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Executive Orders

EXECUTIVE ORDER BJ 14-10

Offender Labor

WHEREAS, during the 1988 Regular Session of the Louisiana Legislature, Act No. 933 was enacted relative to correctional facilities offender labor;

WHEREAS, as amended, Act No. 933, among other things, authorizes the governor to use offender labor in certain projects or maintenance or repair work; and

WHEREAS, the Act further provides that the governor, upon determining that it is appropriate and in furtherance of the rehabilitation and training of offenders, may, by executive order, authorize the use of offenders of a penal or correctional facility owned by the State of Louisiana for necessary labor in connection with a particular project.

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: In furtherance of goals of the State of Louisiana of supporting positive offender welfare, rehabilitating offenders, reducing recidivism, and reintegrating offenders into society, offender labor is hereby authorized for the renovations of "Building 10" at the Department of Corrections Headquarters complex, Baton Rouge, Louisiana, to be utilized for administrative offices.

SECTION 2: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 11th day of August, 2014.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1409#110

EXECUTIVE ORDER BJ 14-11

In Memoriam

WHEREAS, every year, on September 11th, the people of Louisiana recognize and honor all those who lost their lives on September 11, 2001, as well as the heroic men and women who sacrificed their lives through civilian and military service in connection with related ongoing overseas combat operations;

WHEREAS, since September 11, 2001, the people of Louisiana have lost many brave men and women in these combat operations and more are currently risking their lives daily in defense of our freedom;

WHEREAS, September 11, 2014, marks the thirteen year anniversary of the tragic events that occurred on September 11, 2001, and provides a special opportunity for remembering their patriotic commitment to the democratic principles of freedom and equality;

WHEREAS, these service members represent all branches of the armed forces, the Marines, Army, Air Force, Navy, Coast Guard, National Guard and Reserves;

WHEREAS, these courageous and ambitious Louisianians loved their country and the military and devoted their lives to serving their state and country;

WHEREAS, all tragically lost their lives giving their last full measure of devotion in defense of our beloved country and the freedoms that we as Americans hold dear;

WHEREAS, the memory of these dedicated men and women will live on in the hearts of their family, friends, and fellow service members forever.

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

SECTION 1: As an expression of respect for Louisiana's fallen civilian and service members who lost their lives on September 11, 2001, and the days since to defend this country, as well as those who continue to proudly serve, the flags of the United States and the State of Louisiana shall be flown at half staff over the State Capitol and all public buildings and institutions of the State of Louisiana from sunrise September 11, 2014, until sunset September 11, 2014.

SECTION 2: This Order is effective upon signature and shall remain in effect until amended, modified, terminated or rescinded.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the city of Baton Rouge, on this 10th day of September, 2014.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1409#111

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor
Division of Administration
Office of Contractual Review

PPM 50—Attorney Case Handling Guidelines and Billing Procedures (LAC 4:V.Chapter 47)

Title 4
ADMINISTRATION
Part V. Policy and Procedure Memoranda
Chapter 47. Attorney Case Handling Guidelines and Billing Procedures—PPM Number 50

§4701. Goal

A. For executive branch agencies that hire attorneys under professional services contracts controlled by Chapter 16 of Title 39 of the Louisiana Revised Statutes (controlled by Chapter 17 of Title 39 commencing January 1, 2015), the Commissioner of Administration and the Division of Administration (DOA) expects to work with those agencies to hire and to retain attorneys in an efficient and cost conscious manner consistent with ethical obligations. Nothing contained herein is intended to restrict an agency or its contract counsel's exercise of professional judgment in rendering legal services. Contract counsel bears ultimate responsibility for all work performed pursuant to the contract and/or billed to the file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:258 and R.S. 39:1490(A); Act 864 of 2014 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 40:1646 (September 2014).

§4702. Authorization and Legal Basis

In accordance with R.S. 39:1490(A) which authorizes the Office of Contractual Review (Office of State Procurement commencing January 1, 2015) to consider and decide all matters of policy relative to professional, personal, consulting and social services, and which mandates the periodic audit and review, implementation of rules and regulations, and policy determinations regarding professional, personal, consulting and social services contracts, notice is hereby given as to the establishment and implementation of Policy and Procedure Memorandum No. 50—Attorney Case Handling Guidelines and Billing Procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(A); Act 864 of 2014 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 40:1646 (September 2014).

§4703. Policy

A. To control costs, to increase efficiencies and to insure quality and standard billing practices, in addition to all legal requirements, any agency that contracts for attorney services under Title 39 of the Louisiana Revised Statutes, shall, by January 1, 2015, institute case handling guidelines and billing procedures to be incorporated by reference into all professional contracts for attorney services entered into.

B. Effective September 20, 2014, all professional contracts entered into for attorney services under Title 39 of the Louisiana Revised Statutes after September 20, 2014, and all case handling guidelines and billing procedures in existence or which shall be thereafter instituted, shall include the following minimum requirements which may be referred to by reference by citing PPM 50.

1. Attachment to all Attorney Contracts. These case handling guidelines and billing procedures supplement, but do not replace, an agency's existing attorney case handing and billing procedures, and shall not supersede any rules or regulations in effect for legal contracts. To the extent that these requirements are more stringent than an agency's existing requirements, they shall supersede those requirements.

2. Attorney Rates. Unless justification is provided and approval is received, all attorney billing rates shall conform to the standard rates set by the Attorney General.

3. Billing Management. Each contracting agency shall designate in writing the employee authorized to approve work and travel performed pursuant to the contract, and who is responsible for ensuring that attorney case handling guidelines and billing procedures are followed.

4. Budgeting. Within 60 days of entering into a contract for attorney services, the contracting attorney shall prepare a legal budget after assessing the underlying case. If it is anticipated that the budget will exceed the maximum value of the contract, then the agency shall immediately take the necessary steps to increase the contract's maximum value. An agency shall prepare a report when 80% of the established budget has been expended which shall project the final cost of the attorney services expected to be provided under the contract.

5. Clerical Work. Clerical work, including work performed by law clerks, paralegals and secretaries shall not be billed unless written justification is submitted and approved.

6. Depositions/Inspections/Hearings on Motions. Unless approved in advance by the contracting agency, only one attorney shall attend and bill for depositions, inspections and hearings on motions.

7. Documentation of Reimbursed Expenses. The contracting attorney must retain and provide all receipts and other documentation of expenses where reimbursement has been preapproved. Advanced court costs by state agencies is not required under the law in most situations. Payment of advanced court costs will not be reimbursed until a lawsuit is completed unless preapproval for the payment of same is obtained.

8. Dual or Overlapping Billing. Billing for work for other clients or for unrelated State matters simultaneously while performing work under the billed contract shall be prohibited. Billing by two approved attorneys simultaneously should be avoided unless or approved by the agency in advance.

9. Duplication of Work. Duplication or repetition of effort among attorneys shall be avoided.

10. Maximum Amount. All contracts for attorney services entered into shall provide for a maximum value which shall not be exceeded through addendum, amendment, or renewal without the contractor and the agency documenting the justification in writing.

11. Minimum Billing Increments. All billing items shall be billed at increments of .10 (six minute increments). No block billing shall be accepted.

12. Non-Conforming Bills. Any bill which does not conform to these billing requirements shall not be paid until such time as it is determined that the non-conforming items have been corrected. Any payment dispute under a contract for attorney services shall be administratively determined pursuant to Chapter 16, Title 39 of the Louisiana Revised Statutes.

13. Office Overhead; Copying Phone Charges, etc. All office overhead, including costs for copying, facsimile, email, internet or phone charges shall not be billed unless an agency has agreed in advance under the terms and conditions of its contract approved by OCR to reimburse the actual cost of these items.

14. Record Retention. Daily time sheets maintained by attorney name, caption, and case number shall be utilized. Attorneys are required to maintain any and all bills and supporting documentation, including daily time sheets, for five years. Billing records are subject to audit by DOA, the Inspector General and the Legislative Auditor.

15. Reports. A contracting agency shall not pay for any time charged for preparation of reporting forms or status reports other than those specifically requested or specifically required under the terms and conditions of the contract. Any report that does not contain significant new information or developments with a clear explanation of the impact on the case should not be requested or required by the contracting agency. Automatic periodic reporting in increments of less than three months should be avoided.

16. Research. Legal research per contract shall not exceed five hours without additional approval by the using agency.

17. Routine Matters. Routine scheduling, mail handling, new file set up, calendar maintenance, transcribing, copying, faxing, data entry enclosure letters, simple letters to clerks of court, and other similar routine matters are non-billable.

18. Staffing. Only those attorneys who are directly contracted, and approved staff, may work under the contract. Any staffing changes must be discussed and approved prior to engaging in billable work.

19. Task and Item Billing. Specific task and item billing must occur under every contract for attorney services, even where an attorney is retained by an agency to provide general legal services and advice. Billing for attorney services shall occur, at a minimum, monthly. All billing statements shall reference the contract number under which it is being submitted.

20. Term of Contract. No contract for attorney services shall be longer than three years. Prior to such a contract entering into the third year of its term, however, the attorney and the contracting agency shall provide written justification to continue the contract into the third year. Failure to provide written justification to extend a contract may result in cancellation of the contract.

21. Travel. Travel time shall be preapproved and shall be billed at one-half the agreed upon attorney pay rate. Travel time for a specific task shall not be approved to exceed eight hours per day without written justification. All related travel expenses shall also be preapproved and will be reimbursed in accordance with PPM 49—Louisiana State Travel Rules and Regulations.

22. Trial Preparation and Attendance. Trial preparation and attendance shall be billed only at the regular rate established in the contract. Tasks associated with trial preparation should occur once and only within a reasonable timeframe prior to trial. Unless approved in advance, only one attorney shall bill for trial preparation and for attending trial.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 40:1646 (September 2014).

§4705. Effective Date

A. This policy shall apply to all new contracts by reference entered into on or after September 20, 2014, and shall remain in existence after January 1, 2015, when the Office of Contractual review is merged into the Office of State Procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1490(A) and Act 864 of 2014 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 40:1647 (September 2014).

