the name of the new owner.

1. If the department has issued a notice of license revocation, denial of renewal, provisional license, or a notice of immediate suspension at the time the CHOW is submitted, the department shall deny the CHOW.

2. If there are any outstanding fees, fines, or monies owed to the department by the existing licensed entity, the CHOW will be suspended until payment of all outstanding amounts.

E. Change of Physical Address. An outpatient abortion facility that intends to change the physical address is required to obtain plan review approval from the OSFM in accordance with the provisions of this Chapter.

1. Because the license of an outpatient abortion facility is not transferrable or assignable, any proposed change in the physical address requires the outpatient abortion facility to submit a newly completed initial licensing application packet and a new non-refundable initial licensing fee. In addition, the outpatient abortion facility must submit a written notice of intent to relocate to the HSS at the time the plan review request is submitted to the OSFM for approval.

2. The department shall conduct an announced on-site survey at the proposed new location prior to relocation of the facility.

3. Any change regarding the outpatient abortion facility's physical address shall result in a new anniversary date for the license issued.

F. Duplicate License. Any request for a duplicate license shall be accompanied by a $25 fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4411. License Renewal Application Process

A. License Renewal Application Packet. A license renewal application packet for an outpatient abortion facility shall be obtained from the department. A complete license renewal application packet shall be submitted to the department at least 30 calendar days prior to the expiration of the current license.

B. To be considered complete, the license renewal application packet shall include the following:

1. a completed outpatient abortion facility license renewal application and the non-refundable license renewal fee;

2. a copy of the most current on-site inspection report with approval for occupancy from the OSFM;

3. a copy of the most current health inspection report with recommendation for licensing from the OPH;

4. payment of any outstanding fees, fines, or monies owed to the department; and

5. any other documentation required by the department for licensure.

C. If the license renewal application packet is incomplete as submitted, the outpatient abortion facility shall be notified in writing of the missing information, and shall have 10

calendar days from receipt of the notification to submit the additional requested information. If the additional requested information is not received within 10 calendar days or prior to the expiration of the current license, it will result in the voluntary non-renewal of the outpatient abortion facility license.

D. Licensing Renewal—Annual Licensing Survey. Upon receipt of a complete license renewal application packet, the department may conduct an on-site annual licensing survey. This annual licensing survey shall be unannounced.

1. If it is determined that the outpatient abortion facility is not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, and that a potential threat to the health, safety, and welfare of the patients is presented, the department shall deny the license renewal application.

2. If it is determined that the outpatient abortion facility is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, the department shall issue a full renewal license to the outpatient abortion facility.

3. If it is determined that the outpatient abortion facility is not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, and welfare of the patients, the department may issue a provisional license.

E. The issuance of a full renewal license does not in any manner affect any previously existing sanction by the department against an outpatient abortion facility including, but not limited to, civil fine(s) and/or plan of correction(s).

F. If the department has issued a notice of license revocation or a notice of immediate suspension of license at the time the license renewal application packet is submitted, the department shall deny the license renewal application.

G. Full Renewal License. The full renewal license issued by the department shall be valid until the expiration date shown on the license, unless the license is modified, revoked, or suspended.

H. Provisional License. The provisional license issued by the department shall be valid for a period not to exceed six months.

1. At the discretion of the department, the provisional license may be extended for an additional period not to exceed 90 calendar days in order for the outpatient abortion facility to correct the deficiencies cited following any survey.

2. When a provisional license is issued by the department, the outpatient abortion facility shall submit a plan of correction to the department for approval and also shall be required to correct all deficiencies prior to the expiration of the provisional license.

3. Upon receipt of the outpatient abortion facility's plan of correction, the department shall conduct an unannounced follow-up survey, either on-site or by desk review, to ensure the outpatient abortion facility is in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures.

a. Following the follow-up survey, if it is determined that the outpatient abortion facility has corrected all deficiencies and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the issuance of the outpatient abortion facility license.

b. Following the follow-up survey, if it determined that the outpatient abortion facility has failed to correct all deficiencies or has not maintained compliance during the period of the provisional license, or if new deficiencies are cited during the follow-up survey that present a threat to the health, safety, and welfare of a patient, the provisional license shall expire unless otherwise determined by the department. The outpatient abortion facility shall submit a newly completed initial licensing application packet and a new non-refundable initial licensing fee to begin the initial licensing application process again, subject to any facility need review approval.

I. Informal Reconsideration and Administrative Appeal. The outpatient abortion facility does not have the right to request an informal reconsideration and/or an administrative appeal of the issuance or expiration of a provisional license. An outpatient abortion facility that has been issued a provisional license is considered licensed and operational for the term of the provisional license. The issuance of a provisional license is not considered to be a denial of an initial licensing application, denial of a license renewal application, or license revocation for the purposes of this Chapter.

1. Informal Reconsideration. An outpatient abortion facility that has been issued a provisional license has the right to request an informal reconsideration regarding the validity of the deficiencies cited during the follow-up survey.

a. The request for an informal reconsideration must be in writing and received by HSS within five calendar days of receipt of the statement of deficiencies cited during the follow-up survey. If a timely request for an informal reconsideration is received, HSS shall schedule the informal reconsideration and notify the outpatient abortion facility in writing.

b. The request for an informal reconsideration must identify each disputed deficiency or deficiencies and the

reason for the dispute and include any documentation that demonstrates that the determination was made in error.

c. Correction of a deficiency or deficiencies cited in a follow-up survey shall not be the basis for an informal reconsideration.

d. The outpatient abortion facility shall be notified in writing of the results of the informal reconsideration.

2. Administrative Appeal. An outpatient abortion facility that has been issued a provisional license has the right to request an administrative appeal regarding the validity of the deficiencies cited during the follow-up survey.

a. The request for an administrative appeal must be in writing and received by the DAL, or its successor, within 15 days of receipt of the statement of deficiencies cited during the follow-up survey.

b. The request for an administrative appeal must identify each disputed deficiency or deficiencies and the reason for the dispute and include any documentation that demonstrates that the determination was made in error.

c. Correction of a deficiency or deficiencies cited in a follow-up survey shall not be the basis for an administrative appeal.

d. Upon expiration of the provisional license, the outpatient abortion facility shall immediately cease and desist providing abortion services unless the DAL, or its successor, issues a stay of the expiration.

e. Stay of the Expiration. The request for a stay of the expiration must be submitted with the request for an administrative appeal and received by the DAL, or its successor, within 15 days of receipt of the statement of deficiencies.

i. Following a contradictory hearing and only upon a showing that there is no potential harm to the patients being served by the outpatient abortion facility, the stay may be granted by the DAL, or its successor.

f. If a timely request for an administrative appeal is received, the DAL, or its successor, shall conduct the administrative appeal in accordance with the Administrative Procedure Act.

i. If the final decision of the DAL, or its successor, is to remove all deficiencies, the outpatient abortion facility's license will be granted/re-instated upon the payment of any licensing fees, outstanding sanctions, or other fees due to the department.

ii. If the final decision of the DAL, or its successor, is to remove some but not all deficiencies, the department shall have the discretion to determine the operational status of the outpatient abortion facility.

iii. If the final decision of the DAL, or its successor, is to uphold the deficiencies thereby affirming the expiration of the provisional license, the outpatient abortion facility shall:

(a). immediately cease and desist providing abortion services as an outpatient abortion facility;

(b). return the outpatient abortion facility license to the department; and

(c). notify the department in writing of the secure and confidential location where the patient medical records will be stored, including the name, physical address, and contact person, within 10 days of the rendering of the administrative appeal judgment.

J. Voluntary Non-Renewal of License

1. If an outpatient abortion facility fails to timely renew its license, the license shall expire on its face and is considered to be a voluntary non-renewal of license. At such time, the outpatient abortion facility shall immediately cease and desist providing abortions as an outpatient abortion facility.

2. Notice of Voluntary Non-Renewal of License. The outpatient abortion facility must provide advanced written notice of its voluntary non-renewal of license at least 30 calendar days prior to the date of the expiration of the outpatient abortion facility license. The notice of voluntary non-renewal of the license must be provided to all of the outpatient abortion facility's staff, including the medical director, to any patient having an abortion procedure within the last 30 calendar days of operation, and to HSS.

3. In addition, the outpatient abortion facility shall notify HSS in writing of the secure and confidential location where the patient medical records will be stored, including the name, physical address, and contact person.

4. As this is a voluntary action on the part of the outpatient abortion facility, no informal reconsideration or administrative appeal rights shall be available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4413. Cessation of Business

A. Outpatient Abortion Facility Duties and Responsibilities. An outpatient abortion facility that voluntarily closes or ceases operations is considered to have surrendered its license to operate.

B. Except as provided in §4453 of these licensing regulations, a license shall be immediately null and void if an outpatient abortion facility ceases to operate.

C. A cessation of business is deemed to be effective the date on which the facility stopped offering or providing services to the community.

D. Upon the cessation of business, the facility shall immediately return the original license to the department.

E. Cessation of business is deemed to be a voluntary action on the part of the facility. The outpatient abortion facility does not have a right to appeal a cessation of business.

1. Notice of Cessation of Business. To the extent possible, the outpatient abortion facility shall provide advanced written notice of its cessation of business at least 30 calendar days prior to the date it intends to cease business operations. The notice of cessation of business must be provided to all the outpatient abortion facility's staff, including the medical director, to any patient having an abortion procedure within the last 30 days of operation, and to HSS.

2. In addition to the notice, the outpatient abortion facility shall submit a written plan for the disposition of patient medical records for approval by the department. The plan shall include the following:

a. the effective date of the closure;

b. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed provider's patients' medical records;

c. the name of an appointed custodian(s) who shall provide the following:

i. access to the records and copies of the records to the patient or authorized representative, upon presentation of proper authorization(s); and

ii. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss, and destruction; and

d. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing facility, at least 15 days prior to the effective date of closure.

F. If an outpatient abortion facility fails to follow the procedures of this Section, any owner, officer, member, manager, director, or administrator of the outpatient abortion facility may be prohibited from owning, managing, directing, or operating another outpatient abortion facility in the state of Louisiana for two years.

G. Once an outpatient abortion facility has ceased doing business, the facility shall not provide services until it has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4415. Denial of an Initial License, Denial of License Renewal Application, and License Revocation

A. Denial of an Initial License

1. The department shall deny an initial license in the event that the initial licensing survey finds that the outpatient abortion facility is not in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures, and a potential threat to the health, safety, and welfare of the patients is presented.

2. The department shall deny an initial license for any of the reasons a license may be revoked or non-renewed pursuant to the provisions of this Chapter.

B. Denial of License Renewal Application and License Revocation. The department may deny a license renewal application or revoke a license for any of the following reasons:

1. failure to be in substantial compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures;

2. failure to comply with the terms and provisions of an education letter or settlement agreement;

3. failure to protect a patient from any act by staff, employee or other patient posing a threat to a patient's health and safety while on the licensed premises receiving services provided by the outpatient abortion facility;

4. knowingly providing false, forged, or altered statements or information on any documentation required to be submitted to the department or required to be maintained by the outpatient abortion facility, including, but not limited to:

a. the initial licensing application packet or the license renewal application packet;

b. data forms;

c. patient medical records or outpatient abortion facility records; or

d. matters under investigation by the department, the Office of the Attorney General, or law enforcement agencies;

5. knowingly making a false statement or providing false, forged, or altered information or documentation to DHH employees or to law enforcement agencies;

6. employing false, fraudulent, or misleading advertising practices;

7. an owner, officer, member, manager, administrator, director, managing employee, or person designated to manage or supervise patient care has either pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the adjudicating court:

a. for purposes of these provisions, conviction of a felony means a felony relating to any of the following:

i. the assault, abuse, or neglect of a patient;

ii. cruelty, exploitation, or the sexual battery of a juvenile or the infirmed;

iii. a drug offense;

iv. crimes of a sexual nature;

vi. possession, use of a firearm or deadly weapon; or

vii. fraud or misappropriation of federal or state funds;

8. failure to comply with all reporting requirements in a timely manner, as required by all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements or any other matter addressed by law related to abortion or abortion procedures;

9. failure to allow the department surveyors access to any and all requested documents and information on the licensed premises, including, but not limited to, patient medical records and outpatient abortion facility records, that are relevant or necessary for the survey;

10. failure to allow the department surveyors access to interview any staff or other persons as necessary or required;

11. interfering or impeding with the survey process;

12. bribery, harassment, intimidation, or solicitation of any patient, by or on behalf of the outpatient abortion facility, designed to cause that patient to use or retain the services of the outpatient abortion facility; or

13. failure to timely pay any licensing fees, outstanding sanctions, or other fees due to the department. For the purposes of this Chapter, any payments returned for insufficient funds are considered failure to timely pay.

C. Notice. The secretary shall provide 30 calendar days written notice of the denial of initial license, notice of denial of license renewal application, and notice of license revocation.

D. Administrative Reconsideration. The applicant and/or outpatient abortion facility has the right to request an administrative reconsideration of a decision by the department to deny an initial license, to deny a license renewal application, or to issue a revocation action of a license to operate an outpatient abortion facility. The applicant and/or outpatient abortion facility will receive written notice of the final results and decision. However, there is no right to request an informal reconsideration of a voluntary non-renewal of license as provided in this Chapter.

1. The request for an administrative reconsideration must be in writing and received by HSS within 15 calendar days of receipt of the notice of the denial of initial license, notice of denial of license renewal application, or notice of license revocation.

2. The request for an administrative reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an administrative reconsideration is received, HSS shall schedule the informal reconsideration and notify the applicant and/or outpatient abortion facility in writing.

4. The applicant and/or outpatient abortion facility shall have the right to appear in person at the administrative reconsideration and may be represented by counsel.

5. Correction of a deficiency or deficiencies that are the basis for the denial of initial license, denial of license renewal application, or license revocation shall not be a basis for an administrative reconsideration.

6. The administrative reconsideration process is not in lieu of the administrative appeals process.

7. The applicant and/or outpatient abortion facility shall receive written notice of the results of the informal reconsideration.

E. Administrative Appeals. The applicant and/or outpatient abortion facility has the right to request a suspensive administrative appeal of the secretary's decision to deny an initial license, deny a license renewal application, or to revoke a license to operate an outpatient abortion facility. There is no right to request a suspensive administrative appeal of a voluntary non-renewal of license as provided in this Chapter.

1. The request for a suspensive administrative appeal must be in writing and received by the Office of the Secretary within 30 calendar days of receipt of the notice of the results of the administrative reconsideration. A copy of the request for a suspensive administrative appeal shall be submitted to the DAL, or its successor, for docketing and handling the appeal.

a. Administrative Appeal Only. The applicant and/or outpatient abortion facility may forego its right to an administrative reconsideration and proceed directly to a suspensive administrative appeal. In such a case, the request for a suspensive administrative appeal must be in writing and received by the Office of the Secretary within 30 calendar days of receipt of the notice of denial of initial licensing application, notice of denial of license renewal application, or notice of license revocation. The provisions of this Chapter shall otherwise govern this suspensive administrative appeal.

2. If a timely request for a suspensive administrative appeal is received, the Office of the Secretary shall forward the applicant and/or outpatient abortion facility's request and any accompanying documentation, to the DAL, or its successor, to be docketed, and send a copy of such request to the applicant or outpatient abortion facility either by U.S. mail, facsimile, or email.

3. The request for a suspensive administrative appeal shall state the basis and specific reasons for the appeal, and include any documentation that demonstrates that the determination was made in error.

4. If a timely request for a suspensive administrative appeal is received by the Office of the Secretary, the denial of license renewal application or license revocation shall be suspensive, and the outpatient abortion facility shall be allowed to continue to operate and provide abortions services until such time as the DAL, or its successor, issues a final administrative decision.

5. Correction of a deficiency or deficiencies that is the basis for the denial of the initial license, denial of the license renewal application, or license revocation shall not be a basis for a suspensive administrative appeal.

6. If the final decision of the DAL, or its successor, is to reverse the denial of an initial license, the applicant's license will be granted upon the payment of any licensing fees, outstanding sanctions, or other fees due to the department. If the final decision of the DAL, or its successor, is to reverse the denial of a license renewal application or license revocation, the license will be reinstated upon the payment of any licensing fees, outstanding sanctions, or other fees due to the department.

7. If the final decision of the DAL, or its successor, is to affirm the denial of a license renewal application or license revocation, the outpatient abortion facility shall:

a. immediately cease and desist providing abortion services as an outpatient abortion facility;

b. provide written notice to all of the outpatient abortion facility's staff, including the medical director, and to any patient having an abortion procedure within the last 30 calendar days of operation;

c. return the outpatient abortion facility license to the department; and

d. notify the department in writing of the secure and confidential location where the patient medical records will be stored, including the name, physical address, and contact person, within 10 days of the rendering of the administrative appeal judgment.

F. Prohibition Following Loss of License. If a license is revoked or renewal of license is denied, other than for cessation of business or non-operational status, or if the license is surrendered in lieu of an adverse action, any owner, officer, member, manager, director, or administrator of the outpatient abortion facility may be prohibited from owning, managing, directing, or operating another outpatient abortion facility in the state of Louisiana for two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4417. Immediate Suspension of License

A. Pursuant to applicable state law, the secretary may issue an immediate suspension of a license if any investigation or survey determines that the applicant or outpatient abortion facility is in violation of any provision of applicable state laws, in violation of the rules promulgated by the department, or in violation of any other federal or state law or regulation, and the secretary determines that the violation or violations pose an imminent or immediate threat to the health, welfare, or safety of a client or patient.

B. Notice of Immediate Suspension of License. The secretary shall provide written notice of the immediate suspension of license.

C. Effective Date. The suspension of the license is effective immediately upon the receipt of the written notice of immediate suspension of license.

D. Administrative Appeal. The outpatient abortion facility shall have the right to request a devolutive administrative appeal of the immediate suspension of license.

1. The request for a devolutive administrative appeal must be in writing and submitted to the DHH Office of the Secretary within 30 calendar days of receipt of the notice of immediate suspension of license.

2. The request for a devolutive administrative appeal shall specify in detail the reasons why the appeal is lodged.

E. Injunctive Relief. The outpatient abortion facility shall have the right to file for injunctive relief from the immediate suspension of license.

1. Venue. Any action for injunctive relief shall be filed with the district court for the Parish of East Baton Rouge.

2. Burden of Proof. Before injunctive relief may be granted, the outpatient abortion facility shall prove by clear and convincing evidence that the secretary's decision to issue the immediate suspension of license was arbitrary and capricious.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter B. Administration and Organization

§4421. Governing Body

A. The outpatient abortion facility shall be in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances.

B. The outpatient abortion facility shall have a governing body that assumes full responsibility for the total operation of the outpatient abortion facility.

1. The governing body shall consist of at least one individual who will assume full responsibility.

2. The outpatient abortion facility shall maintain documentation on the licensed premises identifying the following information for each member of the governing body:

a. name;

b. contact information;

c. address; and

d. terms of membership.

3. The governing body shall develop and adopt bylaws which address its duties and responsibilities.

4. The governing body shall, at minimum, meet annually and maintain minutes of such meetings documenting the discharge of its duties and responsibilities.