§4707. Notice to Agencies Regarding Electronic Billing Platforms

A. The DOA is currently conducting a pilot program regarding a web-based electronic billing platform for the submission and review of attorney bills by executive branch agencies. Until the pilot program is concluded, no executive branch agency at the department level shall pursue or issue a contract for a new electronic billing platform for attorney services, and shall not extend any existing contract for such a platform, without the approval of the Office of Contractual Review and the Office of State Purchasing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1561(B) and R.S. 39:1490(A).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, LR 40:1647 (September 2014).

Pamela Bartfay Rice
Director
Office of Contractual Review

1409#112

Emergency Rules

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Applied Behavioral Analysis-Based Therapy Services
(LAC 50:XV.Chapters 1-7)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XV.Chapters 1-7 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities promulgated an Emergency Rule which amended the provisions of the Children's Choice Waiver in order to provide for the allocation of waiver opportunities to Medicaid-eligible children identified in the *Melanie Chisholm, et al vs. Kathy Kliebert* class action litigation (hereafter referred to as Chisholm class members) who have a diagnosis of pervasive developmental disorder or autism spectrum disorder, and are in need of applied behavioral analysis-based (ABA) therapy services. (*Louisiana Register*, Volume 39, Number 10). This action was taken as a temporary measure to ensure Chisholm class members would have access to ABA therapy services as soon as possible.

To ensure continued, long-lasting access to ABA-based therapy services for Chisholm class members and other children under the age of 21, the department promulgated an Emergency Rule which adopted provisions to establish coverage and reimbursement for ABA-based therapy services under the Medicaid State Plan (*Louisiana Register*, Volume 40, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 1, 2014 Emergency Rule.

This action is being taken to avoid imminent peril to the public health and welfare of children who are in immediate need of ABA-based therapy services, and to comply with the judge's order that these services be provided to Chisholm class members.

Effective October 1, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions to establish coverage and reimbursement for applied behavioral analysis-based therapy services under the Medicaid State Plan.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 1. Applied Behavioral Analysis-Based Therapy Services

Chapter 1. General Provisions

§101. Program Description and Purpose

A. Applied behavioral analysis-based (ABA) therapy is the design, implementation, and evaluation of environmental modification using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including the direct observation, measurement, and functional analysis of the relations between environment and behavior. ABA-based therapies teach skills through the use of behavioral observation and reinforcement or prompting to teach each step of targeted behavior. ABA-based therapies are based on reliable evidence and are not experimental.

AUTHORITY NOTE: 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:

§103. Recipient Criteria

A. In order to qualify for ABA-based therapy services, a Medicaid recipient must meet the following criteria. The recipient must:

1. be from birth up to 21 years of age;
2. exhibit the presence of excesses and/or deficits of behaviors that significantly interfere with home or community activities (examples include, but are not limited to aggression, self-injury, elopement, etc.);
3. be medically stable and does not require 24-hour medical/nursing monitoring or procedures provided in a hospital or intermediate care facility for persons with intellectual disabilities (ICF/ID);
4. be diagnosed by a qualified health care professional with a condition for which ABA-based therapy services are recognized as therapeutically appropriate, including autism spectrum disorder;
5. have a comprehensive diagnostic evaluation by a qualified health care professional; and
6. have a prescription for ABA-based therapy services ordered by a qualified health care professional.

B. All of the criteria in §103.A must be met to receive 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 40:

Chapter 3. Services

§301. Covered Services and Limitations

A. Medicaid covered ABA-based therapy services must be:

1. medically necessary;

2. prior authorized by the Medicaid Program or its designee; and

3. delivered in accordance with the recipient's treatment plan.

B. Services must be provided directly or billed by behavior analysts licensed by the Louisiana Behavior Analyst Board.

C. Medical necessity for ABA-based therapy services shall be determined according to the provisions of the *Louisiana Administrative Code (LAC)*, Title 50, Part I, Chapter 11 (*Louisiana Register*, Volume 37, Number 1).

D. ABA-based therapy services may be prior authorized for a time period not to exceed 180 days. Services provided without prior authorization shall not be considered for reimbursement, except in the case of retroactive Medicaid eligibility.

E. Service Limitations

1. Services shall be based upon the individual needs of the child, and must give consideration to the child's age, school attendance requirements, and other daily activities as documented in the treatment plan.

2. Services must be delivered in a natural setting (e.g., home and community-based settings, including clinics).

3. Any services delivered by direct line staff must be under the supervision of a lead behavior therapist who is a Louisiana licensed behavior analyst.

F. Not Medically Necessary/Non-Covered Services. The following services do not meet medical necessity criteria, nor qualify as Medicaid covered ABA-based therapy services:

1. therapy services rendered when measureable functional improvement is not expected or progress has plateaued;

2. services that are primarily educational in nature;

3. services that are duplicative services under an individualized family service plan (IFSP) or an individualized educational program (IEP), as required under the federal Individuals with Disabilities Education Act (IDEA);

4. treatment whose purpose is vocationally- or recreationally-based;

5. custodial care;

a. for purposes of these provisions, custodial care:

i. shall be defined as care that is provided primarily to assist in the activities of daily living (ADLs), such as bathing, dressing, eating, and maintaining personal hygiene and safety;

ii. is provided primarily for maintaining the recipient's or anyone else's safety; and

iii. could be provided by persons without professional skills or training; and

6. services, supplies, or procedures performed in a non-conventional setting including, but not limited:

a. resorts;

b. spas;

c. therapeutic programs; and

d. camps.

AUTHORITY NOTE: 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:

§303. Treatment Plan

A. ABA-based therapy services shall be rendered in accordance with the individual's treatment plan. The treatment plan shall:

1. be person-centered and based upon individualized goals;

2. be developed by a licensed behavior analyst;

3. delineate both the frequency of baseline behaviors and the treatment development plan to address the behaviors;

4. identify long, intermediate, and short-term goals and objectives that are behaviorally defined;

5. identify the criteria that will be used to measure achievement of behavior objectives;

6. clearly identify the schedule of services planned and the individual providers responsible for delivering the services;

7. include care coordination involving the parents or caregiver(s), school, state disability programs, and others as applicable;

8. include parent/caregiver training, support, and participation;

9. have objectives that are specific, measureable, based upon clinical observations, include outcome measurement assessment, and tailored to the individual; and

10. ensure that interventions are consistent with ABA techniques.

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

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

Chapter 5. Provider Participation

§501. General Provisions

A. Licensed behavior analysts that render ABA-based therapy services shall meet the following provider qualifications:

1. be licensed by the Louisiana Behavior Analyst Board;

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

3. have no sanctions or disciplinary actions on their Board Certified Behavior Analyst (BCBA®) or Board Certified Behavior Analyst-Doctoral (BCBA-D) certification and/or state licensure;

4. not have Medicare/Medicaid sanctions, or be excluded from participation in federally funded programs (i.e., Office of Inspector General's List of excluded individuals/entities (OIG-LEIE), system for award management (SAM) listing and state Medicaid sanctions listings); and

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

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

b. Background checks must be current, within a year prior to the initial Medicaid enrollment application.

Background checks must be performed at least every five years thereafter.

B. Certified assistant behavior analyst that render ABA-based therapy services shall meet the following provider qualifications:

1. must be certified by the Louisiana Behavior Analyst Board;

2. must work under the supervision of a licensed behavior analyst;

a. the supervisory relationship must be documented in writing;

3. must have no sanctions or disciplinary actions, if state-certified or board-certified by the BACB®;

4. may not have Medicare or Medicaid sanctions, or be excluded from participation in federally funded programs (i.e., Office of Inspector General's list of excluded individuals/entities (OIG-LEIE), system for award management (SAM) listing and state Medicaid sanctions listings); and

5. have a completed criminal background check to include federal criminal, state criminal, parish criminal and sex offender reports for the state and parish in which the certified assistant behavior analyst is currently working and residing.

a. Evidence of this background check must be provided by the employer.

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

C. Registered line technicians that render ABA-based therapy services shall meet the following provider qualifications:

1. must be registered by the Louisiana Behavior Analyst Board;

2. must work under the supervision of a licensed behavior analyst;

a. the supervisory relationship must be documented in writing;

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

4. have a completed criminal background check to include federal criminal, state criminal, parish criminal and sex offender reports for the state and parish in which the certified assistant behavior analyst is currently working and residing.

a. Evidence of this background check must be provided by the employer.

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

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

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

Chapter 7. Reimbursements

§701. General Provisions

A. The Medicaid Program shall provide reimbursement for ABA-based therapy services to enrolled behavior analysts who are currently licensed and in good standing with the Louisiana Behavior Analyst Board.

B. Reimbursement for ABA services shall not be made to, or on behalf of services rendered by, a parent, a legal guardian or legally responsible person.

AUTHORITY NOTE: 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:

§703. Reimbursement Methodology

A. Reimbursement for ABA-based therapy services shall be based upon a percentage of the commercial rates for ABA-based therapy services in the state of Louisiana. The rates are based upon 15 minute units of service, with the exception of mental health services plan which shall be reimbursed at an hourly fee rate.

B. Reimbursement shall only be made for services authorized by the Medicaid Program or its designee.

AUTHORITY NOTE: 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:

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

1409#089

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 now proposes to amend the provisions of the May 24, 2014 Emergency Rule to clarify the provisions governing the payment methodology to Louisiana Low-Income Academic Hospitals. This action is being taken to promote the health and welfare of Medicaid recipients by maintaining recipient access to much needed hospital services.

Effective September 20, 2014 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the May 24, 2014 Emergency Rule 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 40:

§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 40:

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

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

1409#081

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Early and Periodic Screening, Diagnosis and Treatment
Personal Care Services
Removal of Parental Availability
(LAC 50:XV.7305)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.7305 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 amended the provisions governing personal care services covered in the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program in order to revise the reimbursement methodology to be consistent with current payment methodologies (*Louisiana Register*, Volume 36, Number 11).

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing EPSDT personal care services in order to revise the recipient qualifications to remove the criteria regarding parental/caregiver availability in the home (*Louisiana Register*, Volume 40, Number 6). The department has now determined that it is necessary to amend the provisions of the June 1, 2014 Emergency Rule in order to revise the formatting of these provisions. 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 promote the health and well-being of children by ensuring access to EPSDT personal care services.