C. The governing body shall be responsible for:

1. ensuring the outpatient abortion facility's continued compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, regulations, and fees, governing or relating to outpatient abortion facilities, abortion or termination procedures, reporting requirements, ultrasound requirements, informed consent requirements, prohibited activity requirements, e.g. presenting or otherwise delivering any instruction or program on any health topic, including but not limited to human sexuality or family planning, to students at a public elementary or secondary school, or at a charter school that receives state funding or knowingly providing any materials or media regarding human sexuality or family planning for distribution or viewing at a public elementary or secondary school, or at a charter school that receives state funding, or any other matter addressed by law related to abortion or abortion procedures;

2. designating a person to act as the administrator and delegating sufficient authority to this person to manage the day-to-day operations of the facility;

3. designating a person to act as the medical director and delegating authority to this person to allow him/her to direct the medical staff, nursing personnel, and medical services provided to each patient;

4. evaluating the administrator and medical director's performance annually, and maintaining documentation of such in their respective personnel files;

5. ensuring that upon hire and prior to providing care to patients and, at a minimum, annually, each employee is provided with orientation, training, and evaluation for competency according to their respective job descriptions;

6. developing, implementing, enforcing, monitoring, and annually reviewing in collaboration with the administrator, medical director, and registered nurse, written policies and procedures governing the following:

a. the scope of medical services offered;

b. personnel practices, including, but not limited to:

i. developing job descriptions for licensed and non-licensed personnel consistent with the applicable scope of practice as defined by federal and state law;

ii. developing a program for orientation, training, and evaluation for competency; and

iii. developing a program for health screening;

c. the management of medical emergencies and the immediate transfer to a hospital of patients and born alive infants regardless of gestational age requiring emergency medical care beyond the capabilities of the outpatient abortion facility and such policies and procedures shall identify emergency medical equipment and medications that will be used to provide for basic life support until emergency medical services arrive and assume care; and

d. disaster plans for both internal and external occurrences;

7. approving all bylaws, rules, policies, and procedures formulated in accordance with all applicable state laws, rules, and regulations;

8. ensuring all bylaws, rules, policies, and procedures formulated in accordance with all applicable state laws, rules, and regulations are maintained on the licensed premises and readily accessible to all staff;

9. maintaining organization and administration of the outpatient abortion facility;

10. acting upon recommendations from the medical director relative to appointments of persons to the medical staff;

11. ensuring that the outpatient abortion facility is equipped and staffed to meet the needs of its patients;

12. ensuring services that are provided through a contract with an outside source are provided in a safe and effective manner;

13. ensuring that the outpatient abortion facility develops, implements, monitors, enforces, and reviews at a minimum, quarterly, a quality assurance and performance improvement (QAPI) program;

14. developing, implementing, monitoring, enforcing, and reviewing annually written policies and procedures relating to communication with the administrator, medical director, and medical staff to address problems, including, but not limited to, patient care, cost containment, and improved practices;

15. ensuring that disaster plans for both internal and external occurrences are developed, implemented, monitored, enforced, and annually reviewed and that annual emergency preparedness drills are held in accordance with the disaster plan. The outpatient abortion facility shall maintain documentation on the licensed premises indicating the date, type of drill, participants, and materials;

16. ensuring that the outpatient abortion facility procures emergency medical equipment and medications that will be used to provide for basic life support until emergency medical services arrive and assume care;

17. ensuring that the outpatient abortion facility orders and maintains a supply of emergency drugs for stabilizing and/or treating medical and surgical complications for intra-operative and post-operative care on the licensed premises, subject to the approval by the medical director; and

18. ensuring that the outpatient abortion facility develops, implements, enforces, monitors, and annually reviews written policies and procedures to ensure that products of conception are disposed of in compliance with the Occupational Safety and Health Administration (OSHA), the Environmental Protection Agency (EPA), and with any other applicable federal, state, and local statutes, laws, ordinances, and department rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4423. Staffing Requirements, Qualifications, and Responsibilities

A. General Provisions. An outpatient abortion facility shall have enough qualified personnel as indicated under this Chapter who are available to provide direct patient care as needed to all patients and to provide administrative and nonclinical services needed to maintain the operation of the outpatient abortion facility in accordance with the provisions of this Chapter.

B. Administrator. The outpatient abortion facility shall have an administrator designated by the governing body who is responsible for the day-to-day management, supervision, and operation of the outpatient abortion facility. The administrator shall be a full-time employee, available and on-site, during the designated business hours.

1. Qualifications. The administrator shall be at least 18 years of age and possess a high school diploma or equivalent.

2. The outpatient abortion facility shall designate a person to act in the administrator's absence, and shall ensure this person meets the qualifications of the administrator pursuant to this Chapter. The outpatient abortion facility shall maintain documentation on the licensed premises identifying this person and evidence of their qualifications.

3. Duties and Responsibilities. The administrator shall be responsible for:

a. employing licensed and non-licensed qualified personnel to provide the medical and clinical care services to meet the needs of the patients being served;

b. ensuring that upon hire and prior to providing care to patients, each employee is provided with orientation, training, and evaluation for competency as provided in this Chapter;

c. ensuring that written policies and procedures for the management of medical emergencies and the immediate transfer to a hospital of patients and born alive infants regardless of gestational age requiring emergency medical care beyond the capabilities of the outpatient abortion facility are developed, implemented, monitored, enforced, and annually reviewed, and readily accessible to all staff;

d. ensuring that emergency medical equipment and medications that will be used to provide for basic life support until emergency medical services arrive and assume care are maintained in proper working order and are available for use on a day-to-day basis on the licensed premises;

e. ensuring that a licensed physician, who has admitting privileges at a hospital located not further than 30 miles from the location at which the abortion is performed or induced and provides obstetrical or gynecological health care services, to facilitate emergency care is on the licensed premises when a patient is scheduled to undergo an abortion procedure;

> Note: The Department acknowledges that federal litigation is pending on the issue of admitting privileges. As such, licensing provisions regarding admitting privileges will only be enforced pursuant to Order, Judgment, Stipulation, or Agreement in the matter entitled June Medical Services LLC, et al versus Caldwell, et al, Case No. 3:14-cv-525, United States District Court, Middle District, and any matter consolidated with such matter.

f. ensuring that disaster plans for both internal and external occurrences are developed, implemented, monitored, enforced, and annually reviewed and that annual emergency preparedness drills are held in accordance with the disaster plan. The outpatient abortion facility shall maintain documentation on the licensed premises indicating the date, type of drill, participants, and materials;

g. ensuring that a licensed medical professional trained in CPR and trained in the use of emergency medical

equipment is on the licensed premises at all times when abortion procedures are being performed;

h. ensuring that patient medical records are completely and accurately documented in accordance with the provisions of this Chapter within 30 days from the abortion procedure; and

i. maintaining current credentialing and/or personnel files on each employee that shall include documentation of the following:

i. a completed employment application;

ii. job description;

iii. a copy of current health screening reports conducted in accordance with the outpatient abortion facility policies and procedures and in compliance with all applicable federal, state, and local statutes, laws, rules, regulations, and ordinances, including department rules, and regulations;

iv. documentation that each employee has successfully completed orientation, training, and evaluation for competency related to each job skill as delineated in their respective job description;

v. documentation that all licensed nurses have successfully completed a Basic Life Support course; and

vi. other pertinent information as required by the outpatient abortion facility's policies and procedures, including but not limited to, prohibited activity, e.g. presenting or otherwise delivering any instruction or program on any health topic, including but not limited to human sexuality or family planning, to students at a public elementary or secondary school, or at a charter school that receives state funding or knowingly providing any materials or media regarding human sexuality or family planning for distribution or viewing at a public elementary or secondary school, or at a charter school that receives state funding requirements in accordance with applicable state laws, rules and regulations.

4. All credentialing and/or personnel files shall be current and maintained on the licensed premises at all times.

C. Medical Staff. The outpatient abortion facility shall provide medical and clinical services. The outpatient abortion facility shall employ qualified medical staff to meet the needs of the patients. No person shall perform or induce an abortion unless that person is a physician who meets the following qualifications and requirements.

1. Qualifications. Each member of the facility's medical staff shall be a physician, as defined in this Chapter, who meets the following requirements:

a. is currently licensed to practice medicine in the state of Louisiana;

b. is in good standing currently with the Louisiana State Board of Medical Examiners;

c. is currently enrolled in, or has completed, a residency rotation in obstetrics and gynecology or family medicine; and

d. is not restricted from performing such services and whose license is not restricted from performing such services at an abortion facility.

2. Physician Requirements. On the date the abortion is performed or induced, the physician performing or inducing the abortion shall:

a. have active admitting privileges at a hospital that is located not further than 30 miles from the location at which the abortion is performed or induced and that provides obstetrical or gynecological health care services; and

Note: The Department acknowledges that federal litigation is pending on the issue of admitting privileges. As such, licensing provisions regarding admitting privileges will only be enforced pursuant to Order, Judgment, Stipulation, or Agreement in the matter entitled June Medical Services LLC, et al versus Caldwell, et al, Case No. 3:14-cv-525, United States District Court, Middle District, and any matter consolidated with such matter.

b. provide the pregnant woman with all of the following before the abortion is performed or induced:

i. a telephone number by which the pregnant woman may reach the physician or licensed nurse or PA employed by the facility by which the abortion was performed or induced, who has 24 hours per day access to the woman's medical records so that the woman may request assistance related to any complications that arises from the performance or induction of the abortion, or to ask health-related questions regarding the abortion; and

ii. the name and telephone number of the hospital nearest to the home of the pregnant woman at which an emergency arising from the abortion would be treated.

3. Medical Director. The outpatient abortion facility shall have a medical director designated and approved by and accountable to the governing body who is responsible for all medical care provided to patients in the facility, and for the ethical and professional practices of the medical staff.

a. When an outpatient abortion facility has only one medical staff member, that individual shall serve as medical director.

b. The outpatient abortion facility shall designate a physician, as defined in this Chapter, to act in the medical director's absence. The outpatient abortion facility shall maintain documentation on the licensed premises identifying this physician and evidence of his/her qualifications.

c. Duties and Responsibilities. The medical director shall be responsible for:

i. developing, implementing, enforcing, monitoring, and annually reviewing written policies and procedures governing the medical and clinical services at the outpatient abortion facility, including, but not limited to:

(a). pre-operative procedures, intraoperative procedures, post-operative care and procedures, discharge, and follow-up care;

(b). laboratory services;

(c). infection control;

(d). pharmaceutical services, including, but not limited to, identifying the drugs dispensed and/or administered to patients on the licensed premises;

(e). anesthesia services;

(f). emergency medical treatment, including, but not limited to:

(i). identifying emergency medical equipment and medications that will be used to provide for basic life support until emergency medical services arrive and assume care;

(ii). identifying and ensuring that a supply of emergency drugs for stabilizing and/or treating medical and surgical complications are maintained on the licensed premises;

(iii). identifying and ensuring that each patient, before an abortion is performed or induced, is given by the physician performing or inducing the abortion, a

telephone number of the hospital nearest to the home of the pregnant woman at which an emergency arising from the abortion would be treated; and

(iv). identifying and ensuring that each patient, before an abortion is performed or induced, is given by the physician performing or inducing the abortion, a telephone number by which the pregnant woman may reach the physician, or licensed nurse or PA employed by the physician or facility at which the abortion was performed or induced, who has 24 hours per day access to the woman's relevant medical records so that the woman may request assistance related to any complication that arises from the performance or induction of the abortion, or to ask health-related questions regarding the abortion;

(g). patient medical records and reporting requirements;

(h). the examination of fetal tissue;

(i). the disposition of medical waste;

(j). physical environment; and

(k). quality assurance and performance improvement (QAPI) program;

ii. developing, implementing, enforcing, monitoring, annually reviewing written bylaws, rules, policies, and procedures for self-governing of the professional activity of all medical staff members including, but not be limited to:

(a). the structure of the medical staff;

(b). review of the credentials, and training, and competency of each medical staff member to perform medical and clinical services, at least every two years, and to delineate and to recommend approval for individual privileges;

(i). the recommendation shall be in writing and maintained on the licensed premises in the credentialing file;

(ii). verification that each member of the medical staff is a physician who possesses a current license to practice medicine in Louisiana, is in good standing with the Louisiana State Board of Medical Examiners, and whose license does not restrict the physician from performing the services at the outpatient abortion facility;

(iii). evaluation for competency and past performance of each medical staff member, at a minimum, annually, which shall include monitoring and evaluation of patient care provided;

(iv). medical staff discipline; and

(v). grievance process;

iii. monitoring and reviewing, at a minimum, quarterly, in collaboration with the QAPI team/committee, the medical and clinical services provided by the outpatient abortion facility to ensure acceptable levels of quality of care and services;

iv. reviewing reports of all accidents or unusual incidents occurring on the licensed premises and reporting to the administrator potential health and safety hazards;

v. ensuring that each patient receiving medical and clinical services is under the professional care of a member of the medical staff who shall assess, supervise, and evaluate the care of the patient;

vi. ensuring that a member of the medical staff remains on the licensed premises until each patient is assessed to be awake, alert, and medically stable prior to discharge; and

vii. ensuring that a member of the medical staff shall be either present or immediately available by telecommunications to the staff when there is a patient on the licensed premises.

D. Nursing Staff. The outpatient abortion facility shall provide nursing services and shall employ qualified nursing staff to meet the needs of the patients.

1. Registered Nurse. The outpatient abortion facility shall have a registered nurse (RN) who is responsible for the overall direction of all nursing staff and nursing services provided.

a. Qualifications. The RN shall:

i. have a current, unrestricted Louisiana registered nurse license; and

ii. be in good standing with the Louisiana State Board of Nursing.

2. Duties and Responsibilities. The RN shall be responsible for:

a. developing, implementing, enforcing, monitoring, and annually reviewing written policies and procedures governing the following:

i. nursing personnel, including, but not limited to:

(a). developing a job description that delineates responsibilities and duties for each category of licensed and non-licensed nursing staff consistent with acceptable nursing standards of practice;

(b). orientation;

(c). training; and

(d). evaluation for competency;

ii. nursing care and services consistent with accepted nursing standards of practice;

b. assigning duties and functions to each licensed and non-licensed employee commensurate with his/her licensure, certification, experience, and competence consistent with acceptable nursing standards of practice;

c. verifying that each licensed nurse possesses a current and unrestricted license to practice nursing in Louisiana and is in good standing with their applicable state licensing board;

d. ensuring that the number of nursing staff on duty is sufficient to meet the needs of the patient(s);

e. ensuring that at least one licensed nurse is present when there is a patient receiving or recovering from an abortion procedure on the licensed premises;

f. ensuring that each licensed nurse working at the outpatient abortion facility has successfully completed a basic life support course; and

g. developing, implementing, enforcing, monitoring, and reviewing annually in collaboration with the medical director, written policies and procedures establishing a formalized program of in-service training and evaluation for competency for each category of licensed and non-licensed nursing staff and for all nursing care and services provided at the outpatient abortion facility.

i. The RN shall ensure that the training is related to each job skill as delineated in their respective job description.

ii. The RN shall ensure an evaluation for competency is performed for each category of licensed and

non-licensed nursing staff and for all nursing care and services provided.

iii. The RN shall maintain documentation in the personnel file of each nursing staff member evidencing the content of the training that was provided, including the name of the evaluator, date, nurse's name, and documents provided.

iv. The RN shall maintain documentation in the personnel file of each nursing staff member evidencing that an evaluation for competency was conducted, including the name of the evaluator, date, nurse's name, and a notation that the nurse is competent in each job skill as delineated in their respective job description.

E. Orientation and Training. The administrator shall develop, implement, enforce, monitor, and annually review, in collaboration with the medical director and registered nurse, written policies and procedures regarding orientation and training of all employees.

1. Orientation. Upon hire and prior to providing care to patients, all employees shall be provided orientation related to the outpatient abortion facility's written policies and procedures governing the following:

a. organizational structure;

b. confidentiality;

c. grievance process;

d. disaster plan for internal and external occurrences;

e. emergency medical treatment;

f. program mission;

g. personnel practices;

h. reporting requirements; and

i. basic skills required to meet the health needs of the patients.

2. Training. Upon hire, and at a minimum, annually, all employees shall be provided training in each job skill as delineated in their respective job description.

a. Medical training of a licensed medical professional shall only be provided by a medical professional with an equivalent or higher license.

b. Training of a non-licensed employee related to the performance of job skills relative to medical and clinical services shall only be provided by a licensed medical professional consistent with the applicable standards of practice.

c. All training programs and materials used shall be available for review by HSS.

d. The administrator shall maintain documentation of all of the training provided in each employee's personnel files.

F. Evaluation for Competency. Upon hire, and at a minimum, annually, the outpatient abortion facility shall conduct an evaluation for competency of all employees related to each job skill as delineated in their respective job description.

1. The evaluation for competency shall include the observation of job skills and return demonstration by the employee.

2. Evaluation for competency of a licensed medical professional shall only be provided by a medical professional with an equivalent or higher license.

3. Evaluation for competency of a non-licensed employee related to the performance of job skills relative to medical and clinical services shall only be provided by a licensed medical professional consistent with their applicable scope of practice.

4. The administrator shall maintain documentation of all evaluations for competencies in each employee's personnel file.

G. Health Screening. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review written policies and procedures governing health screening of personnel in accordance with all applicable federal, state, and local statutes, laws, ordinances, and department rules and regulations. The administrator shall maintain documentation of health screening reports in each employee's personnel file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4425. Patient Medical Records and Reporting Requirements

A. General Provisions

1. The outpatient abortion facility shall establish and maintain a patient medical record on each patient.

2. The patient medical record shall be:

a. completely and accurately documented; and

b. readily available and systematically organized to facilitate the gathering of information.

3. The outpatient abortion facility shall ensure compliance with privacy and confidentiality of patient medical records, including information in a computerized medical record system, in accordance with the Health Insurance Portability and Accountability Act (HIPAA) regulations, and/or all applicable state laws, rules, and regulations.

4. Safeguards shall be established to protect the patient medical records from loss or damage and/or breach of confidentiality in accordance with all applicable state laws, rules, and regulations.

B. Retention of Patient Medical Records. Patient medical records shall be retained by the outpatient abortion facility for a period of not less than seven years from the date of discharge. If the woman is a minor, then the medical record of the minor shall be kept for a minimum of 10 years from the time the minor reaches the age of majority. Patient medical records shall be maintained on the premises for at least one year and shall not be removed except under court orders or subpoenas. Any patient medical record maintained off-site after the first year shall be provided to the department for review no later than 24 hours from the time of the department's request.

Note: Refer to R.S. 9:2800.9.

C. Contents of Patient Medical Record

1. The following minimum data shall be kept on all patients:

a. identification data;

b. date of procedure;

c. medical and social history;

d. anesthesia and surgical history;

e. physical examination notes;

f. chief complaint or diagnosis;

g. clinical laboratory reports;

h. pathology reports;

i. individualized physician's orders;

j. radiological/ultrasound reports;

k. consultation reports (when appropriate);

l. medical and surgical treatment;

m. progress notes, discharge notes, and discharge summary;

n. nurses' notes, including, but not limited to, all pertinent observations, treatments, and medications dispensed and/or administered;

o. medication administration records, including, but not limited to, the date, time, medication, dose, and route;

p. documentation of any and all prescription drugs dispensed to each patient, including, but not limited to the:

i. full name of the patient;

ii. name of the prescribing physician;

iii. name and strength of the drug;

iv. quantity dispensed; and

v. date of issue;

q. signed and dated authorizations, consents, releases, or notices required by all applicable federal, state, and local statutes, laws, ordinances, and department rules and regulations, including but not limited to:

i. a signed receipt of point of rescue pamphlet; and

ii. a signed certification form in accordance with applicable state law indicating acknowledged receipt of informational materials concerning psychological impacts, illegal coercion, abuse, and human trafficking;

Note: The provisions of this Section requiring a physician or qualified person to provide required printed materials to a woman considering an abortion shall become effective 30 days after the department publishes a notice of the availability of such materials.

r. operative report;

s. anesthesia report, including, but not limited to, the date, time, type of anesthesia, dose, and route; and

t. special procedures reports.