Effective September 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the June 1, 2014 Emergency Rule governing EPSDT personal care services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment
Chapter 73. Personal Care Services
§7305. Recipient Qualifications

A. - A.3. ...

4. Early and Periodic Screening, Diagnosis, and Treatment personal care services must be prescribed by the recipient's attending physician initially and every 180 days thereafter (or rolling six months), and when changes in the plan of care occur. The plan of care shall be acceptable for submission to BHSF only after the physician signs and dates the completed form. The physician's signature must be an original signature and not a rubber stamp.

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, Office of the Secretary, Bureau of Health Services Financing, LR 29:177 (February 2003), amended LR 30:253 (February 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

Kathy H. Kliebert
Secretary

1409#082

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 has determined that it is now necessary to amend 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*.

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 September 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the June 20, 2014 Emergency Rule 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. improved 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 40:

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 40:

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

Kathy H. Kliebert
Secretary

1409#083

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Home Health Program
Rehabilitation Services
Reimbursement Rate Increase
(LAC 50:XIII.Chapter 9)

The Department of Health and Hospitals, Bureau of Health Services Financing repeals the provisions of the June 20, 1997, May 20, 2001, and the May 20, 2004 Rules governing rehabilitation services and adopts LAC 50:XIII.Chapter 9 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 Medicaid reimbursement for rehabilitation services covered in the Home Health Program. In compliance with a court order from the *Melanie Chisholm, et al vs. Kathy Kliebert* class action litigation, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing rehabilitation services covered under the Home Health Program in order to increase the reimbursement rates for

physical and occupational therapy services for recipients under the age of 21, and to discontinue the automatic enhanced rate adjustment for these services (*Louisiana Register*, Volume 40, Number 2). This Emergency Rule also repealed the June 20, 1997, May 20, 2001, and the May 20, 2004 Rules governing rehabilitation services covered in the Home Health Program, and revised and repromulgated the provisions in a codified format for inclusion in the *Louisiana Administrative Code*. This Emergency Rule is being promulgated to continue the provisions of the February 13, 2014 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to therapy services in the Home Health Program.

Effective October 13, 2014, the department amends the provisions governing the Home Health Program in order to increase the reimbursement rates for physical and occupational therapy services provided to recipients under the age of 21, and to discontinue the automatic enhanced rate adjustment for these services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health

Subpart 1. Home Health Services

Chapter 9. Rehabilitation Services

§901. General Provisions

A. The Medicaid Program provides coverage for rehabilitation services rendered in the Home Health Program. Home Health rehabilitation services include:

1. physical therapy;
2. occupational therapy; and
3. speech/language therapy.

B. All home health rehabilitation services must be medically necessary and prior authorized.

AUTHORITY NOTE: 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:

§903. Reserved.

§905. Reimbursement Methodology

A. The Medicaid Program provides reimbursement for physical therapy, occupational therapy and speech/language therapy covered under the Home Health Program.

B. Effective for dates of service on or after February 13, 2014, reimbursement for physical and occupational therapy services shall be 85 percent of the 2013 Medicare published rate. There shall be no automatic enhanced rate adjustment for physical and occupational therapy services.

C. Speech/language therapy services shall continue to be reimbursed at the flat fee in place as of February 13, 2014 and in accordance with the Medicaid published fee schedule for speech/language therapy services provided in the Home Health 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:

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

1409#090

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services
Public-Private Partnerships
South Louisiana Area
(LAC 50:V.1703)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.1703 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 an Emergency Rule which amended the provisions governing inpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned and operated hospitals that have terminated or reduced services. Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-provider partnership initiative (*Louisiana Register*, Volume 38, Number 11). The department promulgated an Emergency Rule which amended the provisions governing reimbursement for Medicaid payments for inpatient services provided by non-state owned major teaching hospitals participating in public-private partnerships which assume the provision of services that were previously delivered and terminated or reduced by a state owned and operated facility (*Louisiana Register*, Volume 39, Number 4). The department subsequently promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient services provided by non-state owned hospitals participating in public-private partnerships to establish payments for hospitals located in the Lafayette and New Orleans areas (*Louisiana Register*, Volume 39, Number 7).

The department promulgated an Emergency Rule which amended the provisions of the June 24, 2013 Emergency Rule governing inpatient hospital services to remove the provisions governing the cooperative endeavor agreements for Lafayette and New Orleans area hospitals 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 (*Louisiana Register*, Volume 40, Number 6). This Emergency Rule is being promulgated to continue the provisions of the June 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 October 19, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for inpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 17. Public-Private Partnerships
§1703. Reimbursement Methodology

A. Reserved.

B. Effective for dates of service on or after April 15, 2013, a major teaching hospital that enters into a cooperative endeavor agreement with the Department of Health and Hospitals to provide acute care hospital services to Medicaid and uninsured patients and which assumes providing services that were previously delivered and terminated or reduced by a state owned and operated facility shall be reimbursed as follows:

1. The inpatient reimbursement shall be reimbursed at 95 percent of allowable Medicaid costs. The interim per diem reimbursement may be adjusted not to exceed the final reimbursement of 95 percent of allowable Medicaid costs.

C. Baton Rouge Area Cooperative Endeavor Agreement

1. The Department of Health and Hospitals (DHH) shall enter into a cooperative endeavor agreement (CEA) with a non-state owned and operated hospital to increase its provision of inpatient Medicaid hospital services by providing services that were previously delivered and terminated by the state-owned and operated facility in Baton Rouge.

2. A quarterly supplemental payment shall be made to this qualifying hospital for inpatient services based on dates of service on or after April 15, 2013. Payments shall be made quarterly based on the annual upper payment limit calculation per state fiscal year. Payments shall not exceed the allowable Medicaid charge differential. The Medicaid inpatient charge differential is the Medicaid inpatient charges less the Medicaid inpatient payments (which includes both the base payments and supplemental payments).

3. The qualifying hospital shall provide quarterly reports to DHH that will demonstrate that, upon implementation, the annual Medicaid inpatient quarterly payments do not exceed the annual Medicaid inpatient charges per 42 CFR 447.271. Before the final quarterly payment for each state fiscal year the quarterly reports will be reviewed and verified with Medicaid claims data. The final quarterly payment for each state fiscal year will be reconciled and will be adjusted to assure that the annual payment does not exceed the allowable Medicaid inpatient charge differential.

4. Inpatient services shall be reimbursed at 95 percent of allowable Medicaid costs. The interim per diem reimbursement may be adjusted not to exceed the final reimbursement of 95 percent of allowable Medicaid costs.

D. - E.3. Repealed.

F. - K. 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 39:

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

1409#091

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:VII.32969 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

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

The department promulgated an Emergency Rule which amended the provisions governing the transitional rates for public facilities in order to redefine the period of transition (*Louisiana Register*, Volume 39, Number 10). The department subsequently promulgated an Emergency Rule to assure compliance with the technical requirements of R.S. 49:953, and to continue the provisions of the October 1, 2013 Emergency Rule governing transitional rates for public facilities (*Louisiana Register*, Volume 40, Number 3). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for ICFs/ID to increase the add-on amount to the per diem rate for the provider fee (*Louisiana Register*, Volume 40, Number 3).

Due to an increase in the add-on amount to the per diem rate for the provider fee, the department now proposes to amend the provisions governing the transitional rates for public facilities in order to increase the Medicaid reimbursement rate. This action is being taken to protect the public health and welfare of Medicaid recipients transitioning from public ICFs/ID by ensuring continued provider participation in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately $214,347 for state fiscal year 2014-2015.

Effective October 1, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for public intermediate care facilities for persons with intellectual disabilities.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part VII. Long Term Care
Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities
Chapter 329. Reimbursement Methodology
Subchapter C. Public Facilities
§32969. Transitional Rates for Public Facilities

A. - F.4. …

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:326 (February 2013), amended LR 40:

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

1409#084

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Medicaid Eligibility
Provisional Medicaid Program
(LAC 50:III.2305)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:III.2305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Section 1902(a)(10) of Title XIX of the Social Security Act and Section 435.210 of Title 42 of the *Code of Federal Regulations* (CFR) provides states with the option to cover individuals under their Medicaid State Plan who are aged or have a disability, and who meet the income and resource requirements for supplemental security income (SSI) cash assistance. These individuals must be referred to the Social Security Administration (SSA) for assistance as there currently is no eligibility category under the Medicaid Program to provide them with Medicaid benefits. Their Medicaid eligibility is contingent upon a favorable decision for SSI cash assistance.

Pursuant to Section 1902(a)(10)of Title XIX of the Social Security Act and 42 CFR 435.210, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions to include this optional coverage group under the Medicaid State Plan by implementing the Provisional Medicaid Program (*Louisiana Register*, Volume 40, Number 2). This Medicaid program provides interim Medicaid-only benefits to eligible individuals until such time that a decision has been rendered on their SSI cash assistance application pending with the Social Security Administration. This Emergency Rule is being promulgated to continue the provisions of the February 9, 2014 Emergency Rule.

This action is being taken to avoid imminent peril to the health and safety of certain individuals who would have to wait for a Social Security Administration decision to receive Medicaid benefits in order to obtain necessary medical care.

Effective October 9, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing hereby adopts provisions to implement the Provisional Medicaid Program.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part III. Eligibility
Subpart 3. Eligibility Groups and Factors
Chapter 23. Eligibility Groups and Medicaid Programs
§2305. Provisional Medicaid Program

A. The Provisional Medicaid Program provides interim Medicaid-only coverage to individuals who:

1. are aged or have a disability;

2. meet income and resource requirements for supplemental security income (SSI) cash assistance; and

3. have applied for benefits through the Social Security Administration (SSA) and are awaiting a decision on the pending application.

a. Applicants shall have 90 days from the date of Medicaid application to provide proof to the department of a pending application with SSA. If proof of a pending application with SSA is not received timely, after notification by the department has been issued, interim Medicaid benefits shall be terminated.

b. Individuals who would be ineligible for SSI cash assistance due to factors other than excess income and

resources or meeting the disability criteria of the program are exempt from the requirement to have a pending application for benefits with the Social Security Administration (SSA).

B. The Provisional Medicaid Program provides coverage to individuals with income equal to or less than the federal benefit rate (FBR), and resources that are equal to or less than the resource limits of the SSI cash assistance program.

C. A certification period for the Provisional Medicaid Program shall not exceed six months, and shall end upon the final decision being rendered on the recipient's pending application for benefits through the SSA, whether the outcome is receipt of benefits or denial of benefits due to excess income and resources or not meeting SSA's disability or age criteria.

D. Retroactive coverage up to three months prior to the receipt of the Medicaid application shall be available to recipients in the Provisional Medicaid Program.

1. Any retroactive coverage period shall not be prior to the implementation date of the Provisional 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:

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

1409#092

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 now proposes to amend the provisions governing reimbursement for emergency medical aircraft transportation in order to increase the rates for services originating in rural areas.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to emergency medical aircraft transportation services. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately $736,644 for state fiscal year 2014-2015.

Effective September 1, 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:

1. 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 40:

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

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

Kathy H. Kliebert
Secretary

1409#008

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Outpatient Hospital Services
Public-Private Partnerships
South Louisiana Area
(LAC 50:V.6703)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:V.6703 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 an Emergency Rule which amended the provisions governing outpatient hospital services to establish supplemental Medicaid payments to non-state owned hospitals in order to encourage them to take over the operation and management of state-owned hospitals that have terminated or reduced services (*Louisiana Register*, Volume 38, Number 11). Participating non-state owned hospitals shall enter into a cooperative endeavor agreement with the department to support this public-private partnership initiative. The department promulgated an Emergency Rule which amended the provisions of the November 1, 2012 Emergency Rule to revise the reimbursement methodology in order to correct the federal citation (*Louisiana Register*, Volume 39, Number 3). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient services provided by non-state owned major teaching hospitals participating in public-private partnerships which assume the provision of services that were previously delivered and terminated or reduced by a state owned and operated facility (*Louisiana Register*, Volume 39, Number 4). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient services provided by non-state owned hospitals participating in public-private partnerships to establish payments for hospitals located in the Lafayette and New Orleans areas (*Louisiana Register*, Volume 39, Number 7).

The department promulgated an Emergency Rule which amended the provisions of the June 24, 2013 Emergency Rule to remove the New Orleans Area hospital which was erroneously included in these provisions (*Louisiana Register*, Volume 39, Number 10). This Emergency Rule is being promulgated to continue the provisions of the October 20, 2013 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 October 18, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services provided by non-state owned hospitals participating in public-private partnerships.

Title 50
PULIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 5. Outpatient Hospital Services
Chapter 67. Public-Private Partnerships
§6703. Reimbursement Methodology

A. - B.5. Reserved.

C. Baton Rouge Area Cooperative Endeavor Agreement

1. The Department of Health and Hospitals shall enter into a cooperative endeavor agreement with a non-state owned and operated hospital to increase its provision of outpatient Medicaid hospital services by providing services that were previously delivered and terminated by the state-owned and operated facility in Baton Rouge.

2. A quarterly supplemental payment may be made to this qualifying hospital for outpatient services based on dates of service on or after April 15, 2013. Payments may be made quarterly based on the annual upper payment limit calculation per state fiscal year. Maximum payments shall not exceed the upper payment limit per 42 CFR 447.321.

D. Lafayette Area Cooperative Endeavor Agreement

1. The Department of Health and Hospitals shall enter into a cooperative endeavor agreement with a non-state owned and operated hospital to increase its provision of outpatient Medicaid hospital services by assuming the management and operation of services at a facility in Lafayette where such services were previously provided by a state owned and operated facility.

2. Effective for dates of service on or after June 24, 2013, a quarterly supplemental payment may be made to this qualifying hospital for outpatient services. Payments may be made quarterly based on the annual upper payment limit calculation per state fiscal year. Maximum payments shall not exceed the upper payment limit per 42 CFR 447.321.

E. - E.2. 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

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

1409#093

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Outpatient Hospital Services
Removal of Emergency Room Visit Limits
(LAC 50.V.5117)

The Department of Health and Hospitals, Bureau of Health Services Financing amends the August 20, 1983 Rule governing outpatient hospital services 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 Human Resources, Office of Family Security promulgated a Rule governing outpatient hospital services that placed limits on the number of visits for selected services, including emergency room services (*Louisiana Register*, Volume 9, Number 8).

The U.S. Department of Health and Human Services, Centers for Medicaid and Medicare Services (CMS) notified the department that the current provisions governing outpatient hospital services covered in the Medicaid State Plan were no longer consistent with federal regulations due to the visit limits placed on emergency room services. To ensure compliance with federal regulations, the department promulgated an Emergency Rule which amended the August 20, 1983 Rule governing outpatient hospital services to remove the visit limits on emergency room services (*Louisiana Register*, Volume 40, Number 5). The department has now determined that it is necessary to amend the June 1, 2014 Emergency Rule in order to make technical revisions to ensure that these provisions are appropriately promulgated in a codified format for inclusion in the *Louisiana Administrative Code*. This action is being taken to avoid federal sanctions from CMS.

Effective September 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the June 1, 2014 Emergency Rule governing outpatient hospital services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 5. Outpatient Hospital Services
Chapter 51. General Provisions
§5117. Service Limits

A. Outpatient hospital services shall be limited to the following:

1. rehabilitation services-number of visits in accordance with a rehabilitation plan prior authorized by the department or its designee;

2. clinic services-physician services provided in a clinic in an outpatient hospital setting shall be considered physician services, not outpatient services, and shall be included in the limit of 12 physician visits per year per recipient; and

3. all other outpatient services, including therapeutic and diagnostic radiology services, shall have no limit imposed other than the medical necessity for the services.

B. There shall be no limits placed on emergency room visits.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:551 (August 1983), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

Kathy H. Kliebert
Secretary

1409#086

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Professional Services Program
Immunizations
Reimbursement Methodology
(LAC 50:IX.8305 and 8505)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:IX.8305 and §8505 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health (OPH) adopted provisions to establish Medicaid payment of uncompensated care costs for the administration of vaccines rendered by OPH to Medicaid eligible recipients (*Louisiana Register*, Volume 39, Number 1).

The Patient Protection and Affordable Care Act (PPACA) requires states to reimburse certain primary care services, including the administration of specified immunizations (if they were covered), at an increased rate. In compliance with PPACA and federal regulations, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for Medicaid payments to providers for the administration of certain vaccines to children to increase the reimbursement rates (*Louisiana Register*, Volume 39, Number 1). The provisions governing an increase in rates for the administration of certain vaccines to adults were inadvertently omitted from the January 1, 2013 Emergency Rule. The department promulgated an Emergency Rule which amended the

January 1, 2013 Emergency Rule in order to incorporate provisions governing an increase in rates for the administration of certain vaccines to adults and to revise the payment methodology (*Louisiana Register*, Volume 39, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 20, 2013 Emergency Rule. This action is being taken to avoid federal sanctions and to secure enhanced federal funding.

Effective October 18, 2014 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for the administration of immunizations.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part IX. Professional Services Program
Subpart 7. Immunizations
Chapter 83. Children's Immunizations
§8305. Reimbursement Methodology

A. - C.3.a. ...

D. Effective for dates of service on or after January 1, 2013 through December 31, 2014, certain vaccine administration services shall be reimbursed at payment rates consistent with the methodologies that apply to such services and physicians under Part B of Title XVIII of the Social Security Act (Medicare) and the Vaccines for Children (VFC) Program.

1. The following vaccine service codes, when covered by the Medicaid Program and provided under the VFC Program, shall be reimbursed at an increased rate:

a. 90471, 90472, 90473 and 90474; 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 a physician, either a doctor of osteopathy or a medical doctor or under the personal supervision of a physician, who attests to a specialty or subspecialty designation in family medicine, general internal medicine or pediatrics, and also attests to meeting one or more of the following criteria:

a. certification as a specialist or subspecialist within 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 vaccine administration services provided under the Vaccines for Children Program in calendar years 2013 and 2014, the reimbursement shall be the lesser of the:

a. regional maximum administration fee; or

b. Medicare fee schedule rate in calendar years 2013 or 2014 that reflects the mean value over all parishes (counties) of the rate for each of the specified code(s) 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 as approved by the Centers for Medicare and Medicaid Services.

4. The department shall make a payment to the provider for the difference between the Medicaid rate and the increased rate, if any.

AUTHORITY NOTE: 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 35:71 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:96 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

Chapter 85. Adult Immunizations
§8505. Reimbursement Methodology

A. - B.3.a. …

C. Effective for dates of service on or after January 1, 2013 through December 31, 2014, certain vaccine administration 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 vaccine service codes, when covered by the Medicaid Program, shall be reimbursed at an increased rate:

a. 90471, 90472, 90473 and 90474; 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 a physician, either a doctor of osteopathy or a medical doctor or under the personal supervision of a physician, who attests to a specialty or subspecialty designation in family medicine, general internal medicine or pediatrics, and also attests to meeting one or more of the following criteria:

a. certification as a specialist or subspecialist within 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 vaccine administration services provided in calendar years 2013 and 2014, the reimbursement shall be the lesser of the:

a. Medicare fee schedule rate in calendar years 2013 or 2014 that reflects the mean value over all parishes (counties) of the rate for each of the specified code(s) 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 as approved by the Centers for Medicare and Medicaid Services; or

b. provider's actual billed charges for the service.

4. The department shall make a payment to the provider for the difference between the Medicaid rate and the increased rate, if any.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

1409#094

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 has now determined that it is necessary to amend the provisions of the February 20, 2013 Emergency Rule in order to revise the formatting of these provisions. 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.

Effective September 20, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the February 20, 2013 Emergency Rule 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 39:3301 (December 2013), LR 40:

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

Kathy H. Kliebert
Secretary

1409#087

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

Rehabilitation Clinics
Physical and Occupational Therapies
Reimbursement Rate Increase
(LAC 50:XI.301 and 303)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XI.301 and §303 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 Medicaid reimbursement for physical, occupational and speech therapies provided in rehabilitation clinics to recipients under the age of 21.