2. Each entry documented in the patient's medical record shall be signed by the physician as appropriate, e.g., attending physician, consulting physician, anesthesiologist, pathologist, etc. Nursing notes and observations shall be signed by the licensed nurse. All entries shall be in writing and contain the date, time, and signature of the individual(s) delivering the patient care and services.

D. Nothing in this Section is intended to preclude the use of automated or centralized computer systems or any other techniques for the storing of medical records, provided the regulations stated herein are met.

E. Other Reports. The outpatient abortion facility shall maintain a daily patient roster of all patients receiving a surgical or chemically induced abortion. Patients may be identified corresponding to the patient's medical record. This daily patient roster shall be retained for a period of three years.

F. Reporting Requirements

1. The outpatient abortion facility shall maintain documentation to support that the outpatient abortion facility is compliant with all reporting requirements, including, but not limited to, the induced termination of pregnancy (ITOP) form and other documentation as required by federal, state, and local statutes, laws, ordinances, and department rules and regulations.

2. The outpatient abortion facility shall report in accordance with all applicable state laws for the reporting of crimes against a child that include but are not limited to:

a. rape;

b. sexual battery;

c. incest; and

d. carnal knowledge of a juvenile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4427. Quality Assurance and Performance Improvement Program (QAPI)

A. The outpatient abortion facility shall develop, implement, enforce, maintain, and annually review a written QAPI program subject to approval by the governing body, which puts systems in place to effectively identify issues for which quality monitoring and performance improvement activities are necessary. The QAPI program shall include plans of action to correct identified issues including, but not limited to, monitoring the effect of implemented changes and making necessary revisions to the plan of action.

1. Plans of Action. The outpatient abortion facility shall develop and implement a QAPI plan of action designed to effectively identify issues for which quality monitoring and performance improvement activities are necessary.

2. The QAPI plan of action shall include on a quarterly basis the following:

a. processes for receiving input regarding the quality of medical and clinical services received;

b. processes for review of patient medical records to ensure that such are complete and current;

c. processes for identifying on a quarterly basis the risk factors that affect or may affect the health and safety of the patients of the outpatient abortion facility receiving medical and clinical services. Examples may include, but are not limited to:

i. review and resolution of patient grievances; and

ii. review and resolution of patient/employee incidents involving medication errors and equipment failure;

d. a process to review and develop action plans to resolve all system wide issues identified as a result of the processes above.

3. The QAPI outcomes shall be documented and reported to the administrator in writing for action, as necessary, for any identified systemic problems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter C. Pre-operative, Intra-operative, and Post-Operative Procedures

§4431. Screening and Pre-Operative Services

A. Verification of Pregnancy. The presence of an intrauterine pregnancy shall be verified by the following:

1. urine or serum pregnancy test performed on-site; and

2. either a detection of fetal heart tones or ultrasonography.

B. Gestational age shall be estimated by the following methods pre-operatively:

1. first date of last menstrual period, if known;
2. pelvic examination; and
3. ultrasonography.

C. Laboratory Tests

1. The laboratory tests listed below shall be performed within 30 days prior to the abortion procedure:

a. hematocrit or hemoglobin determination; and

b. Rh Factor status.

2. The results of the laboratory tests as required in §4331.C.1.a-b shall be documented in the patient's medical record.

3. The physician performing the abortion shall document acknowledgement of the results of the laboratory tests in the patient's medical record prior to the abortion procedure.

D. Minors

1. No physician shall perform or induce an abortion upon any pregnant woman who is under the age of 18 years and who is not emancipated judicially or by marriage unless the physician has received the following:

a. one of the following documents:

(i). a notarized statement, pursuant to applicable state laws, rules, and regulations, signed by either the mother, father, legal guardian, or tutor of the minor declaring that the affiant has been informed that the minor intends to seek an abortion and that the affiant consents to the abortion; or

(ii). a court order pursuant to applicable state laws, rules, and regulations; and

b. a signed, dated, and timed document obtained by the attending physician and/or licensed nurse, before the administration of any type of anesthesia which indicates if any person has or has not compelled the female child to undergo an abortion against her will.

2. All documentation related to consent and coercion shall be maintained in the medical record.

E. Ultrasound Requirements. Except in the case of a medical emergency, consent to an abortion of an unborn child at any stage of gestational development is voluntary and informed only if an obstetric ultrasound is performed in accordance with the provisions of this Section and applicable state laws, rules, and regulations.

1. Qualifications to Perform Ultrasound. The ultrasound shall be performed by the physician who is to perform the abortion or a qualified person who is the physician's agent. For purposes of this Section, "qualified person" means a person having documented evidence that he or she has completed a course in the operation of ultrasound equipment and is in compliance with any other requirements of law regarding the operation of ultrasound equipment.

2. Requirements. At least 24 hours prior to the pregnant woman having any part of an abortion performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion on the pregnant woman, the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the following requirements:

a. perform an obstetric ultrasound on the pregnant woman, offer to simultaneously display the screen which depicts the active ultrasound images so that the pregnant woman may view them and make audible the fetal heartbeat, if present, in a quality consistent with current medical practice. Nothing in this Section shall be construed to prevent the pregnant woman from not listening to the sounds detected by the fetal heart monitor, or from not viewing the images displayed on the ultrasound screen;

b. provide a simultaneous and objectively accurate oral explanation of what the ultrasound is depicting, in a manner understandable to a layperson, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted, the dimensions of the unborn child, and the presence of cardiac activity if present and viewable, along with the opportunity for the pregnant woman to ask questions;

c. offer the pregnant woman the option of requesting an ultrasound photograph or print of her unborn child of a quality consistent with current standard medical practice that accurately portrays, to the extent feasible, the body of the unborn child including limbs, if present and viewable;

d. from a form that shall be produced and made available by the department, staff will orally read the statement on the form to the pregnant woman in the ultrasound examination room prior to beginning the ultrasound examination, and obtain from the pregnant woman a copy of a completed, signed, and dated form;

e. retain copies of the election form and certification prescribed above. The certification shall be placed in the medical file of the woman and shall be kept by the outpatient abortion facility for a period of not less than seven years. If the woman is a minor, the certification shall be placed in the medical file of the minor and kept for at least ten years from the time the minor reaches the age of majority. The woman's medical files shall be kept confidential as provided by law.

3. Options to view or listen to required medical information shall be in accordance with applicable state laws, rules, and regulations.

a. A pregnant woman may choose not to exercise her option to request an ultrasound photograph print.

b. A pregnant woman may choose not to view the ultrasound images required to be provided to and reviewed with the pregnant woman.

c. A pregnant woman may choose not to listen to the sounds detected by the fetal heart monitor required to be provided to the pregnant woman.

F. Medical Emergencies. Upon a determination by a physician that a medical emergency, as defined pursuant to applicable state law, exists with respect to a pregnant woman, the outpatient abortion facility shall certify in writing the specific medical conditions that constitute the emergency. The certification shall be placed in the medical file of the woman.

G. Information and Informed Consent

1. Oral and Written Information Provided by Physician or Referring Physician

a. At least 24 hours before the abortion the physician who is to perform the abortion or the referring physician shall provide informed consent to the pregnant woman seeking an abortion. The informed consent shall be communicated both orally and in-person, and in writing, and shall be provided in a private room.

b. Documentation. The documentation of all such informed consent provided shall be maintained in the patient's medical record.

c. The informed consent shall also contain language explaining the following information to the pregnant woman seeking an abortion:

i. the option of reviewing and receiving an oral explanation of an obstetric ultrasound image of the unborn child;

ii. that the pregnant woman shall not be required to view or receive an explanation of the obstetric ultrasound images;

iii. that the pregnant woman shall not be penalized if she chooses not to view or receive an explanation of the obstetric ultrasound images;

iv. that the physician shall not be penalized if the pregnant woman chooses not to view or receive an explanation of the obstetric ultrasound images; and

v. inclusion in the patient's printed materials of a comprehensive list, compiled by the department, of facilities that offer obstetric ultrasounds free of charge.

2. Oral Information from a Physician or Qualified Person

a. When an initial contact is made by a person seeking to schedule an abortion for herself, a minor, or other adult woman, regardless of the means of contact, the physician who is to perform the abortion or any qualified person acting on behalf of the physician shall inform the person of the internet address of the department's abortion alternatives and informed consent website which includes links to mental health counseling.

3. Oral Information Provided by Physician, Referring Physician, or Qualified Person

a. At least 24 hours before a scheduled abortion the physician who is to perform the abortion, the referring physician, or a qualified person shall inform the pregnant woman seeking an abortion, orally and in-person that:

i. medical assistance may be available for prenatal care, childbirth, and neonatal care and that more detailed information on the availability of such assistance is contained on the department's website and printed materials;

ii. a pamphlet is available that describes the unborn child and contains a directory of agencies that offer an abortion alternative;

iii. the father of the unborn child is liable to assist in the support of the child, even if he has offered to pay for the abortion. In the case of rape this information may be omitted;

iv. the pregnant woman seeking an abortion is free to withhold or withdraw consent to the abortion at any time before or during the abortion without affecting her right to future care or treatment and without loss of any state or federally funded benefits to which she might otherwise be entitled.

4. Provision of Printed Materials

a. At least 24 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of the printed materials, pursuant to any applicable state laws, rules, and regulations, by the physician who is to perform the abortion, the referring physician, or a qualified person, including but not limited to the following:

i. as a condition for consent to undergoing an elective abortion and, as such to be deemed voluntary and informed, the woman or minor female considering abortion shall be given a copy of the DHH point of rescue pamphlet by the physician who is to perform the abortion or a qualified person, except in the case of medical emergency as defined by applicable state laws.

Note: The provisions of this Section requiring a physician or qualified person to provide required printed materials to a woman considering an abortion shall become effective 30 days after the department publishes a notice of the availability of such materials.

b. If the pregnant woman seeking an abortion is unable to read the materials, the material shall be read to her.

c. If the pregnant woman seeking an abortion asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

5. Certification and Reporting

a. Prior to the abortion, the outpatient abortion facility shall ensure the pregnant woman seeking an abortion has certified, in writing on a form provided by the department that the information and materials required were provided at least 24 hours prior to the abortion. This form shall be maintained in the woman's medical record.

b. Prior to performing the abortion, the physician who is to perform the abortion or his agent receives a copy of the written certification.

c. The pregnant woman seeking an abortion is not required to pay any amount for the abortion procedures until the 24-hour period has expired.

6. Reporting Requirements. Any physician who has provided the information and materials to any woman in accordance with the requirements of this Section shall provide to the department:

a. with respect to a woman upon whom an abortion is performed, all information as required by applicable state laws, rules, and regulations as well as the date upon which the information and materials required to be provided under this Section were provided, as well as an executed copy of the certification form. This form shall be maintained in the woman's medical record;

b. with respect to any woman to whom the printed and oral information and materials have been provided pursuant to applicable state laws, rules, and regulations, but upon whom the physician has not performed an abortion, the name and address of the facility where the required information was provided and if executed by the woman, a copy of the certification form required. This form shall be maintained in the woman's medical record.

7. Information Provided by the Physician Performing or Inducing an Abortion. On the date the abortion is performed or induced, a physician performing or inducing the abortion shall provide the pregnant woman with all of the following before the abortion is performed or induced:

a. a telephone number by which the pregnant woman may reach the physician, or other health care personnel employed by the physician or facility at which the abortion was performed or induced, who has 24 hours per day access to the woman's relevant medical records so that the woman may request assistance related to any complication that arises from the performance or induction of the abortion, or to ask health-related questions regarding the abortion; and

b. the name and telephone number of the hospital nearest to the home of the pregnant woman at which an emergency arising from the abortion would be treated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4433. Drug or Chemically Induced Abortion

A. When any drug or chemical is used for the purpose of inducing an abortion as defined in R.S. 40:1299.35.1, the physician who prescribed the drug or chemical shall be in the same room and in the physical presence of the pregnant woman when the drug or chemical is initially administered, dispensed, or otherwise provided to the pregnant woman.

B. The drug or chemical shall not be administered, dispensed, or otherwise provided to the pregnant woman by a physician or any person acting under the physician's direction unless the physician has obtained the voluntary and informed consent of the pregnant woman pursuant to the provisions of state laws, rules and regulations and the requirements set forth in this Section.

C. If a physician prescribes, dispenses, administers, or provides any drug or chemical to a pregnant woman for the purpose of inducing an abortion as defined in R.S. 40:1299.35.1, the physician shall report the abortion to the Department of Health and Hospitals in accordance with applicable state laws, rules, and regulations, including R.S. 40:1299.35.10.

D. Documentation shall be recorded as to the date, time, method and name and signature of the physician who initially administered, dispensed, or otherwise provided the drug or chemical to the pregnant woman. This documentation shall be maintained in the patient's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4435. Intra-operative Procedures

A. The outpatient abortion facility shall ensure that emergency medical equipment and supplies as required by the governing body, medical director and medical staff are available for intra-operative care and shall include, but are not limited to:

1. surgical or gynecologic table;
2. surgical instrumentation;
3. emergency drugs for stabilizing and/or treating medical and surgical complications as approved by the medical director;
4. oxygen;
5. intravenous fluids; and
6. sterile dressing supplies.

B. The outpatient abortion facility shall ensure that the medical equipment required for an abortion shall be maintained and immediately available to the physician in the procedure and/or post-anesthesia recovery area to provide emergency medical care and treatment.

C. During the abortion procedure, the patient shall be assessed and monitored by a licensed nurse for the following: level of consciousness, respiratory status, cardio-vascular status, and any potential adverse outcomes related to the abortion procedure such as adverse drug reactions, uncontrolled or excessive bleeding, etc. The results of this assessment shall be documented in the patient's medical record by the licensed nurse.

D. Immediately following the abortion procedure and prior to transfer to post-anesthesia recovery area, the patient shall be assessed and monitored by a licensed nurse for the following: level of consciousness, respiratory status, cardio-vascular status, and any potential adverse outcomes related to the abortion procedure. The results of this assessment shall be documented in the patient's medical record by the licensed nurse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4437. Post-Operative Care, Procedures, and Discharge

A. Post-Operative Care and Procedures

1. The outpatient abortion facility shall have immediately available a supply of emergency drugs for stabilizing and/or treating medical and surgical complications for post-operative care on the licensed premises.

2. The patient's recovery shall be supervised by a licensed physician or a licensed nurse trained in post-operative care.

3. If general anesthesia is administered during the abortion procedure, the outpatient abortion facility shall have licensed nursing personnel trained in post-anesthesia care.

4. Upon completion of an abortion procedure, the physician shall immediately perform a gross examination of the uterine contents and shall document the findings in the patient's medical record. If no products of conception are visible, the physician shall assess the patient for risk of complications of an incomplete abortion or ectopic pregnancy.

5. Upon admission to the post-anesthesia recovery area, the patient shall be assessed by the licensed nurse for the following: level of consciousness, respiratory status, cardio-vascular status, pain level, bleeding, any potential outcomes related to the abortion procedure and any other medically appropriate assessments. The results of this assessment shall be documented by the licensed nurse in the patient's medical record.

6. A patient shall not be left unattended in the post-anesthesia recovery area.

7. RH immunoglobulin administration shall be offered to the woman who is Rh-negative and such shall be documented in the patient's medical record. If Rh immunoglobulin is not administered in the facility, one of the following is required:

a. informed waiver signed by a patient who refuses RH immunoglobulin; or

b. documentation of other arrangements for administration of RH Immunoglobulin.

B. Discharge Procedures

1. The patient shall be given verbal and written post-operative instructions for follow-up care. Such instructions given or provided by the physician performing or inducing the abortion shall include the telephone number by which the pregnant woman may reach the physician, or other health care personnel employed by the physician, or facility at which the abortion was performed or induced, who has 24 hours per day access to the woman's relevant medical

records so that the woman may request assistance related to any complication that arises from the performance or induction of the abortion, or to ask health-related questions regarding the abortion.

2. The patient shall also be given or provided, by the physician performing or inducing the abortion, the name and telephone number of the hospital nearest to the home of the pregnant woman at which an emergency arising from the abortion would be treated.

3. A member of the medical staff shall remain on the licensed premises until each patient is assessed to be awake, alert, and medically stable prior to discharge.

4. A copy of the discharge instructions signed by the patient and the physician shall be maintained in the patient's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4439. Anesthesia Services

A. Subject to the approval of the medical director, the outpatient abortion facility shall develop, implement, monitor, enforce, and annually review written policies and procedures governing the preparation of and administration of drugs relating to the types of anesthesia administered during the abortion procedure.

B. Local anesthesia, nitrous oxide, intramuscular, oral, and intravenous sedation shall be administered by the physician performing the abortion or by licensed nursing staff who have been deemed competent to administer sedation under the orders and supervision of the physician and pursuant to their scope of practice.

C. The physician performing the abortion shall be present on the licensed premises prior to and during the administration of all types of anesthesia.

D. General anesthesia, if used, shall be administered by an anesthesiologist or certified registered nurse-anesthetist (CRNA) who is under the supervision of the physician performing the abortion.

E. If general anesthesia is administered, the outpatient abortion facility shall ensure that professional staff, trained and deemed competent to provide post-anesthesia care, shall be present on-site to meet the needs of the patient.

F. If general anesthesia is administered, the outpatient abortion facility shall ensure that emergency medical equipment related to the delivery of general anesthesia shall be available on the premises.

G. A physician shall be present on the licensed premises during the post-anesthesia recovery period until the patient is fully reacted and stable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Subchapter D. Physical Environment

§4445. General Requirements

A. General Provisions

1. The outpatient abortion facility shall be designed, constructed, equipped, and maintained to protect the health and safety of patients, personnel, and the public at all times.

2. The outpatient abortion facility shall meet the provisions for physical environment under this Section, unless otherwise noted herein.

3. For the purposes of this Section, major renovations are defined as such renovations that affect the alteration to the functionality or original design of the facility's construction. Painting walls, re-tiling floors, installation of carpet, repairing roof damage or reroofing are not considered to be major renovations for purposes of this Section.

4. A separate waiting area shall be provided that is sufficient in size to provide seating space for patients, staff, and visitors of the patient.

5. Toilet facilities for patients, staff, and visitors shall be installed and maintained in accordance with the requirements of the Louisiana state *Sanitary Code*.

a. Every toilet room shall contain at least one water closet and one lavatory. Such toilet facilities shall be provided with ventilation in accordance with the requirements of the Louisiana state *Sanitary Code*.

b. Hot and cold water delivered through a mixing faucet, soap, and mechanical hand drying devices and/or disposable paper towels shall be provided at all hand washing lavatories/stations.

c. Showers or shower/tub combinations, if provided, shall meet the requirements of the Louisiana state *Sanitary Code*.

6. Additional General Provisions. For outpatient abortion facilities that receive their initial outpatient abortion license after the effective date of the promulgation of this Rule, receive plan review approval for major renovations after the effective date of the promulgation of this Rule or change their geographical address after the effective date of the promulgation of this Rule, the following additional general provisions shall apply:

a. flooring in all patient areas shall be readily cleanable, monolithic and joint free, and slip-resistant;

b. wall finishes in all patient areas shall be smooth, moisture resistant, washable, and free of fissures, open joints, or crevices that may retain or permit passage of dirt particles; and

c. wall bases in all patient areas shall be monolithic and coved with the floor, tightly sealed to the wall, and constructed without voids.

B. Signage. The outpatient abortion facility shall provide:

1. an exterior sign that can be viewed by the public. The sign shall contain, at a minimum, the doing business as name of the facility as it appears on the outpatient abortion facility license issued by the department;

2. clearly identifiable and distinguishable signs for outpatient abortion facilities operating within another facility which shall comply with the provisions of applicable state laws, rules, and regulations.

C. Procedure Room

1. Abortion procedures shall be performed in a segregated procedure room, removed from general traffic lines with a minimum clear floor area of 120 square feet, exclusive of vestibule, toilets or closets.

2. There shall be a hand-washing station within each procedure room and within each post-anesthesia recovery area. Fixtures shall not encroach upon any required egress path or other required clear dimension.

D. Post-Anesthesia Recovery Area

1. The outpatient abortion facility shall have a separate post-anesthesia recovery area with a minimum clear

recovery area with a minimum clear area of 2 feet, 6 inches around the three sides of each stretcher or lounge chair for work and circulation.

2. The outpatient abortion facility shall have a nurse's station equipped with a countertop, space for supplies, provisions for charting, and a communication system. The nursing station shall be arranged to provide for direct visual observation of all traffic into the recovery area.

E. Equipment and Supply Storage Area. For outpatient abortion facilities that receive their initial outpatient abortion license after the effective date of the promulgation of this Rule, receive plan review approval for major renovations after the effective date of the promulgation of this Rule, or change their geographical address after the effective date of the promulgation of this Rule, the outpatient abortion facility shall have:

1. a soiled utility room which contains a utility sink, a work counter, a hand washing station, waste receptacle(s), and a space for soiled linen or equipment;

a. a designated separate space shall be provided for soiled materials storage;

b. soiled materials shall not be stored or transported through the clean laundry area;

2. a clean utility room which is used for clean or sterile supplies;

3. an equipment and supply storage room with sufficient floor space for equipment and supplies used in the procedure room which shall not encroach upon any required egress path or other required clear dimension;

4. at least one stretcher and one wheelchair for patient use; and

5. sufficient pathway to accommodate the usage of a stretcher and a wheelchair.

F. If the outpatient abortion facility maintains an in-house laundry, the areas shall be designed in accordance with infection control standards and the *Louisiana Sanitary Code*, as applicable.

G. Forced Abortion Prevention Signage. Each outpatient abortion facility shall ensure a sign is obtained from the department in accordance with the Forced Abortion Prevention Sign Act.

1. Display. The sign shall be posted on the licensed premises and shall be clearly visible to patients. The sign provided shall be conspicuously posted in each patient admission area, waiting room, and patient consultation room used by patients on whom abortions are performed, induced, prescribed for, or who are provided with the means for an abortion.

H. National Human Trafficking Resource Center Hotline. Each outpatient abortion facility shall post information regarding the National Human Trafficking Resource Center Hotline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4447. Infection Control

A. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review its written infection control program. The purpose of this program shall seek to minimize infections and communicable diseases through prevention, investigation, and reporting of infections. This program shall include all contracted services.

B. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review, with the approval of the medical director, written policies and procedures for preventing, identifying, reporting, investigating, controlling, and immediately implementing corrective actions relative to infections and communicable diseases of patients and personnel. At a minimum, the policies shall address:

1. alcohol based hand rub and hand hygiene;

2. use of all types of gloves;

3. decontamination of equipment between each patient use, including, but not limited to, chairs and procedure room tables;

4. linen cleaning, if applicable;

5. waste management including, but not limited to, the requirements of Part XXVII of the Louisiana state *Sanitary Code*;

6. environmental cleaning;

7. reporting, investigating, and monitoring of surgical infections;

8. sterilization procedures and processes, if applicable;

9. single use devices;

10. disinfecting procedures and processes; and

11. breaches of infection control practices.

C. Supplies shall not be reused if labeled for single use.

D. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review written policies and procedures which require immediate reporting of the suspected or confirmed diagnosis of a communicable disease pursuant to applicable federal, state and local rules, laws, regulations and ordinance.

E. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review a written waste management program that identifies and controls wastes and hazardous materials to prevent contamination and spread of infection within the facility. The program shall comply with all applicable laws and regulations governing wastes and hazardous materials and the safe handling of these materials.

F. There shall be a separate sink for cleaning instruments and disposal of liquid waste.

G. The outpatient abortion facility shall develop, implement, and enforce/maintain written policies and procedures to ensure items are contained and handled during the sterilization process to assure sterility is not compromised prior to use.

H. After sterilization, instruments shall be stored in a designated clean area so that sterility is not compromised.

I. Sterile packages shall be inspected for integrity and compromised packages shall be reprocessed before use in accordance with manufacturer's recommendations.

J. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review written policies and procedures governing the following:

1. the handling, processing, storing, and transporting of clean and dirty laundry;

2. special cleaning and decontamination processes are employed for contaminated linens, if an in-house laundry is maintained on the licensed premises; and

3. housekeeping services maintain a safe and clean environment.

K. Housekeeping supplies shall be provided to adequately maintain the licensed premises.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4449. Laboratory Services

A. The outpatient abortion facility shall have laboratory services available to meet the needs of its patients.

B. The outpatient abortion facility shall maintain a clinical laboratory improvement amendment (CLIA) certificate for the laboratory services provided on the licensed premises.

C. The outpatient abortion facility shall ensure that all contracted laboratory services are provided by a CLIA certified laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4451. Pharmaceutical Services

A. All outpatient abortion facilities shall have a controlled dangerous substance (CDS) license issued by the Louisiana Board of Pharmacy and a Drug Enforcement Agency (DEA) registration in accordance with applicable state and federal laws.

B. The outpatient abortion facility shall develop, implement, enforce, monitor, and annually review written policies and procedures that govern the safe storage, prescribing, dispensing, preparing and administering of drugs and biologicals on the licensed premises.

C. Storage Areas. The outpatient abortion facility shall provide a designated secure storage area for storing drugs and biologicals.

1. The designated storage area shall be constructed and maintained to prevent unauthorized access.

2. The designated storage area shall adhere to the manufacturer's suggested recommendations for storage of drugs.

3. Locked areas that are used to store medications including controlled substances, shall conform to all applicable federal and state laws, and the outpatient abortion facility's policies and procedures.

D. The outpatient abortion facility shall maintain written records documenting the ordering, receiving, dispensing, and administering of drugs.

E. The outpatient abortion facility shall maintain written records documenting the disposing of unused drugs.

F. The outpatient abortion facility shall maintain written documentation of all drugs prescribed and/or dispensed to each patient, including, but not limited to the:

1. full name of the patient;

2. name of the prescribing and/or dispensing physician;

3. name and strength of the drug;

4. quantity prescribed and/or dispensed; and

5. date of issue.

G. Preparation and Administration of Drugs. The outpatient abortion facility shall develop, implement, enforce, monitor, and review annually written policies and procedures governing the preparation of drugs and biologicals.

1. The outpatient abortion facility shall ensure that all drugs and biologicals are prepared and administered pursuant to an order from an individual, employed or under contractual agreement, who has prescriptive authority in accordance with applicable state laws. Each order shall be in writing, patient specific, dated, timed, and signed by that individual. A copy of such orders shall be maintained in each, individual patient medical record.

H. The outpatient abortion facility shall order and maintain a supply of emergency drugs for stabilizing and/or treating medical and surgical complications on the licensed premises as authorized by the medical director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

§4453. Inactivation of License due to a Declared Disaster or Emergency

A. An outpatient abortion facility located in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with applicable state laws, may seek to inactivate its license for a period not to exceed one year, provided that the facility:

1. submits written notification to HSS within 60 days of the date of the executive order or proclamation of emergency or disaster that:

a. the facility has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with applicable state law;

b. the facility intends to resume operation as an outpatient abortion facility in the same service area;

c. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services; and

d. includes an attestation that all clients have been discharged or transferred to another facility in accordance with the provisions of this Chapter;

2. resumes operating as an outpatient abortion facility in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with state law;

3. continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil fines; and

4. continues to submit required documentation and information to the department.

B. Upon receiving a completed request to inactivate an outpatient abortion facility license, the department shall issue a notice of inactivation of license to the facility.

C. In order to obtain license reinstatement, an outpatient abortion facility with a department-issued notice of inactivation of license shall:

1. submit a written license reinstatement request to HSS 60 days prior to the anticipated date of reopening. The written request shall include:

a. the anticipated date of opening, and a request to schedule a licensing survey;

b. a completed licensing application, plan review approval, if applicable, and other required documents with licensing fees, if applicable; and

c. written approvals for occupancy from OSFM/Live Safety Code and OPH recommendation for license.

D. Upon receiving a completed written request to reinstate an outpatient abortion facility license and other required documentation, the department shall conduct a licensing survey.

E. If the facility meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the facility's license.

F. During the period of inactivation, the department prohibits a change of ownership (CHOW) in the outpatient abortion facility.

G. The provisions of this Section shall not apply to an outpatient abortion facility which has voluntarily surrendered its license.

H. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the facility's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring that outpatient abortion facilities protect the health and safety of the patients receiving services.

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 Statement

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 may have an adverse impact on small businesses, as described in R.S. 49:965.2 et seq., if the requirements of these licensing changes increases the financial burden on providers. With the resources available to the department, a regulatory flexibility analysis has been prepared in order to consider methods to minimize the potential adverse impact on small businesses. The department has determined that there is no less intrusive or less costly alternative methods of achieving the intended purpose since the changes result from legislative mandates.

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 may have an impact on the staffing level requirements or qualifications required to provide the same level of service and may result in nominal direct or indirect cost to the provider to provide the same level of service. These provisions may also negatively impact 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 Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, January 29, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Abortion Facilities Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 14-15. It is anticipated that $12,636 (SGF) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This Rule proposes to repeal and replace the provisions governing the licensing of abortion facilities in compliance with legislative requirements, and to revise and clarify these provisions. It is anticipated that implementation of this proposed rule may have nominal economic costs to outpatient abortion facilities for FY 14-15, FY 15-16, and FY 16-17 by an indeterminable amount in order to ensure compliance with the new licensing standards, and may have an adverse impact on the smaller facilities/businesses as a result of the legislative mandated requirements which may require architectural/structural changes to the physical environment of the facility (approximately 8 facilities statewide).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello	Evan Brasseaux
Director	Staff Director
1412#097	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Free-Standing Birthing Centers
(LAC 50:XV.Chapters 265-271)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:XV.Chapters 265-271 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

In an effort to reduce cost and facilitate access to care, the Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt provisions to establish coverage and reimbursement for labor and delivery services provided to Medicaid eligible pregnant women by free-standing birthing centers (FSBCs). Coverage of labor and delivery services provided by FSBCs to low-risk pregnant women will provide a non-hospital alternative which is expected to reduce the costs associated with deliveries.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 18. Free-Standing Birthing Centers

Chapter 265. General Provisions

§26501. Purpose

A. The Medicaid Program shall provide coverage and reimbursement for labor and delivery services rendered by free-standing birthing centers (FSBCs). Stays for delivery at the FSBC are typically less than 24 hours and the services rendered for labor and delivery are very limited, or non-existent, in comparison to delivery services rendered during inpatient hospital stays.

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:

§26503. Definitions

Birthing Center—a facility, for the primary purpose of performing low-risk deliveries, that is not a hospital or licensed as part of a hospital, where births are planned to occur away from the mother's usual residence following a low-risk pregnancy.

Low-Risk Pregnancy—a normal, uncomplicated prenatal course as determined by documentation of adequate prenatal care and the anticipation of a normal, uncomplicated labor and birth, as defined by reasonable and generally accepted criteria adopted by professional groups for maternal, fetal, and neonatal health care.

Surrounding Hospital—a hospital located within a 20 mile radius of the birthing center in urban areas and within a 30 mile radius of the birthing center in rural areas.

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:

Chapter 267. Services

§26701. Scope of Services

A. Free-standing birthing centers shall be reimbursed for labor and low-risk delivery services provided to Medicaid eligible pregnant women by an obstetrician, family practitioner, or certified nurse midwife. FSBC services are appropriate when a normal, uncomplicated labor and birth is anticipated.

B. Services shall be provided by the attending practitioner from the time of the pregnant woman's admission through the birth and the immediate postpartum period.

C. Service Limitation. FSBC staff shall not administer general or epidural anesthesia services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Chapter 269. Provider Participation

§26901. General Provisions

A. In order to enroll to participate in the Louisiana Medicaid Program as a Medicaid provider of labor and delivery services, the free-standing birthing center must:

1. be accredited by the Commission for Accreditation of Birth Centers; and

2. be approved/certified by the Medicaid Medical Director.

B. The FSBC shall be located within a 30 minute ground travel time distance from a general acute care hospital with which the FSBC shall maintain a contractual relationship. The contractual relationship shall include a transfer agreement that allows for an emergency caesarian delivery to begin within 30 minutes of the decision a caesarian delivery is necessary.

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:

§26903. Staffing Requirements

A. The FSBC shall have on staff:

1. a medical director with credentials of medical doctor or doctor of osteopathy; and

2. a licensed obstetrician, family practitioner, or certified nurse midwife who shall attend each woman in labor from the time of admission through birth and the immediate postpartum period.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

Chapter 271. Reimbursement

§27101. Reimbursement Methodology

A. Effective for dates of service on or after April 1, 2015, reimbursement for labor and delivery services rendered in a free-standing birthing center shall be equal to 90 percent of the average per diem rates of surrounding hospitals providing the same services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:

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 may have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by allowing recipient access to birthing centers for labor and delivery services that may promote faster recovery, have less restrictions, and be less disruptive to family routines.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 by reducing the financial burden on families who incur costs associated with hospital labor and delivery, extended hospital stays, and prolonged recovery.

Provider Impact Statement

In compliance with House Concurrent Resolution 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 J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, January 29, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Free-Standing Birthing Centers

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 14-15, but will result in estimated net state general fund programmatic savings of $10,494 for FY 15-16, and $10,598 for FY 16-17. The potential savings associated with free-standing birthing centers will not be realized until FY 15-16 due to the timeliness of provider enrollment and claims, and the targeted group eligible date for services. It is anticipated that $648 ($324 SGF and $324 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 14-15, but will reduce federal revenue collections by approximately $17,245 for FY 15-16, $17,418 for FY 16-17. It is anticipated that $324 will be collected in FY 14-15 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.17 percent in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule adopts provisions to establish coverage and reimbursement for labor and delivery services provided to Medicaid eligible women by free-standing birthing centers (FSBCs). It is anticipated that implementation of this proposed rule will reduce expenditures in the Medicaid program by approximately $27,739 for FY 15-16, and $28,016 for FY 16-17 since free-standing birthing center reimbursements are less than hospital reimbursements for deliveries.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1412#098

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Intermediate Care Facilities for Persons with Intellectual Disabilities
Provider Fee Increase
(LAC 50:VII.32903)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:VII.32903 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the

reimbursement methodology for non-state intermediate care facilities for persons with developmental disabilities (ICFs/DD), hereafter referred to as intermediate care facilities for persons with intellectual disabilities (ICFs/ID), to reduce the per diem rates (*Louisiana Register*, Volume 39, Number 10).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID to increase the add-on amount to the per diem rate for the provider fee (*Louisiana Register*, Volume 40, Number 3). This proposed Rule is being promulgated to continue the provisions of the April 1, 2014 Emergency Rule.

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

§32903. Rate Determination

A. - D.4.d. ...

i. Effective for dates of service on or after April 1, 2014, the add-on amount to each ICF/ID's per diem rate for the provider fee shall be increased to $16.15 per day.

E. - M. ...

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 31:2253 (September 2005), amended LR 33:462 (March 2007), LR 33:2202 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1555 (July 2010), LR 37:3028 (October 2011), LR 39:1780 (July 2013), LR 39:2766 (October 2013), LR 41:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule increases payments to providers for the same services they already render.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, January 29, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Intermediate Care Facilities for Persons with Intellectual Disabilities—Provider Fee Increase

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic costs of $819,196 for FY 14-15, $841,104 for FY 15-16 and $866,337 for FY 16-17; however the state match required shall be offset by an increase in revenue collections from the provider fees collected from intermediate care facilities for persons with intellectual disabilities (ICFs/ID). It is anticipated that $432 ($216 SGF and $216 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.17 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by approximately $1,339,856 for FY 14-15, $1,382,275 for FY 15-16 and $1,423,743 for FY 16-17. It is anticipated that $216 will be expended in FY 14-15 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.06 percent in FY 14-15 and 62.17 in FY 15-16. The enhanced rate of 62.11 percent for the first three months of FY 15 is the federal rate for disaster-recovery FMAP adjustment states.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the April 1, 2014 Emergency Rule which amended the provisions governing the reimbursement methodology for intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to increase the add-on amount to the per diem rate for the provider fee. It is anticipated that implementation of this proposed rule will increase program expenditures for ICFs/ID

by approximately $2,158,620 for FY 14-15, $2,223,379 for FY 15-16 and $2,290,080 for FY 16-17.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition and employment.

J. Ruth Kennedy	Evan Brasseaux
Medicaid Director	Staff Director
1412#099	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Laboratory and Radiology Services
Reimbursement Methodology
Manual Pricing
(LAC 50:XIX.Chapter 43)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:XIX.Chapter 43 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for laboratory and radiology services to reduce the reimbursement rates (*Louisiana Register*, Volume 39, Number 5). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for laboratory and radiology services to adopt a manual pricing payment methodology for covered services that do not have Medicare established rates (*Louisiana Register*, Volume 40, Number 5). This proposed Rule is being promulgated to continue the provisions of the May 20, 2014 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XIX. Other Services
Subpart 3. Laboratory and X-Ray
Chapter 43. Billing and Reimbursement
Subchapter B. Reimbursement

§4329. Laboratory Services (Physicians and Independent Laboratories)

A. - L.3.a. …

M. Effective for dates of service on or after May 20, 2014, the reimbursement for laboratory services shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If laboratory services do not have Medicare established rates, fees will be based on review of statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153, R.S. 49:1008(A), P.L. 98-369, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1025 (May 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3028 (October 2011), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:95 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:1284 (May 2013), LR 41:

§4334. Radiology Services

A. - J. …

K. Effective for dates of service on or after May 20, 2014, the reimbursement for radiology services shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If radiology services do not have Medicare established rates, fees will be based on review of statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1897 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:

§4335. Portable Radiology Services

A. - H. …

I. Effective for dates of service on or after May 20, 2014, the reimbursement for portable radiology services shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If portable radiology services do not have Medicare established rates, fees will be based on review of statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

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 30:1026 (May 2004), amended LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:

§4337. Radiation Therapy Centers

A. - H. …

I. Effective for dates of service on or after May 20, 2014, the reimbursement for radiology services provided by radiation therapy centers shall be based on usual and customary billed charges or the Medicaid fee on file as of May 19, 2014, whichever is lesser.