Due to a budgetary shortfall in state fiscal year 2013, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing rehabilitation clinics in order to terminate the coverage and Medicaid reimbursement of services rendered to recipients 21 years of age and older (*Louisiana Register*, Volume 39, Number 1). In compliance with a court order from the *Melanie Chisholm, et al vs. Kathy Kliebert* class action litigation, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the reimbursement methodology for rehabilitation clinics in order to increase the reimbursement rates for physical and occupational therapy services rendered to recipients under the age of 21 (*Louisiana Register*, Volume 40, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 13, 2014 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to therapy services provided by rehabilitation clinics.

Effective October 13, 2014, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for rehabilitation clinics in order to increase the reimbursement rates.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XI. Clinic Services
Subpart 1. Rehabilitation Clinics
Chapter 3. Reimbursement
§301. Reimbursement Methodology

A. The Medicaid Program provides reimbursement for physical therapy, occupational therapy and speech therapy rendered in rehabilitation clinics to recipients under the age of 21.

B. Effective for dates of service on or after February 1, 2013, reimbursement shall not be made for services rendered to recipients 21 years of age and older.

C. Effective for dates of service on or after February 13, 2014, reimbursement for physical and occupational therapy services shall be 85 percent of the 2013 Medicare published rate. There shall be no automatic enhanced rate adjustment for physical and occupational therapy services.

D. Speech/language therapy services shall continue to be reimbursed at the flat fee in place as of February 13, 2014 and in accordance with the Medicaid published fee schedule for speech/language therapy services provided to recipients under the age of 21 in rehabilitation clinics.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services financing, LR 30:1021 (May 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

§303. Reimbursement (Ages 0 up to 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, Bureau of Health Services Financing, LR 30:1034 (May 2004), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

MedicaidPolicy@la.gov. Ms. Kennedy is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Kathy H. Kliebert
Secretary

1409#095

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Bureau of Health Services Financing

School Based Health Centers
Rehabilitation Services
Reimbursement Rate Increase
(LAC 50:XV.9141)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XV.9141 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions to allow for Medicaid coverage and reimbursement of mental health services provided to students by School Based Health Centers and to establish provisions for other Medicaid-covered services students already receive (*Louisiana Register*, Volume 34, Number 7).

In compliance with a court order from the *Melanie Chisholm, et al vs. Kathy Kliebert* class action litigation, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for school based health centers in order to increase the reimbursement rates for physical and occupational therapy services (Louisiana Register, Volume 40, Number 2). This Emergency Rule is being promulgated to continue the provisions of the February 13, 2014 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to therapy services in school based health centers.

Effective October 13, 2014 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for school based health centers to increase the reimbursement rates for physical and occupational therapies.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 5. Early and Periodic Screening, Diagnosis, and Treatment
Chapter 91. School Based Health Centers
Subchapter E. Reimbursement
§9141. Reimbursement Methodology

A. - B.2. ...

C. Effective for dates of service on or after February 13, 2014, reimbursement for physical and occupational therapy services shall be 85 percent of the 2013 Medicare published rate.

D. Speech/language therapy services shall continue to be reimbursed at the flat fee in place as of February 13, 2014 and in accordance with the Medicaid published fee schedule for speech/language therapy services provided in school based health centers.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1420 (July 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:

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

Kathy H. Kliebert
Secretary

1409#096

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 has now determined that it is necessary to amend the provisions governing TGHs to increase the number of beds allowed and revise the provider responsibilities. 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. It is estimated that the implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately $775,269 for state fiscal year 2014-2015.

Effective September 20, 2014, 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 40:

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 40:

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

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

Kathy H. Kliebert
Secretary

1409#088

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office for Citizens with Developmental Disabilities

Developmental Disabilities Services System
(LAC 48:IX.334)

The Department of Health and Hospitals, Office for Citizens with Developmental Disabilities (OCDD) adopts LAC Title 48:IX.334 as directed by House Bill 1 of the 2013 Regular Session of the Louisiana Legislature which states: "The secretary is directed to utilize various cost containment measures to ensure expenditures remain at the level appropriated in this Schedule, including but not limited to precertification, preadmission screening, diversion, fraud control, utilization review and management, prior authorization, service limitations, drug therapy management, disease management, cost sharing, and other measures as permitted under federal law." 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.

Act 417 of the 2013 Regular Session of the Louisiana Legislature provides for authority for the department to establish a statewide system of payments; to make provisions relative to payment for services; to allow for uses of funds for provision of certain services; and provides for authority to establish a schedule of fees for services provided to certain recipients in EarlySteps, Louisiana's Early Intervention Program for Infants and Toddlers with Disabilities and their Families.

Due to a budgetary shortfall in state fiscal year 2014, the Department of Health and Hospitals promulgated an Emergency Rule which amended the provisions governing the payment for some EarlySteps services (*Louisiana Register*, Volume 39, Number 9). This Emergency Rule is being promulgated to continue the provisions of the October 1, 2013 Emergency Rule. It is estimated that implementation of this Emergency Rule will increase revenue by approximately $1,200,000 for state fiscal year 2013-2014. This action is being taken to avoid a budget deficit in the Office for Citizens with Developmental Disabilities.

Effective October 1, 2014, the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities establishes a system of payments for some services provided through the EarlySteps Program.

Title 48

PUBLIC HEALTH—GENERAL

Part IX. Developmental Disabilities Services

Chapter 3. Infant Intervention Services

§334. System of Payments

A. The department shall have the authority to establish a statewide system of payments in accordance with 34 CFR Part 303.

B. In implementing the system of payments:

1. the department establishes a schedule of monthly cost participation for early intervention services per qualifying family. Cost participation shall be based on a sliding scale;

2. application of the family's cost share using the sliding scale will include the family's adjusted gross income, family size, financial hardship, extraordinary expenses associated with the eligible child, and Medicaid eligibility;

a. extraordinary expenses may include but are not limited to unreimbursed medical expenses, equipment, home modifications, or other costs associated with the child with a disability;

b. extraordinary expenses must have been incurred during the calendar year that the family's cost share for individualized family services plan (IFSP) services is applied;

c. the family will be required to produce invoices, receipts, or other documents which establish the costs and payment for these expenses;

d. the family may request a reassessment of their costs based on extraordinary expenses at any time if there are significant changes affecting the determination of the cost participation amount. The request will be in writing and submitted to the service coordinator;

e. the request for reassessment will be considered by the designated EarlySteps office for a determination of the family's request. The family and the service coordinator will receive the department's written response;

3. the sliding scale shall utilize the most recent federal poverty guidelines issued in the *Federal Register* by the United States Department of Health and Human Services as the basis for determining the income threshold based on family size for eligibility for cost participation;

4. the department shall not assess any fee or other charge through the cost participation schedule upon a family which has an annual income of less than 300 percent of the federal poverty level;

5. the department shall not assess fees or other charges through the cost participation schedule which totals more than three percent of the monthly income level for a family of four, according to the federal poverty guideline schedule which will be updated annually;

6. once the family's income has been verified with the required documentation and the IFSP services have been determined by the IFSP team, the following will occur:

a. the system point of entry office will issue the cost participation statement to notify the family of their assessed costs which will be reviewed with the family and a copy provided;

b. following the submission of service claims by the child's provider, the central finance office (CFO) will mail a monthly explanation of payment statement (EOP) to the family for payment. The EOP will include a notice of the family's right for reconsideration of their financial status and their right to apply for exemption from cost participation due to financial hardship;

c. families will remit reimbursement to the CFO at the address provided in the EOP;

7. when a family is not complying with the cost participation requirements and procedures for suspending services, the following will occur related to the status of the child's services:

a. a notice will be issued to the family, to the service coordinator and to the designated EarlySteps office;

b. the CFO will notify the department when the family is in arrears for a duration of three months at which time the service coordinator will discuss the family's options with the family and assist the department with its determination of the status of the child's IFSP services;

c. if the family provides its consent, a copy of the notice that the family is in arrears with payment for three months will be sent to the representative and senator in whose district the family resides;

d. the department will make a written determination regarding the status of the child's IFSP services following review of information provided by the service coordinator and the family. Families will be offered the option to continue to receive services available at no cost if they choose according to the no-cost provisions which follow;

e. the department shall not limit early intervention services for a child in any month if the cost for the services in that month exceeds the maximum contribution from the child's family.

C. Parents who have public insurance (Medicaid) and elect not to assign such right of recovery or indemnification to the department or choose not to release financial information will be assessed the cost for each early intervention service listed on the IFSP according to the most current service rate schedule and the cost participation schedule.

D. No-Cost Provision: The following services that a child is otherwise entitled to receive will have no costs assessed to the parents:

1. child find activities;

2. evaluation and assessment for eligibility and IFSP planning;

3. service coordination, administrative and coordinative activities related to the development review, and evaluation of the IFSP; and

4. implementation of procedural safeguards and other components of the statewide system related to §464 of Act 417.

E. The department will provide written, prior notification to families for use of Medicaid according to the requirements of 34 CFR 303.414. This notice includes a statement that there are no costs charged by the department for use of the eligible child's Medicaid. The notification also includes a statement of the process for resolutions of disputes regarding decisions related to use of Medicaid, failure to pay for services and/or the State's determination of a family's ability to pay.

F. Dispute Resolution Process

1. The procedures used by the department to resolve such disputes will not delay or deny the parents' rights or the child's ability to access timely services.

2. The dispute resolution process can be initiated by the parent according to OCDD's policy for handling system complaints when the parent wishes to contest the imposition of a fee or the department's determination of the parents' ability to pay.

G. Parental Consent. The department will obtain parental consent prior to the use of the child's Medicaid according to the following:

1. EarlySteps will obtain written consent for the use of the child's Medicaid using its established consent for services form;

2. parental consent will be obtained prior to the initial provision of an early intervention service in the IFSP;

3. parental consent will be obtained when an increase in frequency, length, duration, or intensity of a service is determined in the child's IFSP;

4. if the parent does not provide consent for the use of the child's Medicaid, the department will make available only those early intervention services on the IFSP for which the parent has provided consent;

5. parents may withdraw consent for use of their child's Medicaid at any time.

H. Determination of Family Cost. Families are liable for the costs of services that their child receives while enrolled in EarlySteps as follows.

1. The aggregate contributions made by the parent shall not exceed the aggregate cost of the early intervention services received by the child and family (factoring in any amount received from other sources for payment for that service).