1. If radiology services provided by radiation therapy centers do not have Medicare established rates, fees will be based on review of statewide billed charges for that service in comparison with set charges for similar services.

2. If there is no similar service, fees are based upon the consultant physicians' review and recommendations.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1898 (September 2009), amended LR 36:1248 (June 2010), LR 36:2563 (November 2010), LR 37:3029 (October 2011), LR 39:1284 (May 2013), LR 41:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, January 29, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Laboratory and Radiology Services Reimbursement Methodology—Manual Pricing

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 14-15. It is anticipated that $756 ($378 SGF and $378 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 14-15. It is anticipated that $378 will be collected in FY 14-15 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 continues the provisions of the May 20, 2014 Emergency Rule which amended the provisions governing the reimbursement methodology for laboratory and radiology services to adopt a manual pricing payment methodology for covered services that do not have Medicare established rates in order to ensure that the rule is consistent with the current practices for establishing reimbursement rates for these types of covered services. It is anticipated that implementation of this proposed rule will not have economic costs or benefits for FY 14-15, FY 15-16, and FY 16-17.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1412#100

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Personal Care Services—Long-Term
Freedom of Choice and Service Delivery
(LAC 50:XV.12901 and 12913)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XV.12901 and §12913 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing provides long-term personal care services (LT-PCS) under the Medicaid state plan. The department promulgated an Emergency Rule which amended the provisions governing LT-PCS in order to restrict the number of participants an individual can concurrently represent, and to adopt provisions for the removal of service providers from the LT-PCS freedom of choice list when certain departmental proceedings are pending against the provider, and to offer freedom of choice to the provider's LT-PCS participants. This Emergency Rule also clarifies the provisions governing service delivery (*Louisiana Register*, Volume 40, Number 5). This proposed Rule is being promulgated to continue the provisions of the May 20, 2014 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 9. Personal Care Services
Chapter 129. Long Term Care
§12901. General Provisions

A. - F.2.b. …

3. No individual may concurrently serve as a responsible representative for more than two participants in OAAS-operated Medicaid home and community-based service programs. This includes but is not limited to:

a. the Program of All-Inclusive Care for the Elderly;

b. long-term personal care services;

c. the community choices waiver; and

d. the adult day health care waiver.

G. The Department of Health and Hospitals may remove an LT-PCS service provider from the LT-PCS provider freedom of choice list and offer freedom of choice to LT-PCS participants when:

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

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

b. exclusion from the Medicaid Program;

c. termination from the Medicaid Program; or

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

2. the service provider fails to timely renew its home and community-based services license as required by the home and community-based services providers licensing standards Rule (LAC 48:I.Chapter 50); or

3. the service provider's assets have been seized by the Louisiana Attorney General's Office.

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 29:911 (June 2003), amended LR 30:2831 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 32:2082 (November 2006), LR 34:2577 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2450 (November 2009), LR 39:2506 (September 2013), LR 41:

§12913. Service Delivery

A. - B. …

C. Participants are not permitted to receive LT-PCS while living in a home or property owned, operated, or controlled by an owner, operator, agent, or employee of a licensed provider of long-term care services, and providers are prohibited from providing and billing for services under these circumstances. Participants may not live in the home of a direct support worker unless the direct support worker is related by blood or marriage to the participant.

1. The provisions of §12913.C may be waived with prior written approval by OAAS or its designee.

D. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 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 Services Financing and the Office of Aging and Adult Services, LR 39:2509 (September 2013), LR 41:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by ensuring the integrity of LT-PCS participants' freedom of choice in the selection of available qualified service providers as well as ensuring quality services are provided.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, January 29, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Personal Care Services—Long-Term Freedom of Choice and Service Delivery

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 14-15. It is anticipated that $648 ($324 SGF and $324 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 14-15. It is anticipated that $324 will be collected in FY 14-15 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 continues the provisions of the May 20, 2014 Emergency Rule which amended the provisions governing LT-PCS in order to restrict the number of participants an individual can concurrently represent, and to adopt provisions for the removal of service providers from the waiver freedom of choice list when certain departmental proceedings are pending against the provider, and to offer freedom of choice to the provider's waiver participants. This proposed Rule also clarifies the provisions governing service delivery. It is anticipated that implementation of this proposed Rule will not have economic costs or benefits for FY 14-15, FY 15-16, and FY 16-17.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This Rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1412#101

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Professional Services Program
Physicians Services
Reimbursement Methodology
(LAC 50:IX.15113)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:IX.15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

As a result of a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for physician services to reduce the reimbursement rates and discontinue reimbursement for certain procedures (*Louisiana Register*, Volume 39, Number 12). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to adopt a manual pricing payment methodology for covered services that do not have Medicare established rates (*Louisiana Register*, Volume 40, Number 5). This proposed Rule is being promulgated to continue the provisions of the May 20, 2014 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 15. Reimbursement
Chapter 151. Reimbursement Methodology
Subchapter B. Physician Services
§15113. Reimbursement

A. - I.3. ...

J. - J.4. Reserved.

K. ...

L. The reimbursement for newly payable services not covered by Medicare, when there is no established rate set by Medicare, shall be based on review of statewide billed charges for that service in comparison with set charges of a similar service.

1. If there is no similar procedure or service, the reimbursement shall be based upon a consultant physicians' review and recommendations.

2. For procedures which do not have established Medicare fees, the Department of Health and Hospitals, or its designee, shall make determinations based upon a review of statewide billed charges for that service in comparison with set charges for similar services.

3. Reimbursement shall be the lesser of the billed charges or the Medicaid fee on file.

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

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

36:1252 (June 2010), amended LR 36:2282 (October 2010), amended LR 37:904 (March 2011), LR 39:3301 (December 2013), LR 41:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to J. Ruth Kennedy, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, January 29, 2015 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Professional Services Program
Physicians Services—Reimbursement Methodology

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 14-15. It is anticipated that $432 ($216 SGF and $216 FED) will be expended in FY 14-15 for the state's administrative expense for promulgation of this proposed Rule and the final Rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed Rule will not affect revenue collections other than the federal share of the promulgation costs for FY 14-15. It is anticipated that $216 will be collected in FY 14-15 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 continues the provisions of the May 20, 2014 Emergency Rule which amended the provisions governing the reimbursement methodology for physician services to adopt a manual pricing payment methodology for covered services that do not have Medicare established rates in order to ensure that the rule is consistent with the current practices for establishing reimbursement rates for these types of covered services. It is anticipated that implementation of this proposed rule will not have economic costs or benefits for physician services for FY 14-15, FY 15-16 and FY 16-17.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

J. Ruth Kennedy
Medicaid Director
1412#102

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources
Office of Conservation

Carbon Dioxide Enhanced Oil Recovery (LAC 43:XIX.405)

The Department of Natural Resources, Office of Conservation proposes to amend LAC 43:XIX.Subpart 1 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 amendment is made to implement application requirements for carbon dioxide enhanced oil recovery.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B
Chapter 4. Pollution Control (Class II Injection/Disposal Well Regulations)

Editor's Note: Statewide Order 29-B was originally codified in LAC 43:XIX as §129. In December 2000, §129 was restructured into Chapters 3, 4 and 5. Chapter 3 contains the oilfield pit regulations. Chapter 4 contains the injection/disposal well regulations. Chapter 5 contains the commercial facility regulations. A cross-reference chart in the December 2000 *Louisiana Register*, page 2798, indicates the locations for the rules in each existing Section.

§405. Application Requirements for New Enhanced Recovery Injection and New Saltwater Disposal Wells

A. - B.5.f. …

C. Area of Review for Enhanced Oil Recovery Wells Injecting Carbon Dioxide

1. The area of review (AOR) will be the project area plus the surrounding region where USDWs may be endangered by the carbon dioxide (CO_2) injection activities, at a minimum, no less than 1/4 mile beyond the project area. The AOR will be delineated by a computational model acceptable to the commissioner. For enhanced oil recovery (EOR) projects injecting CO_2 that are permitted as of the

effective date of these regulations, the owner or operator of the project has thirty days from the effective date of these regulations to submit a plan to the commissioner to come into compliance with §405.C, D, and E.

2. The owner or operator of a class II EOR CO_2 injection well must submit a plan acceptable to the commissioner to periodically reevaluate the AOR for the proposed CO_2 EOR project and perform corrective action for any identified deficient wells. The AOR must be reevaluated on a frequency not to exceed five years.

3. The owner or operator of the class II EOR CO_2 injection well must identify all penetrations within the defined AOR including active and abandoned wells, underground mines, and any other man-made penetrations that penetrate the confining and injection zones.

4. The owner or operator must determine which wells within the AOR have been constructed and/or plugged in a manner that prevents movement of CO_2 or other fluids that may endanger USDWs, and any wells which may require corrective action to ensure protection of USDWs.

D. Corrective Action for Enhanced Oil Recovery Projects Injecting Carbon Dioxide

1. Owners or operators of class II EOR CO_2 injection wells must perform corrective action on all wells in the area of review that the commissioner has determined to require corrective action.

2. Owners or operators of class II EOR CO_2 injection wells shall submit a corrective action plan acceptable to the commissioner addressing all identified deficiencies within a time specified by the commissioner.

E. Emergency and Remedial Response for Enhanced Oil Recovery Projects Injecting Carbon Dioxide

1. As part of the permit application for a class II EOR CO_2 well, the owner or operator must provide the commissioner with an emergency and remedial response plan that describes actions the owner or operator must take to address movement of the injection or formation fluids that may cause an endangerment to a USDW during construction, operation, and post-injection site care periods.

2. If the owner or operator obtains evidence that the injected carbon dioxide stream and associated pressure front may cause an endangerment to a USDW, the owner or operator must:

a. take all steps reasonably necessary to identify, characterize, and control any release;

b. notify the commissioner within 24 hours; and

c. Implement the emergency and remedial response plan approved by the commissioner.

3. The owner or operator shall review the emergency and remedial response plan developed under §405.E.1 at least once every five years. Based on this review, the owner or operator shall submit an amended emergency and remedial response plan or demonstrate to the commissioner that no amendment to the emergency and remedial response plan is needed. Any amendments to the emergency and remedial response plan must be approved by the commissioner and are subject to the permit modification requirements at §411, as appropriate. Amended plans or demonstrations shall be submitted to the commissioner as follows:

a. within one year of an area of review reevaluation;

b. following any significant changes to the facility, such as addition of injection or monitoring wells; or

c. when required by the commissioner.

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2807 (December 2000), amended LR 41:

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 Statement

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, orally or in writing at the public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., February 4, 2015, at Office of Conservation, Injection and Mining Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Injection and Mining Division, 617 North Third Street, Room 817, Baton Rouge, LA 70802. Reference Docket No. CON I and M 2014-12 on all correspondence. All inquiries should be directed to Steve Lee at the above addresses or by phone to (225) 342-5569. No preamble was prepared.

Public Hearing

The commissioner of conservation will conduct a public hearing at on Wednesday, January 28, 2015 at 9 a.m., in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

James H. Welsh
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Carbon Dioxide Enhanced Oil Recovery

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs to State or local governmental units as a result of the proposed rule change. Application requirements already exist for Enhanced Oil Recovery methods, although none specifically address the use of Carbon Dioxide. The proposed rule seeks to implement application requirements for Carbon Dioxide Enhanced Oil Recovery. Carbon Dioxide Enhanced Oil Recovery is a process in which carbon dioxide is injected into an oil reservoir to push any remaining oil to the top of the reservoir for extraction. It is typically used as a tertiary method of extraction after primary and secondary techniques have extracted the bulk of the oil from a reservoir. As such, the new

requirements specific to Carbon Dioxide Enhanced Oil Recovery will be evaluated using existing documents and staff.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The group directly affected by these rules changes will be Exploration and Production (E&P) companies. For those who desire to implement or continue to operate Carbon Dioxide Enhanced Oil Recovery projects, additional information beyond what is already required for other Enhanced Oil Recovery operations may be needed. Currently, Denbury Onshore, LLC and Marlin Resources, L.L.C. are the only companies in the state using these techniques for extraction. The standards listed in the proposed rule change are the standards currently in place, resulting in no additional costs. This may change if other companies enter Louisiana with the intent to perform Carbon Dioxide Oil Recovery, but those impacts cannot be accurately assessed at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment

James H. Welsh Commissioner 1412#056	Evan Brasseaux Staff Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources
Office of Conservation

Extending Commercial Facilities and
Transfer Stations Setbacks under
Statewide Order No. 29-B (LAC 43:XIX.507)

The Department of Natural Resources, Office of Conservation proposes to amend LAC 43:XIX.507 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 current regulations pertaining to commercial facilities and transfer stations require a setback of 500 feet from a residential, commercial, or public building, church, school or hospital. The amendment is being proposed to increase this distance to 1,500 feet.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B
Chapter 5. Off-Site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated from Drilling and Production of Oil and Gas Wells

§507. Location Criteria

A. Commercial facilities and transfer stations may not be located in any area:

1. …

2. where type A and B facilities and transfer stations, Class II disposal wells, storage containers and E and P waste treatment systems and related equipment are located within 500 feet of a residential, commercial, or public building, church, school or hospital or for any proposed new commercial facility or transfer station where publication of the notice of intent or date of the permit application filed with the Office of Conservation is dated after the promulgation date of this rule, where type A and B facilities and transfer stations, class II disposal wells, storage containers and E and P waste treatment systems and related equipment are located within 1,250 feet of a school, hospital, or public park;

3. - 7. …

B. If the owner of the residence or commercial building or the administrative body responsible for the public building, hospital, church or public park waives the distance requirements of §507.A.2 above, such waiver must be in writing, shall contain language acceptable to the commissioner, and shall be included in the permit application.

C. …

D. Any encroachment upon applicable location criteria after the date the notice of intent is published or the application is filed, whichever is earlier, shall not be considered a violation of this Section.

E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2817 (December 2000), amended LR 27:1901 (November 2001), LR 29:938 (June 2003), LR 41:

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 Statement

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, orally or in writing at the public hearing in accordance with R.S. 49:953. Written comments will be accepted until 4:30 p.m., February 4, 2015, at Office of Conservation, Environmental Division, P.O. Box 94275, Baton Rouge, LA, 70804-9275; or Office of Conservation, Environmental Division, 617 North Third St., Room 817, Baton Rouge, LA 70802. Reference Docket No. ENV 2014-12 on all correspondence. All inquiries should be directed to John Adams at the above addresses or by phone to (225) 342-7889. No preamble was prepared.

Public Hearing

The commissioner of conservation will conduct a public hearing at 9 a.m., January 28, 2015, in the LaBelle Room located on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

John H. Wells
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Extending Commercial Facilities and Transfer Stations Setbacks under Statewide Order No. 29-B

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental expenditures as a result of the proposed rule change. The proposed rule change adds an additional setback area associated with new commercial facilities and transfer stations in that they may not be located within 1,250 feet from a school, hospital or public park. Existing facilities and transfer stations will be exempt from the 1,250 foot rule. The facilities and stations handle the off-site storage, treatment and/or disposal of exploration and production waste generated from drilling and production of oil and gas wells.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will only affect the owners of commercial facilities and transfer stations associated with the Exploration and Production (E&P) of oil and gas. There are no anticipated cost increases associated with the rule change and all required documentation will be provided on existing paperwork.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

James H. Welsh
Commissioner
1412#057

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission

National Fire Protection Association
Pamphlet Numbers 54 and 58 (LAC 55:IX.181)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission proposes to adopt LAC 55:IX:181.F as authorized by R.S. 40:1846(A)-(C). Specifically, the commission has found a need to supplement and expand a provision of the rules relative to Chapter 1, Subchapter I, Section 181 entitled National Fire Protection Association Pamphlet Numbers 54 and 58. This clarification is necessary pursuant to the guidelines found in section 11.7.4.3 of the NFPA 58-2008 edition which is entitled Main Shutoff Valves on a Container. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedures Act, R.S. 49:953 et seq.

Title 55
PUBLIC SAFETY
Part IX. Liquefied Petroleum Gas
Chapter 1. General Requirements
Subchapter I. Adoption of Standards
§181. National Fire Protection Association Pamphlet Numbers 54 and 58

A. - E.15. …

F. Pursuant to 11.7.4.3, NFPA 58-2008 edition, main shut off valves on a container, the provisions shall be considered compliant in the state of Louisiana if the main shutoff valves are equipped with a code compliant electrical system which allows the valves to be closed from a control in the driver's compartment.

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

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:470 (March 1998), LR 25:1263 (July 1999), LR 25:2412 (December 1999), LR 27:2257 (December 2001), LR 31:2568 (October 2005), LR 37:913 (March 2011), LR 38:1269 (May 2012), LR 41:

Family Impact Statement

The proposed Rule will not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children.

Local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23.

Poverty Impact Statement

The proposed Rule amends LAC 55:IX.181. These Rule changes should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where

possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule does not impact or affect a "provider." "Provider" means an organization that provides services for individuals with developmental disabilities as defined in HCR 170 of the 2014 Regular Session of the Legislature. In particular, the proposed rules have no effect or impact on a "provider" in regard to:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the provider to provide the same level of service;
3. the ability of the provider to provide the same level of service.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than January 10, 2015, at 4:30 p.m. to Melinda L. Long, Louisiana Department of Public Safety, P.O. Box 66614, Baton Rouge, LA 70896. A public hearing will be scheduled pursuant to R.S. 49:953(A)(1)(a).

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: National Fire Protection Association Pamphlet Numbers 54 and 58

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not impact expenditures of state or local governmental units. The proposed rule will allow an electrical device that allows for the closure of a valve when operating a school bus or mass transit vehicle that uses a liquefied petroleum gas system as the motor fuel system. The valve must be able to be shut off without the use of tools or other equipment. This rule is pursuant to a clarification of Section 11.7.4.3 of the National Fire Protection Association (NFPA) Liquefied Petroleum Gas Code 58, 2008 edition entitled "MAIN SHUTOFF VALVES ON A CONTAINER".

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections for state or local governmental units as a result of the proposed rule change. This rule is merely a clarification of a standard that the Commission has already adopted in Subchapter I. Adoption of Standards.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated effect on costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule change since the rule does not mandate the use of electric valves. The rule simply clarifies an earlier rule the Commission adopted in Subchapter I. Adoption of Standards.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and/or employment as a result of the proposed rule change.

Jill P. Boudreaux
Undersecretary
1412#070

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

New Markets Jobs Act—Premium Tax Credit
(LAC 61:I.1912)

Under the authority of R.S. 47:6016.1 and R.S. 47:1511, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to enact LAC 61:I.1912.

Pursuant to Act 265 of the 2013 Regular Session, the Department proposes to enact LAC 61:I.1912 regarding the Louisiana New Markets Jobs Act.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 19. Miscellaneous Tax Exemptions, Credits and Deductions
§1912. Louisiana New Markets Jobs Act—Premium Tax Credit

A. Premium Tax Credit

1. Louisiana Revised Statute 47:6016.1 authorizes a state premium tax credit to any entity that makes a qualified equity investment. The entity or subsequent holder of the qualified equity investment shall be entitled to use a portion of the credit on each credit allowance date. The credit shall be equal to the applicable percentage for the credit allowance date multiplied by the purchase price or the amount paid for the qualified equity investment.

2. The applicable percent for the first and second credit allowance date is 14 percent. The applicable percentage for the third and fourth credit allowance date is 8.5 percent. The applicable percentage for the fifth, six and seventh credit allowance date is 0.0 percent.