2. At least annually, or at any time the department determines that a reassessment of the parent's financial circumstances is warranted, the department shall conduct such reassessment of financial status.

3. The parent has the right to request a reassessment at any time if there are significant changes affecting the determination of the cost participation amount.

4. Families who have the ability to pay and choose not to pay may be determined as ineligible to continue to receive services until payment is made.

5. The inability of the family of the eligible infant or toddler will not result in a delay or denial of services if the family does not meet the cost participation income requirements or for services for which there are no costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:821 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 40:

Interested persons may submit written comments to Mark A. Thomas, Office for Citizens with Developmental Disabilities, P.O. Box 3117, Baton Rouge, LA 70821-3117. He is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at OCDD state office and human services authorities/districts.

Kathy H. Kliebert
Secretary

1409#024

DECLARATION OF EMERGENCY

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 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), since effective August 1, 2014, all private driving schools shall administer the knowledge examination for the Office of Motor Vehicles as required by Act 307 of the 2011 Legislative Session, which implemented R.S. 40:1461(G) requiring 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. 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. In order to provide driving schools with the necessary course curriculum to implement this departmental order, it is necessary to adopt these emergency rules to have this order in place until the corresponding permanent rules 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 September 15, 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 55
PUBLIC SAFETY
Part III. Motor Vehicles

Chapter 1. Driver's License
Subchapter A. General Requirements
§155. Third Party Tester/Examiner Requirements

A. Act 307 of the 2011 Legislative Session amended R.S. 32:408 to require all driver education providers to become certified as third party testers by June 30, 2012. Driver education providers must become certified as third party testers but only secondary schools may opt not to perform as third party testers.

B. All persons seeking to become certified by and contract with DPS to be a third party tester to administer the knowledge and road skills test pursuant to R.S. 32:408 shall meet the following requirements:

1. - 2. …

C. Qualifications for a Third Party Skills Test Examiner

1. - 1.a. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1989 (August 2012), amended LR 38:3235 (December 2012), repromulgated LR 39:98 (January 2013), amended LR 40:

§156. Application Process and Fees for Third Party Testers/Examiners

A. - A.2. …

3. completed application for each examiner license;

4. non-refundable $50 annual application fee for each tester location, and a $25 non-refundable annual application fee for each examiner, which shall be collected biennially, in the form of a money order, certified check or public school check made payable to DPS;

5. - 6. …

7. the applicant shall successfully complete online training required by OMV. If the applicant cannot successfully complete OMV training, the applicant shall not be approved for contract;

8. after the applicant has successfully completed the online training furnished by OMV, the applicant shall

prepare a road skills test route which shall include (as a minimum) the following for scoring purposes:

a. two stop signs (one with an obstructed view, if possible);

b. two traffic lights;

c. two lane changes;

d. two intersections, without a turn;

e. two reversal procedures—options:

i. into and out of a parking space;

ii. three point turn;

f. three left turns, one of which includes a left turn onto a multiple-lane roadway;

g. three right turns, one of which includes a right turn onto a multiple-lane roadway;

h. one parking maneuver;

9. the applicant shall also submit a standardized instruction sheet for the specific route to be approved;

10. both the standardized instruction sheet and the skills test route must be approved by OMV;

11. after the background check, if required, is completed and the applicant is approved to become a tester, the applicant shall be furnished with a contract which must be read and signed by the applicant and returned to DPS. After the contract is signed by departmental representatives, a certificate for the tester and a license for the examiners will be mailed to the school.

B. Each applicant for third party skills test examiner certification shall submit the following:

1. completed application for third party skills test examiner certification;

B.2. - C.8.b. …

c. A certificate of insurance in the company name, stating the company is currently insured and upon cancellation or expiration, the Training and Certification Unit of the Office of Motor Vehicles shall be notified. This certificate shall be from the issuing insurance carrier, not the agency:

i. the limits shall be $1,000,000 in general liability; and

ii. the limits shall be $500,000 in auto liability and identify (by description and vehicle identification number) the vehicle(s) covered;

d. a non-refundable fee of $50 for each location and $25 for each individual examiner certificate, in the form of a money order or a certified check made payable to DPS. Personal or business checks will not be accepted.

8.e. - 9. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1) and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1990 (August 2012), amended LR 40:

§157. General Regulations for Third Party Testers

A. General Regulations

1. Upon approval of the application, all third party testers shall execute a contract with DPS authorizing them to administer the knowledge and road skills test.

2. - 6. …

7. Effective August 1, 2014, private driving schools shall administer the knowledge examination for the Office of Motor Vehicles for classes beginning on that date or later.

8. At the end of the classroom course, the school shall administer a final test provided by OMV. Passing this test will waive the required knowledge testing by OMV.

9. All copies of prepared tests shall be kept under lock and key at all times. Any electronic copies of the test shall be password protected. Photocopies of the test shall be produced at the completion of the course and only in sufficient numbers for the enrolled students.

10. Any student who fails the final exam shall be allowed to re-test once the same day. If the student does not pass the test on the second attempt, the student may return any day thereafter and re-test twice each day until the test is successfully passed.

11. Testers and/or examiners who provide students with the answers to the test, while conducting tests on behalf of OMV, will have their license(s) revoked.

12. Testers and/or examiners teaching only material included on the test will have their license(s) revoked.

13. Testers and/or examiners who do not properly secure the tests at all times will have their license(s) revoked.

14. Testers and/or examiners who accept bribes to give a student a passing score without first passing the test will have their license(s) revoked.

15. The tester and/or examiner shall not assist a student to pass the final examination by any deceptive practices. Any tester or examiner who assists a student in this manner will have their license revoked.

16. Lost or stolen knowledge tests shall be reported to OMV immediately. If a theft or suspected theft has occurred, the local law enforcement shall also be notified and a police report sent to OMV immediately.

17. Schools are required to add information concerning the knowledge test/re-testing fees and replacement test procedures to the course specifications provided to students/parents for the students enrolled in the pre-licensing course and driver education course.

18. The tester and/or examiner shall not state or imply, that upon completion of the knowledge and/or road skills test, the securing of a driver's license is guaranteed or assured.

19. A DPS representative shall biennially take a road skills test administered by the licensed third party examiner or test a sample of drivers who were examined by the third party to compare pass/fail results.

20. A third party tester/examiner shall not administer the knowledge and/or road skills test until authorized to do so by DPS.

21. If at any time, a third party tester/examiner ceases to meet any requirement imposed by statute, the regulations, or the contract, the third party tester or the third party examiner shall immediately cease all testing.

22. Each student administered the knowledge and/or road skills test shall be notified, prior to testing, that he is subject to being re-tested by the Office of Motor Vehicles at any time.

23. Private driving schools may administer road skills tests to the general public. Authorized Secondary School Driver education program providers shall administer road skills tests only to students enrolled in his school or his driver education program.

24. All third party examiners shall submit to and receive approval from DPS of a test route for use in the administration of skills testing to driver applicants for each location approved by DPS. The route shall be different from the routes used during any eight hour behind the wheel training.

B. - B.3. …

4. If the student loses the original OMV test, the school shall re-test the student. A re-test fee may be charged up to $40.

C. Safety and Insurance

1. The school may provide vehicles available for rent for the road skills test.

2. A certificate of insurance in the company name, stating the company is currently insured and upon cancellation or expiration, the Training and Certification Unit of the Office of Motor Vehicles shall be notified. This certificate shall be from the issuing insurance carrier, not the agency.

a. the limits shall be $1,000,000 in general liability; and,

b. the limits shall be $500,000 in auto liability and identify (by description and vehicle identification number) the vehicle(s) covered.

3. If the school is covered under a fleet policy and desires to add another vehicle to its fleet, it shall advise the insurance company to notify DPS, in writing, that this vehicle (specifying the make, model and vehicle identification number) has been added.

4. The examiner may refuse to administer the test at any time he determines the condition of the applicant, roads or weather to be unsafe.

D. - D.1. …

2. A third party tester shall not issue a certificate to a person who has not successfully completed the approved road skills test.

3. - 4. …

E. Test Preparation Policies—Knowledge Tests

1. The school shall administer the knowledge test for a driver's license/permit at the end of the classroom portion of the driver education course or pre-licensing course.

2. Each student who is administered the final knowledge test, shall be notified, prior to testing that he is subject to being re-tested by the Office of Motor Vehicles at any time.

3. Schools may charge students for administering the knowledge test. The fee for the knowledge test administration shall not exceed $40 for each re-test.

4. Schools shall offer re-tests until a student has successfully passed the test, as long as the student, or parent/guardian in the case of a minor, has paid for the re-test.

5. Schools shall not require a student who has successfully completed and paid for the driver's education course to pay for the course again in the event a re-test is necessary.

F. Test Preparation Policies—Road Skills Test

1. Each applicant shall be required to present proof of identity (birth certificate, social security card or state issued credentials). A completed Test History form will be required if the knowledge test was administered by OMV.

2. The legal custodial/domiciliary parent/guardian of an applicant under the age of 18 shall sign a consent statement, provide proper identification and provide proof that he or she is the legal custodial/domiciliary parent/guardian.

3. All applicants shall sign the disclosure of terms form supplied by OMV. If the applicant is under the age of 18, the legal custodial/domiciliary parent/guardian shall also sign. This form shall be kept in the files.

4. The fee for a road skills tests shall not exceed $40. This shall cover all expenses including the cost of the original and one additional copy of the road skills test certificate provided to each applicant.

5. A copy of the certificate shall be placed in the applicant's file and maintained by the tester for a minimum of five years from the date of the test.

6. Only examiners which are certified adaptive driver trainers shall administer road skills tests to applicants that require adaptive equipment, including bioptic telescopic lenses.

G. Test Administration Policies—Knowledge Test

1. The classroom instructor shall ensure that students seated next to each other have different versions of the test.

2. The completed test(s) shall be placed in a sealed envelope for surrender to OMV at the time of license application.

H. Test Administration Policies—Road Skills Test

1. Only examiners who have been approved and certified by DPS shall administer road skills tests.

2. Only the applicant, examiner, examiner's supervisor, DPS representative, or interpreter, if necessary, are allowed in the vehicle when a road skills test is being administered.

3. Each driving course layout shall include (as a minimum) the following for scoring purposes:

a. two stop signs (one with an obstructed view, if possible);

b. two traffic lights;

c. two lane changes;

d. two intersections, without a turn;

e. two reversal procedures--options:

i. into and out of a parking space;

ii. three point turn.

f. three left turns, one of which includes a left turn onto a multiple-lane roadway;

g. three right turns, one of which includes a right turn onto a multiple-lane roadway;

h. one parking maneuver.

4. During the administration of the road skills test, each third party examiner shall measure the performance of the applicant in each of the following operational skills:

a. observing;

b. communicating;

c. speed adjustment;

d. vehicle positioning;

e. time and space judgment;

f. hazard perception.

5. Standardized instructions shall be utilized when conducting a road skills test.

6. Approved scoring criteria shall be standardized, as determined and approved by DPS. When using a vehicle

with a dual brake, it shall be an automatic failure of the test if the examiner has to use the brake for any reason.

I. Suspension, Revocation and Penalty Assessment

1. All regulations outlined in this Chapter shall be adhered to by the school and its employees. DPS may suspend or revoke any third party tester certification or examiner license issued under these rules and regulations upon discovery of satisfactory evidence of violations. If the violation involves the owner of the school or other management staff, then the driving school will be assessed penalties or the license may be suspended or revoked. If the violation involves the instructor, then the instructor may be fined or the instructor's license may be suspended or revoked, depending on the nature of the violation. Fines may be assessed up to $500. If the fine is not paid, the license shall be revoked.

2. Any third party tester/examiner whose certification or license is denied, suspended, or revoked, or who was assessed a fine shall have the right to appeal the action in the same manner as provided in §151, Regulations for All Driver Education Providers, Subsection D.

J. Secondary driving schools are not required to administer the road skills or knowledge test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 32:408.1, and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1990 (August 2012), amended LR 38:3235 (December 2012), amended LR 40:

Subchapter C. Third Party Knowledge and Skills Testing for Class "D" and "E"

§185. Eligibility, Application, Contract

A. - A.5. …

6. an examiner shall meet all requirements for a behind the wheel instructor LAC 55:III.145.C;

7. not be convicted of any crime enumerated in R.S. 15:587.1(C) (the Child Protection Act).

B. …

C. All contracts shall have a term of two years. Contracts shall be renewed by December 31 on the year stated. If the completed application including all fees is not received by December 31, the contract shall expire.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408 and R.S. 32:408.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1928 (November 2001), amended LR 40:

§187. Compliance

A. …

B. A third party tester and a third party examiner shall not begin administering the written knowledge test or skills test until authorized to do so by the department.

C. …

D. All third party examiners shall grant to any authorized personnel of the Department of Public Safety and Corrections the right to conduct random examinations, inspections, or audits of the records, premises, and equipment of the third party tester and the third party examiner without prior notice during business hours for compliance. Personnel of the Department of Public Safety and Corrections shall at least biennially take the tests actually administered by third party examiners as if the employee were a test applicant, or the department shall at least biennially test a sample of drivers who were examined by the third party examiner to compare pass/fail results.

E. - F.2. …

3. the date each test was administered;

4. the score obtained by the applicant;

5. the score sheets for each test conducted;

6. the name and address and certificate number of the third-party examiner administering said tests; and

7. the make/model/license plate number of any vehicle used to conduct the testing.

G. …

1. a copy of the examiner's license issued by the State of Louisiana, Department of Public Safety;

2. - 4. …

H. …

I. Third party testers and third party examiners shall not charge a driver/applicant a fee for the administering of the knowledge and skills test in excess of $40.

J. - M. …

N. Third party testers and third party examiners shall maintain a minimum limit of automobile liability insurance coverage of $500,000 per occurrence in connection with the skills test. Third party testers and third party examiners shall also maintain a minimum general liability policy of $1,000,000 per occurrence. These policies shall provide primary coverage to the state of Louisiana, the department, and the department's employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408 and R.S. 32:408.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1928 (November 2001), amended LR 29:604 (April 2003), LR 40:

Jill P. Boudreaux
Undersecretary

1409#054

DECLARATION OF EMERGENCY

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 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), since effective August 1, 2014, every private driving school is required 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, in accordance with R.S. 40:1462. It is necessary to adopt these Emergency Rules to have this order in place until the corresponding permanent rules 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 September 15, 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 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:

§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:

Jill P. Boudreaux
Undersecretary

1409#055

DECLARATION OF EMERGENCY

Department of Revenue
Office of the Secretary

Louisiana Tax Delinquency Amnesty Act of 2014
(LAC 61:I.4915)

The Department of Revenue, Office of the Secretary, is exercising the provisions of the Administrative Procedure Act, R.S. 49:953(B) to adopt this emergency rule pertaining to the Louisiana Tax Delinquency Amnesty Act of 2014 (Acts 2014, No. 822) in accordance with the provisions of R.S. 47:1511. The rule is needed to provide guidelines for implementing and administering installment plans for the 2014 Louisiana Tax Delinquency Amnesty Program. The Emergency Rule shall be effective October 1, 2014, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

The Department of Revenue has established a Tax Amnesty Program, hereinafter referred to as "Amnesty Program", beginning October 15, 2014 and ending November 14, 2014. The Amnesty Program shall apply to all taxes administered by the department except for motor fuel, prepaid cell phone sales tax, oil field restoration-oil, oil field restoration-gas, inspection and supervision fee and penalties for failure to submit information reports that are not based on an underpayment of tax. Amnesty will be granted only for eligible taxes to eligible taxpayers who apply for amnesty during the amnesty period on forms prescribed by the secretary and who pay or enter into an installment agreement for all of the tax, half of the interest due, all fees and costs, if applicable, for periods designated on the amnesty application. The amnesty application may include issues or eligible periods that are not in dispute. The secretary reserves the right to require taxpayers to file tax returns with the amnesty application. If the amnesty application is approved, the secretary shall waive the remaining half of the penalties and the remaining half of the interest associated with the tax periods for which amnesty is applied.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 49. Tax Collection
§4915. Louisiana Tax Delinquency Amnesty Act of 2014

A. Taxpayers' application to make installment payments of a delinquent tax and its interest, penalties, and fees shall, upon approval by the secretary, enter the taxpayer into an installment agreement. In order to continue in the Amnesty Program, the taxpayer must make complete and timely payments of all installment payments. For the payment to be considered timely, all installment payments must be received no later than May 1, 2015.

B. All installment agreements approved by the Secretary shall require the taxpayer to provide a down payment of no less than twenty percent of the total amount of delinquent tax, penalty, interest, and fees owed to the department at the time the installment agreement is approved by the secretary. Field audit and litigation are not eligible to enter into an installment agreement.

C. Every installment agreement shall include fixed equal monthly payments that shall not extend for more than six months. Applicants seeking to enter into an installment agreement with the department shall provide the following information:

1. bank routing number;
2. bank account number; and
3. Social Security number or LDR account number.

D. An installment payment will only be drafted from an account from which the taxpayer is authorized to remit payment. All payments shall be drafted through electronic automated transactions initiated by the department.

Taxpayers who cannot enter into an agreement to make payment by way of automated electronic transactions shall not be eligible for an installment agreement with the department.

E. If for any reason a taxpayer subject to an installment agreement fails to fulfill his obligation under the agreement by remitting the last installment by May 1, 2015, no amnesty shall be granted and the installment agreement shall be null and void. All payments remitted to the department during the duration of the voided installment agreement shall be allocated to the oldest outstanding tax period as a regular payment. The payment will be applied in the following order: tax, penalty and interest. The taxpayer shall be obligated to pay the entirety of the delinquent tax, along with all applicable interest, penalties, and fees.

F. A taxpayer who is approved to participate in the Amnesty Program who is also a party to an existing installment agreement with the department may be eligible to participate in an installment agreement under the Amnesty Program. Upon approval by the secretary of an installment agreement under the amnesty program, the original installment agreement with the department shall be cancelled in favor of the installment agreement under amnesty.

G. The Secretary may procure Tax Amnesty Program collection services for the administration and collection of installment agreements. The fee for such services shall be in accordance with the fees authorized in R.S. 47:1516.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47: 1511 and Acts 2014, No. 822.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 40:

Tim Barfield
Secretary

1409#106

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Greater Amberjack Commercial Season Closure

The commercial season for the harvest of greater amberjack in Louisiana state waters will close effective 12:01 a.m. on August 25, 2014. The Secretary has been informed that the commercial season for greater amberjack in the Federal waters of the Gulf of Mexico off the coast of Louisiana will close at 12:01 a.m. on August 25, 2014, and will remain closed until 12:01 a.m. January 1, 2015.

In accordance with the provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use seasonal rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary of the Department by the Commission in in LAC 76:VII.335.G.5 to modify opening and closing dates of any commercial or recreational reef fish seasons in Louisiana state waters when he is informed by the Regional Administrator of NOAA Fisheries that the seasons have been closed in adjacent Federal waters or as he deems necessary, and that NOAA Fisheries requests that the seasons be modified in Louisiana State waters, the Secretary hereby declares:

The commercial fishery for greater amberjack in Louisiana waters will close at 12:01 a.m. on August 25, 2014, and remain closed until 12:01 a.m., January 1, 2015. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell greater amberjack whether within or without Louisiana waters. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing greater amberjack taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

The Secretary has been notified by NOAA Fisheries that the commercial greater amberjack season in Federal waters of the Gulf of Mexico will close at 12:01 a.m. on August 25, 2014, and the season for commercial harvest will remain closed until 12:01 a.m. January 1, 2015. Having compatible season regulations in State waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of the species in the long term.