3. The credit allowance date is the date the qualified equity investment is made and the six anniversaries of that date.

4. A qualified equity investment is an equity investment in a qualified community development entity made after August 1, 2013, which in turn is invested into a qualified active low income community business within this state by the first anniversary of the initial credit allowance date.

5. A qualified community development entity and a qualified active low income community business are defined as provided in section 45D of the *Internal Revenue Code* of 1986 as amended or the federal new markets tax credit statute.

6. A qualified low income community investment is any capital or equity investment in, or loan to a qualified active low income community business. The maximum amount of qualified low income community investments that may be received by any qualified active low income community business or its affiliates shall not exceed $10,000,000. Any portion of an investment in a qualified active low income community business over $10,000,000 shall not be considered a qualified low income community investment for the purpose of R.S. 47:6016.1 and the portion of the associated investment into the qualified community development entity shall not be a qualified equity investment for the purpose of R.S.47:6016.1.

7. The tax credit shall be applied against any state premium tax liability incurred under the provisions of R.S. 22:831, 836, 838, and 842.

8. The amount of the credit shall not exceed the amount of state premium tax liability due in a taxable year. The credit may be carried forward for 10 years.

9. Credits issued to pass through entities may be allocated to the partners, members, or shareholders as provided in their operating or special allocation agreements.

10. Credits may only be claimed on returns due on or after January 1, 2014.

B. Certification of the Qualified Equity Investment

1. A qualified community development entity that seeks to have an equity investment designated as a qualified equity investment must apply to the Department of Revenue on a form prescribed by the Department of Revenue and submit a $500,000 refundable guarantee deposit.

2. In addition to the application, the qualified community development entity must submit:

a. a letter from the United States Department of Treasury Community Development Financial Institutions Fund certifying the community development entity and its service area;

b. a copy of the allocation agreement issued from the Community Development Financial Institutions Fund;

c. a letter from an executive officer of the community development entity certifying that the allocation agreement from the Community Development Financial Institutions Fund is current;

d. a description of the proposed amount, structure, and purchaser of the qualified equity investment;

e. identifying information for any entity that will earn the tax credits;

f. identifying information for any community businesses.

3. Upon request, the qualified community development entity shall submit:

a. a power of attorney designating a representative to be contacted regarding any issues with a pending application;

b. a power of attorney from the investor authorizing the Department of Revenue to disclose their tax credit information to the applicant;

c. certification that the qualified active low income community business and its affiliates will not receive more than $10,000,000 in qualified low income community investments under R.S. 47:6016.1;

d. special allocation agreements or operating agreements for investors who intend for the tax credits earned to flow through to their member or partners;

e. any other information requested necessary to ensure compliance with R.S. 47:6016.1.

4. Within 30 days of receipt of a completed application the Department of Revenue shall grant or deny the application for designation as a qualified equity investment.

a. If the application is granted, a letter will be issued to the applicant informing them that their application has been granted. Following the grant letter, a second letter will be issued providing for the specific amount of allocation authority that is being granted to the applicant. Lastly, a separate tax credit certification will be issued to the applicant certifying the credit amount and credit allowance dates. A copy of the tax credit certification will also be submitted to the Department of Insurance.

b. If the application is denied, the Department of Revenue will inform the applicant of the grounds on which the application is being denied and allow 15 business days for the applicant to cure any defects.

c. Ground for denials include, but are not limited to:

i. failure of applicant to submit the $500,000 deposit;

ii. failure of the applicant to submit any information included in the application;

iii. failure of the applicant to submit any additional information requested by the Department of Revenue which is necessary to ensure compliance.

d. If the applicant cures the defects, the application shall retain its original submission date. If the applicant cannot cure the defect, the application will remain denied and the Department of Revenue will refund the $500,000 deposit.

5. A qualified community development entity may transfer all or a portion of its designated qualified equity investment or allocation authority to its controlling entity or any other qualified community development entity included in the applicant's allocation agreement with the Community Development Financial Institutions Fund.

6. The $500,000 deposit will be refunded within 30 days of a request once the qualified community development entity certifies that the qualified equity investment has been made and the qualified low income community investment has been made within one year of the first anniversary date of the qualified equity investment.

a. If the applicant fails to certify receipt of the qualified equity investment within 30 days of the certification by the Department of Revenue, the applicant will forfeit the $500,000 deposit.

b. If the applicant fails to certify the qualified low income community investment within one year of the first anniversary and the six month cure period, the applicant will forfeit the $500,000 deposit.

c. A request for return of the deposit may not be made until 30 days after the requirements of Paragraph B.6 of this Section have been met.

7. The application for the designation of a qualified equity investment may be withdrawn by the applicant at any

time prior to the granting of the application by the Department of Revenue. If the application is withdrawn, the deposit will also be refunded to the applicant within 30 days of the withdrawal.

C. Tax Credit Sales

1. Tax credits not previously claimed by a taxpayer against its premium tax may be sold to another Louisiana taxpayer.

2. The sale may involve one or more transferees.

3. Joint notice from the transferor and transferee shall be submitted to the Department of Insurance on a form prescribed by the Department of Insurance within 30 days of the sale.

4. Failure to submit the joint notice of transfer shall result in disallowance of the credit until the taxpayer is in full compliance.

5. The carry forward period is not extended by the sale of the credit to another Louisiana taxpayer.

6. To the extent that the transferor did not have rights to claim or use the credit at the time the credit is sold, the Department of Insurance shall either disallow or recapture the credit from the transferee.

7. Credits may not be claimed on returns that were due prior to January 1, 2014.

8. Credits may not be used to settle outstanding tax liabilities for tax periods beginning prior to January 1, 2014.

9. Transfers of ownership of credits thorough the sale of equity interest in an entity is a sale of the credit. Such transfers shall be treated in the same manner as selling the credits themselves and will require notice to the Department of Insurance in the same manner set forth above.

D. Recapture

1. The Department of Revenue will notify the Department of Insurance of a recapture event.

2. The Department of Insurance shall recapture from the entity that claimed the credit on their return if:

a. any amount of the federal tax credit earned from the qualified equity investment is recaptured pursuant to section 45D of the *Internal Revenue Code*. The amount recaptured shall be in proportion to the federal recapture of the credit.

b. the qualified community development entity fails to invest 100 percent of the purchase price for the qualified equity investment into a qualified active low income community business within one year of initial credit allowance date and maintain this investment throughout the last credit allowance date or compliance period.

3. No recapture shall occur until the qualified community development entity has been given notice of noncompliance by the Department of Revenue and the benefit of 6 months to become compliant.

E. Reporting

1. Within 30 days of the applicant receiving certification for a qualified equity investment, the qualified community development entity must:

a. issue an investment and receive cash for the certified amount;

b. designate the amount as a federal qualified equity investment with the Community Development Financial Institutions Fund;

c. issue Form R-10607 to the investor designating the amount as a state qualified equity investment.

2. Within 5 days of issuing the qualified equity investment, the qualified community development entity will submit:

a. evidence of receipt of cash;

b. a copy of the federal Form 8874A which was issued to the investor;

c. a copy of the state Form R-10607 which was issued to the investor;

d. notice of any transfers of allocation authority as provided in Paragraph B.5.

3. If the requirements of Paragraph E.1 are not met within 30 days of certification of the qualified equity investment, the certification will lapse and the qualified community development entity will have to re-apply to the Department of Revenue for designation of the qualified equity investment.

4. A qualified community development entity that issues a qualified equity investment under R.S. 47:6016.1 shall submit a report to the Department of Revenue within the first 5 business days after the first anniversary date indicating that 100 percent of the qualified equity investment is invested in a qualified active low income community business in Louisiana.

a. The report shall include a bank statement of the qualified community development entity evidencing each qualified low income community investment.

b. The report shall include evidence that the qualified low income community business was and remains active.

c. The report shall include evidence of the total amount of qualified low income community investments received by the qualified active low income community business under the provisions of R.S. 47:6016.1.

5. A qualified community development entity that issues a qualified equity investment under R.S. 47:6016.1 shall issue an annual report within 45 days of the second compliance year. The report shall include:

a. the number of employment positions created and retained as a result of the qualified low income community investments and their average annual salaries;

b. evidence that the qualified active low income community business remains active; and

c. evidence that the qualified low income community investment remains invested in the qualified active low income community business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1519 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 41:

Family Impact Statement

This Family Impact Statement is provided as required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature.

1. Implementation of this proposed Rule will have no effect on the stability of the family.

2. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

5. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed Rule will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed amendments will have no known or foreseeable effect on:

1. the staffing levels requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the provider to provide the same level of service;

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written data, views, arguments, or comments regarding this proposed Rule to the Policy Services Division, by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098 or by fax to (225) 219-2759. All comments must be received no later than 5 p.m., January 29, 2015.

Public Hearing

A public hearing will be held on January 30, 2015, at 10 a.m. in the River Room, on the seventh floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Tim Barfield
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: New Markets Jobs Act Premium Tax Credit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation costs to the state of the proposed Rule are expected to be minimaland will be absorbed in the existing budget.Local governmental units are not affected by this proposal.II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The current version of the New Markets Tax Credit program, for which these Rules are being proposed is expected to decrease revenue collections of the state by $20.075 million during fiscal years ending in 2014 through 2016. An additional $4.675 million decrease is expected in fiscal year ending 2017 (outside of the horizon of this impact statement). The proposed rule is being promulgated for the implementation of Act 265 of the 2013 Regular Legislative Session, which enacted R.S. 47:6016.1. This statute structures the issuance of $24.75 million of premium tax credits (essentially New Markets Tax Credits against the premium tax instead of the income tax) in a single allocation on August 1, 2013, and provides that this issue can first be claimed against tax liabilities on tax returns due on or after January 1, 2014. The amount of tax credit that can be taken each year is also structured to be 14 percent of the capital invested in the program in both of the first and second years, and 8.5% in both of the third and fourth years. Thus, FY14 and FY15 are each exposed to $7.7 million of revenue loss (14 percent of $55 million of capital each year). FY 16 and FY 17 are each exposed to $4.675 million of revenue loss (8.5 percent of $55 million of capital each year). However, FY 14 actual claims were $7M, which suggests the impact in FY 15 may be about $700,000 larger than estimated. The proposed Rule should have no impact on the revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Applicants for the tax credit and the low income community businesses that receive capital or loans under the tax credit program are directly affected by this proposal. They are expected to incur costs related to meeting the requirements of this proposal. Qualified active low income community businesses are expected to benefit from loans or investments of a maximum of $10 million individually, and $55 million in total. Persons making qualified investments will benefit from the $24.75 million of state premium tax credits that are expected to be earned. A $500,000 deposit is required with each application for the credit. If the applicant fails to meet one of two requirements, the deposit is forfeited.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Employment by qualified active low income community businesses that receive capital as a result of this program may increase by an unknown amount. To an unknown extent, competition may be affected between qualified active low income community businesses that receive capital as a result of this program and their competitors that do not participate in the program.

Tim Barfield	Greg Albrecht
Secretary	Chief Economist
1412#111	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Penalty Waiver (LAC 61:III.2101)

Under the authority of R.S. 47:1502, R.S. 47:1511 and R.S. 47:1603(A), as amended by Act 198 of the 2014 Regular Session of the Louisiana Legislature, effective July 1, 2014, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to amend LAC 61:III.2101.

Act 198 of the 2014 Regular Session of the Louisiana Legislature amended and reenacted R.S. 47:1603(A) to provide with respect to the authority of the secretary of the Department of Revenue to collect and enforce the collection of taxes. For purposes of promoting the effective administration of the tax laws of this state, Act 198 specifically authorizes the secretary to promulgate rules and regulations concerning the waiver of penalties, including but not limited to the establishment of a voluntary disclosure program.

The purpose for this proposed regulation is to amend LAC 61:III.2101 to update the penalty waiver regulation to direct taxpayers to rules and regulations promulgated by the Department of Revenue concerning the waiver or remittance of penalties under its voluntary disclosure agreement program.

Title 61
REVENUE AND TAXATION
Part III. Administrative Provisions and Miscellaneous
Chapter 21. Interest and Penalties
§2101. Penalty Waiver

A. The secretary may waive a penalty in whole or in part for the failure to file a return on time or the failure to timely remit the full amount due when the failure is not due to the taxpayer's negligence and is considered reasonable. All penalty waiver requests must be in writing and be accompanied by supporting documentation. If the combined penalties for a tax period exceed $100, all of the facts alleged as a basis for reasonable cause must be fully disclosed in an affidavit sworn before a notary public in the presence of two witnesses and accompanied by any supporting documentation. The affidavit must be signed by the taxpayer, or in the case of a corporation, by an officer of the corporation. Where the taxpayer or officer does not have personal knowledge of such facts, the sworn affidavit may be signed on the taxpayer's or officer's behalf by a responsible individual with personal knowledge of such facts. In lieu of an affidavit, the taxpayer may submit a request for waiver of penalties for delinquency form signed by the taxpayer, or in the case of a corporation, by an officer of the corporation. Where the taxpayer or officer does not have personal knowledge of such facts, the request for waiver of penalties for delinquency form may be signed on the taxpayer's or officer's behalf by a responsible individual with personal knowledge of such facts. The request for waiver of penalties for delinquency form must be accompanied by any supporting documentation.

B. Before a taxpayer's request for penalty waiver will be considered, the taxpayer must be current in filing all tax returns and all tax, penalties not being considered for waiver, fees and interest due for any taxes/fees administered by the Department of Revenue must be paid.

C. In determining whether or not to waive the penalty in whole or in part, the department will take in account both the facts submitted by the taxpayer and the taxpayer's previous compliance record with respect to all of the taxes/fees administered by the Department of Revenue. Prior penalty waivers will be a significant factor in assessing the taxpayer's compliance record. Each waiver request submitted by the taxpayer will be considered on an individual basis. Each tax period or audit liability will be considered separately in determining whether the penalty amount mandates approval of the waiver by the Board of Tax Appeals. The delinquent filing and delinquent payment penalties will also be considered separately in making this determination.

D. In the case of a request to enter into a voluntary disclosure agreement with the Department of Revenue, the secretary will remit or waive delinquent penalties as provided in LAC 61:III.2103 and/or any other applicable rules and regulations promulgated by the Department of Revenue concerning the waiver or remittance of such penalties under its voluntary disclosure program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1603.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 27:866 (June 2001), amended LR 29:950 (June 2003), amended by the Department of Revenue, Policy Services Division, LR 41:

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 has no known impact on poverty as described in R.S. 49:973.

Small Business Statement

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 effect on providers as described in HCR 170 of 2014 Regular Session.

Public Comments

All interested persons may submit written data, views, arguments or comments regarding this proposed Rule to Annie L. Gunn, Attorney, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., January 26, 2015.

Public Hearing

A public hearing will be held on January 27, 2015, at 11 a.m. in the River Room, located on the 7th floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Tim Barfield
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Penalty Waiver

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There would be no implementation costs or savings to state government under this proposal. The Department of Revenue has existing procedures to evaluate requests for penalty waivers which will not change in response to the proposed Rule. This proposed Rule would not apply to local governments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed Rule reflects amendments made to R.S. 47:1603 by Act 198 of the 2014 Regular Legislative Session. Act 198 authorizes the Secretary of the Louisiana Department of Revenue to waive delinquent penalties exceeding $25,000 only with the approval of the Louisiana Board of Tax Appeals. Previously, this amount was $5,000. It also authorizes the secretary to establish a voluntary disclosure program for the effective administration of taxes. However, the rule does not affect the internal procedures previously established by the Department to evaluate delinquent penalty waiver requests. Therefore, no impact is anticipated on state revenues from adoption of this provision provided the waiving of penalties follows historical trends. The proposal would apply only to state taxes so there would be no effect on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed amendment would not affect the costs or revenues of taxpayers who request waivers of penalties for the delinquent filing of returns or payment of taxes. The department's internal procedures for evaluating requests for penalty waivers will not be affected.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed amendment would have no effect on competition or employment since the procedures currently followed by the Louisiana Department of Revenue to evaluate requests for penalty waivers will not be impacted.

Tim Barfield	Gregory V. Albrecht
Secretary	Chief Economist
1412#112	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Voluntary Disclosure Agreements (LAC 61:III.2103)

Under the authority of R.S. 47:1502, R.S. 47:1511, R.S. 47:1603(A), as amended by Act 198 of the 2014 Regular Session of the Louisiana Legislature, effective July 1, 2014, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:III.2103.

Act 198 of 2014 Regular Session of the Louisiana Legislature amended and reenacted R.S. 47:1603(A) to provide with respect to the authority of the secretary of the Department of Revenue to collect and enforce the collection of taxes. For purposes of promoting the effective administration of the tax laws of this State, Act 198 specifically authorizes the secretary to promulgate rules and regulations concerning the waiver of penalties, including but not limited to the establishment of a voluntary disclosure program. To that end the Department of Revenue proposes to adopt this Rule to encourage unregistered business entities and persons who are subject to Louisiana tax or tax collection responsibilities to voluntarily contact the department regarding their unreported Louisiana tax liabilities.

The proposed Rule clarifies the meaning of the phrase "voluntary disclosure agreement" as that term is used in R.S. 47:1580(C)(2) and R.S. 47:1603(A)(2). Additionally, it sets forth the conditions under which an applicant may qualify for a voluntary disclosure agreement, the process for entering into a voluntary disclosure agreement with the Department of Revenue, and the requirements that must be complied with in order for the Department of Revenue to remit or waive payment of the whole or any part of the penalties under a valid voluntary disclosure agreement.

Title 61
REVENUE AND TAXATION
Part III. Administrative Provisions and Miscellaneous
Chapter 21. Interest and Penalties
§2103. Voluntary Disclosure Agreements

A. Definitions. For purposes of this Section, the following terms have the meanings ascribed to them.

Applicant—any association, corporation, estate, firm, individual, joint venture, limited liability company, partnership, receiver, syndicate, trust, or any other entity, combination or group that submits or arranges through a representative for the submission of an application to request a voluntary disclosure agreement for a tax administered by the department. If the application is submitted through a representative, anonymity of the applicant can be maintained until the voluntary disclosure agreement is executed by the taxpayer and the secretary.

Application—a completed "Application to Request Voluntary Disclosure Agreement" (Form R-60010) or an "Application for Multistate Voluntary Disclosure" filed with the Multistate Tax Commission's National Nexus Program and all supplemental information including, but not limited to, cover letters, schedules, reports, and any other documents that provide evidence of the applicant's qualification for a voluntary disclosure agreement. Supplemental information requested by the department and timely provided by the applicant shall be considered part of the application.

Application Date—the date a fully completed application requesting a voluntary disclosure agreement is received by the department. Supplemental information requested by the department and timely provided by the applicant shall not extend or delay the application date.

Delinquent Penalty—any specific penalty imposed pursuant to R.S. 47:1603 or 1604.1 as a result of the failure of the taxpayer to timely make any required return or payment.

Department—the Louisiana Department of Revenue.

Look-Back Period—a period for which a qualified applicant agrees to disclose and pay the tax and interest due. The *look-back period* shall be as follows.

a. Except for taxes collected and not remitted, the *look-back period* shall include the current calendar year up to the date of registration with the department and the three immediately preceding calendar years.

b. For taxes collected and not remitted, the *look-back period* shall include all periods in which tax was collected and not remitted. This *look-back period* shall not affect the *look-back period* described in Subparagraph a of this Paragraph for undisclosed liabilities unrelated to tax collected and not remitted.

c. For discontinued, acquired, or merged entities, the *look-back period* shall include undisclosed liabilities in the last calendar year in which the qualified applicant had nexus within this state and the three immediately preceding calendar years.

d. The secretary and the applicant may agree to adjust a *look-back period* to include other years.

e. The *look-back period(s)* shall be established at the time the secretary or his authorized representative signs the voluntary disclosure agreement.

Non-Qualified Applicant—includes any taxpayer who:

a. is registered with the department as of the application date but failed to file returns or underreported the amount due for a tax for which a voluntary disclosure agreement is requested;

b. submitted returns, extensions, payments, or was registered more than 60 days prior to the application date for a tax for which a voluntary disclosure agreement is requested;

c. has been contacted by the department concerning a liability regarding a tax for which a voluntary disclosure agreement is requested, including but not limited to a potential liability or contact for the purpose of performing an audit of the taxpayer's records; or

d. is affiliated with another entity that has been contacted by the department for the purpose of performing

an audit of the affiliated entity's records. A *non-qualified applicant* under this subparagraph may become a qualified applicant after the audit of the affiliated entity has been completed, provided the applicant is not disqualified under the criteria listed in Subparagraphs a through c of this Paragraph.

Qualified Applicant—any taxpayer, other than a non-qualified applicant, subject to the reporting and payment of a tax imposed by the state of Louisiana. Notwithstanding anything to the contrary, any applicant that entered into a voluntary disclosure agreement with the department prior to July 1, 2014 shall be deemed a *qualified applicant*. Registration with the department for reporting and payment of any tax for which a voluntary disclosure agreement is not being requested will not disqualify a *qualified applicant* from entering into a voluntary disclosure agreement.

Secretary—the *secretary* of the Louisiana Department of Revenue and any duly authorized representative(s).

Signing Date—the date the voluntary disclosure agreement is signed by the secretary or his authorized representative.

Undisclosed Liability—a tax liability that became due during the look-back period and which has not been determined, calculated, researched, identified by or known to the department at the time of disclosure and which would likely not be discovered through normal administrative activities. The *undisclosed liability* must exceed $500 during the look-back period to qualify for consideration of a voluntary disclosure agreement. The secretary has the discretion to conduct an audit of the applicant's records to confirm the amount of the *undisclosed liability*.

Voluntary Disclosure Agreement—a contractual agreement between a qualified applicant and the secretary wherein the qualified applicant agrees to pay the tax and interest due on an undisclosed liability, and the secretary agrees to remit or waive payment of the whole or any part of the penalty associated with that liability and to restrict collection of prior liabilities to the look-back period, except for periods in which tax was collected and not remitted.

B. Acceptance of Offer to Enter into Voluntary Disclosure Agreement

1. After the secretary has reviewed the application and determined from the information included therein that the applicant qualifies for a voluntary disclosure agreement, the secretary shall send a copy of the agreement to the applicant or the applicant's representative for signature.

2. The applicant or applicant's representative, acting under the authority of a power of attorney, must sign the agreement and return it to the secretary within 30 calendar days of the postmark or e-mail date, or within any extension of time authorized by the secretary beyond 30 calendar days from the postmark or e-mail date.

3. After the signed agreement is received from the applicant, the secretary or his authorized representative will sign the agreement and return a copy of the agreement which has been signed by both parties to the applicant.

4. If the application was submitted to the Multistate Tax Commission, the applicant shall return signed agreements in accordance with policies established by the commission.

C. Waiver or Remittance of Payment of Penalty

1. After all tax and interest due for the look-back period have been paid, the delinquent penalties will be remitted or waived , unless the tax disclosed was collected but not remitted.

2. Where the tax was collected but not remitted, the secretary may consider waiving payment of the whole or any part of the delinquent penalties on a case-by-case basis.

D. Payment of Tax, Interest, and Penalty Due

1. All tax due for the look-back period must be paid within 60 calendar days of the secretary's signing date of the voluntary disclosure agreement or within any extension of time authorized by the secretary beyond 60 calendar days of the signing date. All schedules or returns required by the secretary to show the amount of tax due must be included with this payment.

2. The secretary shall compute the interest and penalty due for the tax disclosed by the applicant and send a schedule by mail or email to the applicant or his representative showing the amount of tax, interest and delinquent penalty due. The applicant must submit payment of the full amount of the interest *and* any penalties not remitted or waived within 30 calendar days from the postmark or e-mail date of the schedule or, if applicable, within any extension of time granted by the secretary. If payment of the full amount due has not been received at the expiration of such time, the secretary may void the agreement.

E. The secretary may disclose tax information to the Multistate Tax Commission or any political subdivision of the state which has entered into an information exchange agreement with the department in order to coordinate the delivery and acceptance of applications for voluntary disclosure agreements. Any information so furnished shall be considered and held confidential and privileged by the Multistate Tax Commission or the political subdivision to the extent provided by R.S. 47:1508.

F. The terms of the voluntary disclosure agreement shall be valid, binding, and enforceable by and against all parties, including their transferees, successors, and assignees.

G. The secretary reserves the right to void the voluntary disclosure agreement if the applicant fails to comply with any of the conditions outlined in the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1502, R.S. 47:1511, R.S. 47:1580, and R.S. 47:1603.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 41:

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 has no known impact on poverty as described in R.S. 49:973.

Small Business Statement

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 effect on providers as described in HCR 170 of 2014 Regular Session.

Public Comments

All interested persons may submit written data, views, arguments or comments regarding this proposed Rule to Annie L. Gunn, Attorney, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., January 26, 2015.

Public Hearing

A public hearing will be held on January 27, 2015, at 9:30 a.m. in the River Room, located on the 7th floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Tim Barfield
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Voluntary Disclosure Agreements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Revenue has maintained a voluntary disclosure program related to all taxes it administers for approximately twenty years. Act 198 of 2014 authorized LDR to promulgate rules for the program. The proposed rule includes authority of the Secretary of Revenue and any duly authorized representative to waive all penalties and, indirectly, liabilities through adjustment of look-back periods. The program allows voluntary disclosure of taxes that otherwise would not have been discovered through normal departmental activities or for taxpayers deemed eligible by the Secretary prior to July 1, 2014, which is the effective date of Act 198 of 2014. For participation, the minimum undisclosed liability is $500; the proposed rule does not stipulate any maximums or thresholds. Although several local tax authorities have voluntary disclosure programs, this rule would not apply to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenues from voluntary disclosure agreements are currently being received by the state and some local jurisdictions. These revenues fluctuate annually based upon the number of applicants and the amount of undisclosed taxes reported. Historically, less than $500,000 in penalties are waived annually with more than $10M in collections of tax and interest. There is no maximum threshold included in the proposed rule, though the statutory threshold under which the Secretary can waive penalties without Board of Tax Appeal approval was raised from $5,000 to $25,000 in Act 198 of 2014. To the extent that the Secretary and duly authorized representatives waive penalties (self-generated revenue) and/or liabilities (mostly SGF) in excess of those typically waived, state revenue will decrease. The provision in the rule allowing a more liberal eligibility standard for taxpayers prior to July 1, 2014, would allow certain taxpayers benefits under the program including penalty waivers that would not be considered under the voluntarily disclosure program established pursuant to Act 198 of 2014. It is expected that this provision is associated with about $4M in penalty waivers and about $18M in collections. There should be no effect on revenue collections of local governmental units resulting from this proposal.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule will affect the costs or revenues of a limited number of taxpayers who entered into a voluntary disclosure agreement with the Department of Revenue prior to July 1, 2014 to the extent they would not be eligible or considered for the voluntary disclosure program on or after July 1, 2014.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment could be impacted by small amounts if similar businesses are afforded different tax situations as a result of this program.

Tim Barfield	Greg Albrecht
Secretary	Chief Economist
1412#110	Legislative Fiscal Office

NOTICE OF INTENT

Department of State
Elections Division

Merit Evaluation for Registrars of Voters
(LAC 31:II.Chapter 1)

Pursuant to the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and under the authority of R.S. 18:18, R.S. 18:55, R.S. 18:59, and R.S. 36:742, the secretary of state is proposing to adopt this Rule which would amend LAC 31:II.Chapter 1, Section 107 to modify the procedure for merit evaluations of the registrars of voters, adopt LAC 31:II.Chapter 1, Section 108 to codify the appeal process for merit evaluations of the registrars of voters, and amend LAC 31:II.Chapter 1, Section 109 to modify the procedure for merit evaluations of the chief deputies and confidential assistants.

Title 31
ELECTIONS
Part II. Voter Registration and Voter Education
Chapter 1. Registrar of Voters
§107. Merit Evaluation for the Registrar of Voters

A. The secretary of state hereby designates the director of registration in the Department of State to conduct the annual evaluation of each parish registrar of voters by reviewing the completed evaluation and data submitted by each registrar of voters. The evaluation will consider the timely performance of the registrar's job responsibilities as required by title 18 of the Louisiana Revised Statutes. Upon completion of the rating of a registrar by the director of registration, the director of registration shall submit the evaluation to the commissioner of elections for review and either approval or disapproval depending on the information submitted. If the commissioner of elections does not approve the rating given by the director of registration, the registrar will be given the rating recommended by the commissioner of elections. The registrar's evaluation is then submitted to the Department of State Human Resources office. If the registrar receives an "excellent" rating, Human Resources will process the merit increase. If the registrar receives a "satisfactory" rating, Human Resources will not process the merit increase.

B. Annually, the criteria and procedure for the merit evaluation shall be determined by the secretary of state or his designee in conjunction with the Registrar of Voters Association. The secretary of state or his designee shall prepare written instructions and forms to be utilized for the evaluation. Evaluation forms with instructions shall be submitted to the registrars of voters no later than November

1 for completion. The form shall include mandated duties required of the registrar's office in accordance with title 18 of the Louisiana Revised Statutes and other applicable laws with input from the Board of Review for Evaluation of the Registrar of Voters Association; however, the form is not intended to be all inclusive of all of the duties mandated in title 18 of the Louisiana Revised Statutes and other applicable laws. If a registrar receives an "excellent" rating, the registrar is eligible for a merit increase in January. If a registrar does not receive an "excellent" rating, the registrar will be rated "satisfactory" and is not eligible to receive a January merit increase. Also, if a registrar is a certified elections registration administrator (CERA) and does not receive an "excellent" rating, the registrar is not eligible to receive the seven percent CERA certification pay increase for that year pursuant to R.S. 18:59.4.

C. The parish registrar of voters will have until December 15 to submit a completed evaluation form with supporting documentation to the Department of State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008), amended LR 41:

§108. Appeal of Merit Evaluation for the Registrar of Voters

A. Submission of a Request for Appeal

1. A registrar of voters who does not receive an "excellent" rating on his or her annual merit evaluation may appeal that rating to the Registrars of Voters Evaluation Appeals Committee.

2. The request for appeal shall be in writing and shall be postmarked or received by the human resources director in the Department of State, or the human resources director's designee, no later than January 30.

3. The request for appeal shall explain the reasons for the request and may provide supporting documentation.

4. If the request for appeal is timely and contains the required explanation, the human resources director shall submit a notification of the request to the chairperson of the Registrars of Voters Evaluation Appeals Committee and to the director of registration. The notification of request for appeal shall include copies of the written request of the registrar of voters, the original annual merit evaluation, and any supporting documentation provided by the registrar of voters with his or her written request for appeal.

5. The Department of State grievance process shall not be used to review or reconsider evaluations or a procedural violation of the evaluation process.

B. The Registrars of Voters Evaluation Appeals Committee

1. All written requests for appeal of annual merit evaluations that meet the requirements of Part A of this Section shall be considered by the Registrars of Voters Evaluation Appeals Committee.

2. The Registrars of Voters Evaluation Appeals Committee shall consist of seven members. Three members shall be registrars of voters appointed by the Registrar of Voters Association. Four members shall be appointed by the secretary of state, one of which shall be a registrar of voters who shall act as chairperson of the committee. The chairperson shall vote only to break a tie. The director of registration and the commissioner of elections shall not be appointed to the committee.

3. The chairperson shall convene a meeting of the Registrars of Voters Evaluation Appeals Committee within 15 days of receipt of notification of the request for appeal to discuss the request and render a decision regarding the rating. The committee may vote to uphold the "satisfactory" rating or to change the rating to "excellent".

4. The chairperson of the committee shall give written notice of the committee's decision to the affected registrar of voters, the director of registration, and the human resources director within 15 days.

C. The annual merit evaluation form, the written request for appeal of the registrar of voters, the written notice of the committee's decision, and all supporting documentation shall be maintained in the official confidential personnel file of the registrar of voters on file in the Department of State Human Resources office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:55, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 41:

§109. Merit Evaluations of the Chief Deputy and Confidential Assistant

A. The parish registrar of voters shall perform the annual evaluation of the chief deputy and confidential assistant.

B. Annually, the criteria and procedure for the merit evaluation shall be determined by the Registrar of Voters Association. The association shall prepare written instructions and forms to be utilized for the evaluation. The forms and instructions shall be submitted to the registrars of voters for reviewing the chief deputy and confidential assistant's performance no later than November 1.

C. The parish registrar of voters shall be responsible for evaluating his or her chief deputy and confidential assistant. These evaluations shall be submitted to the Department of State Human Resources office no later than December 15 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18, R.S. 18:59, and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 34:705 (April 2008), amended LR 41:

Family Impact Statement

The proposed amendments to various sections of Rule LAC 31:II.Chapter 1, Sections 107-109 regarding merit evaluations for registrars of voters, chief deputies, and confidential assistants should not have any known or foreseeable impact on any family as defined by R.S. 49:927 or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;

2. the authority and rights of parents regarding the education and supervision of their children;

3. the functioning of the family;

4. family earnings and family budget;

5. the behavior and personal responsibility of children; and

6. the ability of the family or a local government to perform the function as contained in the proposed amendments to the Rule.

Poverty Impact Statement

The proposed amendments to various sections of Rule LAC 31:II.Chapter 1 Sections 107-109 regarding merit evaluations for registrars of voters, chief deputies, and confidential assistants should not have any known or

foreseeable impact on poverty as defined by R.S. 49:973. Specifically, there should be no known or foreseeable effect on:

1. the household income, assets and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The impact of the proposed amendments to various sections of the Rule on small business has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small business as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small business.

Provider Impact Statement

The impact of the proposed amendments to various sections of the Rule does not have any known or unforeseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Merietta Norton, General Counsel, Legal Division, Department of State, P.O. Box 94125, Baton Rouge, LA 70804-9125. She will be responsible for responding to inquiries regarding the proposed amendments to various sections of the Rule. The deadline for the Department of State to receive written comments is 4:30 p.m. on Tuesday, January 27, 2015 after the public hearing.

Public Hearing

A public hearing on the proposed amendments to various sections of the Rule is scheduled for Monday, January 26, 2015 at 1 p.m. in the Auditorium at the State Archives Building, 3851 Essen Lane, Baton Rouge, LA. At that time, all interested persons will be afforded the opportunity to submit data, views, or arguments either orally or in writing.

Tom Schedler
Secretary of State

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Merit Evaluation for Registrars of Voters

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units as a result of the proposed rule change. The Department of State is proposing to amend LAC 31:II §107 to clarify the procedure and to modify the language for merit evaluations of the registrars of voters and to amend LAC 31:II §109 to modify the procedure for merit evaluations of the chief deputies and confidential assistants. In addition, the Department of State is adopting LAC 31:II §108 to codify the appeal process for merit evaluations of the registrars of voters.

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 rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Joe. R. Salter
Undersecretary
1412#084

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Recreational Offshore Landing Permit (LAC 76:VII.377)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend a Rule, LAC 76:VII.377, modifying existing recreational offshore landing permit regulations by exempting minors under the age of 16. Changes to the Rule also add language that was not published in a previous rule modification that allowed exemptions for passengers on a charter-for-hire trip. Authority for adoption of this Rule is included in R.S. 56:6(34). Said Rule is attached to and made part of this Notice of Intent.

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§377. Recreational Offshore Landing Permit

A. Any person, except those persons under the age of 16 that are not normally required to obtain a license for saltwater fishing privileges, possessing any one of the following fish species or species groups on board a vessel taken from within or without Louisiana territorial waters shall be required to have obtained and have in their immediate possession a recreational offshore landing permit. Any person on a trip aboard a charter vessel, who pays a fee

for that trip, is not required to have this permit, but the permit is required for the captain of that charter vessel. The recreational offshore landing permit shall be available for inspection by a duly authorized agent of the department:

1. highly migratory species:

a. tunas—bluefin, albacore, yellowfin, skipjack, bigeye, blackfin;

b. billfish—blue marlin, white marlin. sailfish and longbill spearfish;

c. swordfish;

2. reef fish species:

a. any species of snapper;

b. any species of amberjack;

c. any species of grouper or hind;

3. pelagics:

a. any species of dolphinfish;

b. cobia;

c. wahoo.

B. Permits may be obtained at no cost, from the Department of Wildlife and Fisheries, or authorized method, by persons who hold any valid license authorizing the taking and possessing of saltwater species of fish. Permits shall be valid for the same duration as the annual license authorizing saltwater fishing privileges. For those licenses that do not have to be renewed every year, the permit must be renewed annually, and shall be valid for the same time period as annual licenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(34).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 38:3249 (December 2012), amended LR 40:94 (January 2014), LR 41:

Family Impact Statement

In accordance with Act 1183 of 1999, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed 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

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit comments relative to the proposed Rule to Jason Adriance, Fisheries Division, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000, or via e-mail to jadriance@wlf.la.gov prior to Thursday, February 5, 2015.

Billy Broussard
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Recreational Offshore Landing Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local governmental unit expenditures.

The proposed rule change would exempt all anglers under 16 years of age (who are not required to hold a recreational fishing license) from the requirement to hold a Recreational Offshore Landings Permit (R.O.L.P.).

The proposed rule change would clarify the term of the R.O.L.P. to be consistent with the current recreational fishing license year which spans from the first of June to the last day of the following June.

The proposed rule change would exempt passengers on charter boats from the requirement to hold a R.O.L.P. but would require charter boat operators to hold a R.O.L.P.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is anticipated to have no impact on revenue collections of the state or local governmental units because the R.O.L.P. is free.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule is expected to have a positive effect by reducing paperwork for off-shore anglers under 16 years of age who would no longer be required to obtain a R.O.L.P.

The proposed rule is expected to have a minor positive effect on off-shore anglers because the term of validity for the R.O.L.P. would be consistent with that of their recreational fishing licenses.

The proposed rule change would have a positive effect on anglers who fish from charter boats who would no longer be required to obtain a R.O.L.P.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Bryan McClinton	Evan Brasseaux
Undersecretary	Staff Director
1412#081	Legislative Fiscal Office

NOTICE OF INTENT

Workforce Commission
Office of Workers' Compensation

Outlier Reimbursement and Appeals Procedures
(LAC 40:I.2519)

This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1310(C). It will enact corrections to Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 25,

Section 2519, Outlier Reimbursement and Appeals Procedures.

Title 40
LABOR AND EMPLOYMENT
Part I. Workers' Compensation Administration
Subpart 2. Medical Guidelines
Chapter 25. Hospital Reimbursement Schedule, Billing Instruction and Maintenance Procedures
§2519. Outlier Reimbursement and Appeals Procedures

A. Automatic Outliers. Inpatient hospital acute care services falling within certain diagnosis code ranges will be reimbursed outside the normal per diem reimbursement method. These atypical admissions will be paid at covered billed charges less a 15 percent discount. Conditions requiring acute care inpatient hospital services that are work-related and are recognized as "automatic outliers" are:

1. AIDS: ICD-9 Diagnosis Codes 042-044;
2. Acute Myocardial Infarction: ICD-9 Diagnosis Code 410; and
3. Severe Burns: ICD-9 Diagnosis Codes: 940.0-940.9; 941.30-941.39; 941.40-941.49; 941.50-941.59; 942.30-942.39; 942.40-942.49; 942.50-942.59; 943.30-943.39; 943.40-943.49; 943.50-943.59; 944.30-944.39; 944.40-944.49; 944.50-944.59; 945.30-945.39; 945.40-945.49; 945.50-945.59; 946.3; 946.4; 946.5; 947.0-947.9; 948.00 ; 948.10; 948.11; 948.20-948.22; 948.30-948.33; 948.40-948.44; 948.50-948.55; 948.60-948.66; 948.70-948.77; 948.80-948.88; 948.90-948.99; 949.3; 949.4; 949.5; 949.

B. - B.7.a. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), amended by the Workforce Commission, Office of Workers' Compensation, LR 41:

Family Impact Statement

This amendment to Title 40 should have no impact on families.

Poverty Impact Statement

This amendment to Title 40 should have no impact on poverty or family income.

Provider Impact Statement

1. This Rule should have no impact on the staffing level of the Office of Workers' Compensation as adequate staff already exists to handle the procedural changes.
2. This Rule should create no additional cost to providers or payers.
3. This Rule should have no impact on ability of the provider to provide the same level of service that it currently provides.

Public Comments

All interested persons are invited to submit written comments on the proposed Rule. Such comments should be sent to Wes Hataway, OWC-Administration, 1001 North 23rd Street, Baton Rouge, LA 70802. Such comments should be sent by January 20, 2015, by COB.

Public Hearing

A public hearing will be held on January 27, 2015, at 9:30 a.m. at the Louisiana Workforce Commission Training Center located at the Corner of Fuqua Street and North 22nd Street across from the main campus of the Workforce Commission, in Baton Rouge, LA. The public is invited to attend.

Curt Eysink
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Outlier Reimbursement and Appeals Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Title 40 Labor and Employment, Part 1 Workers' Compensation Administration, Subpart 1, Medical Guidelines, Chapter 25, Section 2519, Outlier Reimbursement and Appeals Procedures.

Besides the cost to publish in the Louisiana Register, the proposed rule will not result in any additional expenses to the Office of Workers' Compensation Administration (OWCA) nor will the proposed rule result in any material savings to OWCA. The proposed rule specifically lists the ICD-9-CM diagnosis codes, which will be granted "automatic outlier" status. This will provide better guidance in reimbursement determinations which should result in decreased litigation over disputed reimbursement determinations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of this proposed rule will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule clarifies diagnosis codes for inpatient reimbursement of severe burns. The current rule references an invalid/incomplete diagnosis code for identification/classification of a severe burn. As a consequence, disputes arise between the payor and hospital as to whether or not the severe burn reimbursement request should be granted automatic outlier status. These disputes develop into litigation which is ultimately resolved in a workers' compensation court.

The proposed rule provides better guidance and clarity by identifying "severe burns" with greater specificity. It is believed that this guidance will result in fewer disputes over reimbursement requests. As a result, inpatient facilities and payors should experience a direct economic impact due to the decrease in litigated disputes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct effect on competition and employment.

Curt Eysink
Executive Director
1412#069

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

Potpourri

POTPOURRI

Office of the Governor
Board of Tax Appeals

Procedures for Out-of-State Attorneys,
Fee Schedule and Local Tax Division

The fiscal and economic impact has been determined for the proposed Rule, Procedures for Out-of-State Attorneys, Fee Schedule and Local Tax Division, promulgated in the June 20, 2014 *Louisiana Register* on pages 1192-1193. The approved Fiscal and Economic Impact Statement is provided below.

Judge Tony Graphia (RET.)
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Procedures for Out-of-State Attorneys, Fee Schedule and Local Tax Division

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed amendment includes provisions associated with Act 640 from 2014 Regular Session of the Legislature, which authorizes the Board of Tax Appeals (BTA) to hear local sales tax disputes. The additional expenditures associated with Act 640 include an additional staff position for administrative purposes as well as other expenses related to an increased caseload, estimated at about $187,500 per year.

Local taxing authorities may incur expenses for some consumable supplies, though these expenses may be recoverable as court costs in the future as judgments are paid. Local taxing authorities may also incur cost differences related to filing disputes with the Board of Tax Appeals instead of the District Court. Per Act 640, local governments will forego $132,000 per year in total adjusted annually for inflation from use tax distributions which will be transferred instead to BTA for expenses related to the local sales tax disputes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendment includes provisions associated with Act 640 from 2014 Regular Session of the Legislature, which authorizes the Board of Tax Appeals to hear local sales tax disputes. Filing fee increases for local sales taxpayer disputes are set at $450 for all cases, except those filed by a local collector as plaintiff in a Rule for Uniformity, which will be $300. Local tax cases also will be assessed an Additional and Supplemental Filing fee of $2 per page. This will help generate approximately $65,000 in revenue (possibly less in the first year with start-up delays) for the Board of Tax Appeals. Note: The LA Department of Revenue has also pledged an $88,000 annual transfer of self-generated revenue to BTA in lieu of filing fees as authorized in Act 198 of the 2014 Regular Session of the Legislature.

Fees in place for cases not impacted by Act 640 are also increased, including a $20 fee for other matters under $10,000 (from $0 to $20), controversies from $10,000 - $50,000 (from $250 to $300) and controversies over $50,000 (from $400 to $450). There are also 2 new fees for copies of judgments in excess of 1 certified copy ($25) and a fee for a Motion to Appear Pro Hac Vice (out of state attorney fee) of $250, though cases under $10,000 or with 25 or fewer exhibit pages are exempt. These new fees are expected to increase self-generated revenue for the Board of Tax Appeals by about $10,000 annually, under a typical caseload and depending on the type of issues under dispute.

Per Act 640, $132,000 in additional funding (adjusted for inflation) will be provided annually by local governments from use tax distributions for expenses related to the local sales tax disputes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Taxpayers who file cases with the Board of Tax Appeals (BTA) will be subject to higher fees under some circumstances. However, in the case of local taxpayers who elect to appeal taxes to the BTA applicable fees may be lower than those required in District Court, which had jurisdiction prior to the passage of Act 640. All taxpayers will no longer have to pay district court fees to appeal their cases, since they are now appealable directly to a court of appeal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment due to the proposed amendment.

Judge Tony Graphia (RET.)
Chairman
1412#116

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

POTPOURRI

Office of the Governor
Division of Administration
Office of Technology Services

OTS IT Bulletin

Pursuant to Act 712 of the 2014 Regular Legislative Session, the Office of Technology Services (OTS) published the following IT bulletin in the period 12/01/2014 to 12/31/2014.

Bulletin Number	Topic	Date
ITB 14-01	IT STD 1-17 Data Sanitization-Standards and Requirements	12/19/2014
	IT POL 1-04 Data Sanitization Policy	12/19/2014

OTS bulletins, standards, policies and guidelines are posted on the OTS web site at: http://www.doa.louisiana.gov/ots/index.htm.

To receive email notifications when an OTS bulletin is published, register at: http://louisiana.gov/Services/Email_Notifications_OTS_Bulletins/.

Richard "Dickie" Howze
State Chief Information Officer

1412#065

POTPOURRI

Office of the Governor
Licensing Board for Contractors

Substantive Change—Construction Management
(LAC 46:XXIX.119)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and through the enabling authority granted in R.S. 37:2150-2192, which is the contractor licensing law, the Licensing Board for Contractors (LSLBC) published a Notice of Intent in the October 20, 2014 edition of the *Louisiana Register* to adopt these rules and regulations which define construction management and program management.

The LSLBC held a period of comment and planned to convene a public hearing should one be required. Shortly after that time period had passed, it was brought to the attention of the LSLBC by industry experts and associations that the definition of Program Manager needed further clarification, and that clarification is being added to these rules.

The original proposal is resubmitted, as revised, for publication in the Potpourri section of the *Louisiana Register*. The Legislative Fiscal Office has evaluated the impact of the proposed revisions of the original proposal and has opined that no fiscal or economic impact will result from the suggested revisions proposed in this notice.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXIX. Contractors
Chapter 1. General Provisions
§119. Construction Management

A. Any person, company or entity who undertakes, attempts to, or submits a price or bid or offer to perform work in "construction management" or "program management" whose scope of authority and responsibility includes supervision, oversight, direction, or in any manner assuming charge of the construction services provided to an owner by a contractor or contractors in excess of $50,000 must possess a license from this board in the major classification of building construction or heavy construction or highway, street, and bridge construction or municipal and public works construction. Any licensed contractor with any of these major classifications shall be able to bid and perform any such project specified for construction and/or program management within the scope of the classification(s) they hold. If a "program manager" whose scope of authority and responsibilities does not include any of the above stated tasks, and who does not subcontract actual construction work, that "program manager" does not need a contractor's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2150-2192.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Licensing Board for Contractors, LR 41:

Public Hearing

In accordance with R.S. 49:968(H)(2) of the Administrative Procedure Act, a public hearing on these proposed revisions to the original proposal is scheduled for Monday, February 2, 2015 at 9 a.m. at the LSLBC office building, 2525 Quail Drive, Baton Rouge, LA 70808. At that time, all interested persons will be afforded an opportunity to submit data, opinions, and arguments, either orally or in writing, regarding the proposed Rule. The deadline for receipt of all comments is 12 noon that same day.

Michael McDuff
Executive Director

1412#067

POTPOURRI

Office of the Governor
Office of Financial Institutions

Judicial Interest Rate for 2014

Pursuant to authority granted by R.S. 13:4202(B)(1), as amended, the Louisiana commissioner of Financial Institutions has determined that the judicial rate of interest for calendar year 2014 will be 4 percent per annum.

John Ducrest, CPA
Commissioner

1412#002

POTPOURRI

Department of Health and Hospitals
Board of Veterinary Medicine

Spring/Summer Examination Dates

The Louisiana Board of Veterinary Medicine will administer the state board examination (SBE) for licensure to practice veterinary medicine on the first Tuesday of every month. Deadline to apply for the SBE is the third Friday prior to the examination date desired. SBE dates are subject to change due to office closure (i.e. holiday, weather).

The board will accept applications to take the North American Veterinary Licensing Examination (NAVLE) which will be administered through the National Board of Veterinary Medical Examiners (NBVME), formerly the National Board Examination Committee (NBEC), as follows.

Test Window Date	Deadline To Apply
April 13 through April 25, 2015	Monday, January 3, 2015

The board will also accept applications for the Veterinary Technician National Examination (VTNE) for state registration of veterinary technicians which will be administered through the American Association of Veterinary State Boards (AAVSB), as follows.

Test Date	Deadline To Apply
March 15 - April 15, 2015	February 15, 2015
July 15 through August 15, 2015	June 15, 2015
November 15 through December 15, 2015	October 15, 2015

Applications for all examinations must be received on or before the deadline. No late application will be accepted. Requests for special accommodations must be made as early as possible for review and acceptance. Applications and information may be obtained from the board office at 263 Third Street, Suite 104, Baton Rouge, LA 70801, via telephone at (225) 342-2176, and by e-mail at admin@lsbvm.or; application forms and information are also available on the website at www.lsbvm.org.

Board Nominations

The Louisiana Board of Veterinary Medicine announces that nominations for the position of board member will be taken by the Louisiana Veterinary Medical Association (LVMA) at the annual winter meeting to be held in late January 2015. Interested persons should submit the names of nominees directly to the LVMA as per R.S. 37:1515. It is not necessary to be a member of the LVMA to be nominated. The LVMA may be contacted at (225) 928-5862.

Wendy D. Parrish
Executive Director

1412#013

POTPOURRI

Department of Health and Hospitals
Emergency Response Network

LERN Destination Protocol: TRAUMA

On November 20, 2014, the Louisiana Emergency Response Network Board (R.S. 40:2842(1) and (3)] adopted and promulgated "Destination Protocol: TRAUMA" to be effective January 1, 2015, replacing the "LERN Destination Protocol: Trauma" adopted and promulgated November 21, 2013, as follows.

LERN Destination Protocol: TRAUMA

Call LERN Communication Center at 1-866-320-8293 for patients meeting the following criteria.

• Unmanageable airway • Tension pneumothorax • Traumatic cardiac arrest • Burn patient without patent airway • Burn patient > 40 percent BSA without IV	Yes→	**Closest ED/Trauma Center**
↓ No		
Measure vital signs and level of consciousness		
• GCS ≤ 13 • SBP <90mmHg • RR <10 or >29 breaths per minute, or need for ventilator Support (<20 in infant aged <1 year)	Yes→	Transport to Trauma Center/ Trauma Program These patients should be transported to the highest level of care within the defined trauma system. This is a Level 1 or a Level 2 Trauma Center or Trauma Program. * *If distance or patient condition impedes transport to trauma facility, consider transport to most appropriate resourced hospital.*
↓ No		
Assess anatomy of injury		
• All penetrating injuries to head, neck, torso, and extremities proximal to elbow or knee • Chest wall instability or deformity (e.g. flail chest) • Two or more proximal long-bone fractures • Crushed, degloved, mangled, or pulseless extremity • Amputation proximal to wrist or ankle • Pelvic fractures • Open or depressed skull fracture • Paralysis • Fractures with neurovascular compromise (decreased peripheral pulses or prolonged capillary refill, motor or sensory deficits distal to fracture)	Yes→	Transport to Trauma Center/ Trauma Program These patients should be transported to the highest level of care within the defined trauma system. This is a Level 1 or a Level 2 Trauma Center or Trauma Program. * *If distance or patient condition impedes transport to trauma facility, consider transport to most appropriate resourced hospital.*
↓ No		
Assess mechanism of injury and evidence of high-energy impact		

• **Falls** • -Adults: >20 feet (one story is equal to 10 feet) • -Children: >10 feet or two or three times the height of the child • **High-risk auto crash** -Intrusion, including roof: > 12 inches occupant site; • > 18 inches any site -Ejection (partial or complete) from automobile -Death in the same passenger compartment -Vehicle telemetry data consistent with a high risk of injury • **Auto vs. pedestrian/bicyclist/ATV thrown, run over, or with significant (>20 mph) impact** • **Motorcycle crash >20mph**	Yes→	Transport to Trauma Center/Trauma Program which, depending upon the defined trauma system, need not be the highest level trauma center/program. If no Trauma Center/Trauma Program in the region, LCC may route to the most appropriate resourced hospital.
↓ No		
Assess special patient or system considerations		
• **Older Adults** -Risk of injury/death increases after age 55 years -SBP <110 may represent shock after age 65 -Low impact mechanisms (e.g. ground level falls) may result in severe injury • **Children** -Should be triaged preferentially to pediatric capable trauma centers • **Anticoagulants and bleeding disorders** -Patients with head injury are at high risk for rapid deterioration • **Burns** • -With trauma mechanism: triage to trauma center • **Pregnancy >20 weeks** -Hip Fractures (hip tenderness, deformity, lateral deviation of foot) excluding isolated hip fractures from same level falls -Major joint dislocations (hip, knee, ankle, elbow) Open Fractures • **EMS provider judgment**	Yes→	Transport to Trauma Center/Trauma Program which, depending upon the defined trauma system, need not be the highest level trauma center/program. If no Trauma Center/Trauma Program in the region, LCC may route to the most appropriate resourced hospital.
↓ No		
Multi / Mass Casualty Incident	No→	Transport according to protocol

When in doubt, transport to a trauma center.

Paige Hargrove
Executive Director

1412#045

POTPOURRI

Department of Health and Hospitals
Office of Aging and Adult Services
Division of Adult Protective Services

Adult Protective Services Agency
(LAC 48:I.Chapter 171)

The Department of Health and Hospitals, Office of Aging and Adult Services, Division of Adult Protective Services promulgated a Notice of Intent in the November 20, 2014 edition of the *Louisiana Register*, page 2407. This Notice of Intent proposed to amend the provisions governing the Adult Protective Services Program (LAC 48:XIII.17101-17125) in order to adopt provisions for the operation of the program as a result of Act 13 of the 2012 Regular Session of the Louisiana Legislature which transferred the authority for this program to the Department of Health and Hospitals, Office of Aging and Adult Services.

After further consideration and consultation with stakeholders, the department has determined that it is necessary to abandon the November 20, 2014 Notice of Intent. No further action will be taken on this proposed Rule.

Kathy H. Kliebert
Secretary

1412#107

POTPOURRI

Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Worth Exploration Co	Cowpen Creek	L	Louise Davis Et Al	001	99432
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	016	13233

Operator	Field	District	Well Name	Well Number	Serial Number
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	035	17012
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	042	39995
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	046	65877
CSV Holdings, Inc.	Starks	L	Boise Southern	017	66434
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	051	67169
CSV Holdings, Inc.	Starks	L	Boise Southern	014	69679
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	062	73218
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	064	73867
CSV Holdings, Inc.	Starks	L	Boise Southern	015	148511
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co Swd	072	155337
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	074	161566
CSV Holdings, Inc.	Starks	L	Boise Southern	016	165262
CSV Holdings, Inc.	Starks	L	Boise Southern	003	177252
CSV Holdings, Inc.	Starks	L	Boise Southern	002	180951
CSV Holdings, Inc.	Starks	L	Boise Southern	004	180952
CSV Holdings, Inc.	Starks	L	Boise Southern B Swd	002	181658
CSV Holdings, Inc.	Starks	L	Boise Southern A	003	199314
CSV Holdings, Inc.	Starks	L	Boise Southern	021	199317
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	077	210084
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	076	210094
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	078	210184
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	001	210815
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co Swd	003	211062
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	080	211374

Operator	Field	District	Well Name	Well Number	Serial Number
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	079	211381
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	081	211490
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	082	211491
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	083	211492
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	086	211703
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	088	211759
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	089	212768
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	090	212773
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	091	212774
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	092	212775
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	093	212776
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co Swd	002	213735
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	096	214026
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	097	214726
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	098	214727
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	099	214728
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	102	214932
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	106	215255
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	108	215623
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	109	215957
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	110	217506
CSV Holdings, Inc.	Starks	L	Boise Southern	022	217829
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	111	218932
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	112	224817

Operator	Field	District	Well Name	Well Number	Serial Number
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	113	224818
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	114	224819
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	115	225111
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	116	225112
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	117	225113
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	118	225489
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	120	225490
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	119	225676
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	123	226565
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	122	226608
CSV Holdings, Inc.	Iberia	L	Marg V Ra Sua; Emestayer et al	001	232016
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	124	234832
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	125	234833
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	127	234835
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	129	234836
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	130	234837
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	128	235799
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	131	235800
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	137	235802
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	126	236186
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	136	236580
CSV Holdings, Inc.	Starks	L	Lutcher and Moore Lbr Co	139	236581

James H. Welsh
Commissioner

1412#046

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(Volume 40, Number 12)

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ADMINISTRATIVE CODE UPDATE

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