Robert Barham
Secretary

1409#010

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: Those State waters in the Birdsfoot delta of the Mississippi River north of 28 degrees 56 minutes 30 seconds north latitude and south of 28 degrees 59 minutes 30 seconds north latitude from the eastern shore of Southwest Pass of the Mississippi River eastward to a line beginning at 28 degrees 59 minutes 30 seconds north latitude and -89 degrees 19 minutes 50 seconds west longitude and ending at 28 degrees 56 minutes 30 seconds north latitude and -89 degrees 23 minutes 00 seconds west longitude; and, those waters north of 29 degrees 02 minutes 00 seconds north latitude and south of 29 degrees 02 minutes 20 seconds north latitude from the western shore of South Pass of the Mississippi River westward to -89 degrees 15 minutes 25 seconds west longitude; and, those waters north of 28 degrees 59 minutes 40 seconds north latitude and south of 29 degrees 02 minutes 00 seconds north latitude from the

western shore of South Pass of the Mississippi River westward to -89 degrees 15 minutes 25 seconds west longitude and southeastward along a line beginning at 29 degrees 02 minutes 00 seconds north latitude and -89 degrees 15 minutes 25 seconds west longitude and ending at 28 degrees 59 minutes 40 seconds north latitude and -89 degrees 10 minutes 15 seconds west longitude; and, those waters west of the western shore of South Pass of the Mississippi River south of 28 degrees 59 minutes 40 seconds north latitude bounded by the following coordinates: 1) 28 degrees 59 minutes 15 seconds north latitude and -89 degrees 08 minutes 15 seconds west longitude, 2) 28 degrees 58 minutes 20 seconds north latitude and -89 degrees 10 minutes 00 seconds west longitude, 3) 28 degrees 59 minutes 01 seconds north latitude and -89 degrees 11 minutes 00 seconds west longitude, 4) 28 degrees 59 minutes 40 seconds north latitude and -89 degrees 10 minutes 15 seconds west longitude; and, those waters east of the eastern shore of South Pass of the Mississippi River and south of 29 degrees 01 minutes 50 seconds north latitude eastward to a line beginning at 29 degrees 01 minutes 50 seconds north latitude and -89 degrees 07 minutes 20 seconds west longitude and ending at 28 degrees 59 minutes 35 seconds north latitude and -89 degrees 08 minutes 00 seconds west longitude; and, those waters adjacent to Northeast Pass and Southeast Pass of the Mississippi River and bounded by the following coordinates: 1) 29 degrees 08 minutes 35 seconds north latitude and -89 degrees 04 minutes 20 seconds west longitude, 2) 29 degrees 08 minutes 15 seconds north latitude and -89 degrees 02 minutes 10 seconds west longitude, 3) 29 degrees 04 minutes 50 seconds north latitude and -89 degrees 04 minutes 10 seconds west longitude, 4) 29 degrees 05 minutes 30 seconds north latitude and -89 degrees 05 minutes 10 seconds west longitude; and, those waters south and west of Pass a Loutre of the Mississippi River and east of -89 degrees 05 minutes 35 seconds west longitude bounded by the following coordinates: 1) 29 degrees 11 minutes 25 seconds north latitude and -89 degrees 03 minutes 30 seconds west longitude, 2) 29 degrees 11 minutes 00 seconds north latitude and -89 degrees 02 minutes 25 seconds west longitude, 3) 29 degrees 09 minutes 00 seconds north latitude and -89 degrees 05 minutes 35 seconds west longitude, 4) 29 degrees 11 minutes 00 seconds north latitude and -89 degrees 05 minutes 35 seconds west longitude; and, those waters south of North Pass of the Mississippi River bounded by the following coordinates: 1) 29 degrees 11 minutes 35 seconds north latitude and -89 degrees 02 minutes 55 seconds west longitude, 2) 29 degrees 12 minutes 35 seconds north latitude and -89 degrees 01 minutes 05 seconds west longitude, 3) 29 degrees 11 minutes 35 seconds north latitude and -89 degrees 01 minutes 10 seconds west longitude, 4) 29 degrees 11 minutes 10 seconds north latitude and -89 degrees 02 minutes 00 seconds west longitude; and, those state inside waters in the upper Barataria Basin north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 29 minutes 00 seconds north latitude from -89 degrees 50 minutes 00 seconds west longitude westward to -89 degrees 57 minutes 00 seconds west longitude except for those waters extending a distance of 100 yards from any shoreline; and, those state inside and outside waters adjacent to Grand Terre Island bounded by the following coordinates: 1) 29 degrees 18 minutes 20 seconds north latitude and -89 degrees 54 minutes 50 seconds west longitude, 2) 29 degrees 17 minutes 10 seconds north latitude and -89 degrees 53 minutes 50 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude and -89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 00 seconds north latitude and -89 degrees 57 minutes 20 seconds west longitude except for those 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 one-half mile from the shoreline inland 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 one-half mile from the shoreline inland a distance of one-quarter mile from the shoreline 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. Those state inside waters in the upper Barataria Basin north of 29 degrees 26 minutes 00 seconds north latitude and south of 29 degrees 29 minutes 00 seconds north latitude from -89 degrees 50 minutes 00 seconds west longitude westward to -89 degrees 57 minutes 00 seconds west longitude except for those waters extending a distance of 100 yards from any shoreline; and, those state inside and outside waters adjacent to Grand Terre Island bounded by the following coordinates: 1) 29 degrees 18 minutes 20 seconds north latitude and -89 degrees 54 minutes 50 seconds west longitude, 2) 29 degrees 17 minutes 10 seconds north latitude and -89 degrees 53 minutes 50 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude and -89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 00 seconds north latitude and -89 degrees 57 minutes 20 seconds west longitude except for those 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 one-half mile from the shoreline inland 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 one-half mile from the shoreline inland a distance of one-quarter mile from the shoreline 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 August 4, 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

1409#010

Rules

RULE

Department of Children and Family Services
Division of Programs
Licensing Section

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

The Department of Children and Family Services (DCFS), Division of Programs, Licensing Section, in accordance with provisions of the Administrative Procedure Act, R.S. 49:953(A), has amended LAC 67:III, Subpart 21, Child Care Licensing, Chapter 73, Sections 7302, 7317, 7355, and 7372.

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

This action was made effective by an Emergency Rule dated and effective March 12, 2014.

Title 67
SOCIAL SERVICES
Part III. Economic Stability
Subpart 21. Child Care Licensing
Chapter 73. Day Care Centers
Subchapter A. Licensing Class "A" Regulations for Child Care Centers

§7302. Authority

A. - I.2. ...

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1107 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2755 (December 2007), amended LR 36:332 (February 2010), LR 36:847 (April 2010), amended by the Department of Children and Family Services, Division of Programs, LR 37:811 (March 2011), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013), LR 40:243 (February 2014), effective March 1, 2014, LR 40:1674 (September 2014).

§7317. Supervision

A. - D. ...

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

F. - H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 20:450 (April 1994), LR 24:2345 (December 1998), LR 29:1116 (July 2003), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2764 (December 2007), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:252 (February 2014), effective March 1, 2014, LR 40:1674 (September 2014).

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

§7355. Authority

A. - I.2. ...

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 18:970 (September 1992), LR 26:1635 (August 2000), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2770 (December 2007), amended LR 36:333 (February 2010), LR 36:849 (April 2010), amended by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 39:66 (January 2013), LR 40:254 (February 2014), effective March 1, 2014, LR 40:1674 (September 2014).

§7372. Supervision

A. - D. ...

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

F. - H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 40:263 (February 2014), effective March 1, 2014, amended LR 40:1674 (September 2014).

Suzy Sonnier
Secretary

1409#051

RULE

Department of Children and Family Services
Economic Stability Section

Family Independence Temporary Assistance Program (FITAP) and Strategies to Empower People (STEP) Program (LAC 67:III.1213, 1229 and Chapter 57)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953(A), the Department of Children and Family Services (DCFS) has amended LAC 67:III, Subpart 2, Family Independence Temporary Assistance Program (FITAP), Chapter 12, Subchapter A, Section 1213 and Subchapter B, Section 1229; and Subpart 16, Strategies to Empower People (STEP) Program, Chapter 57, Subchapter A, Sections 5703, 5705, and 5707, Subchapter B, Sections 5709, 5713, 5715, and 5717, and Subchapter C, Sections 5719, 5721, 5723, 5725, 5727, and 5729.

Sections 1213 and 1229 have been amended to provide clarification of program requirements.

Sections 5703, 5705, 5707, 5709, 5713, 5715, 5717, 5719, 5721, 5723, 5725, and 5729 have been amended to provide clarification of administration of the program, of availability, coordination, and provision of employment services for work-eligible FITAP recipients, and of program requirements. Section 5727 has been repealed.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) Block Grant, the department considers these amendments necessary to address changes in revised statutes as amended by Act 285 of the 2013 Regular Session, to add clarification, and to facilitate the expenditure of TANF funds.

Title 67
SOCIAL SERVICES
Part III. Economic Stability
Subpart 2. Family Independence Temporary Assistance Program
Chapter 12. Application, Eligibility, and Furnishing Assistance
Subchapter A. Application, Determination of Eligibility, and Furnishing Assistance

§1213. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to, time limits on receipt of assistance; work, training, or educational requirements; limitations on TANF assistance to noncitizens; child support or paternity establishment cooperation requirements; residency requirements; and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse. However, a victim of domestic violence shall develop a plan that specifies the necessary actions, goals, and services that may enable the victim to become free of a domestic violence situation.

B. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 36:474 and R.S. 46:231.1.B, Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2447 (December 1999), amended LR 30:494 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1675 (September 2014).

Subchapter B. Conditions of Eligibility

§1229. Income

A. - A.32. ...

B. Need Standards Deduction. This deduction as described in §1229.F.3.b is applied to the income of an alien sponsor when determining eligibility and benefits of an alien.

1. The need standards are as follows.

Size of Household	Current Need Standard
1	$245
2	472
3	658
4	809
5	955
6	1,089
7	1,217
8	1,347
9	1,471
10	1,595
11	1,731
12	1,870
13	2,005
14	2,146
15	2,291
16	2,444
17	2,564
18	2,727

B.2. - E. ...

F. Income of Alien Sponsors

1. - 1.b. ...

2. The department has opted not to apply the deeming rule of 42 U.S.C. 608 in determining the eligibility and benefits of non-213A aliens.

3. The gross countable income of a sponsor and the sponsor's spouse shall be deemed to be the unearned income of an alien minus the following deductions:

a. 20 percent of the total earned income not to exceed $175;

b. The appropriate need standard amount for the sponsor, spouse, and any other persons living in the home whom the sponsor claims or could claim as a dependent for federal income tax purposes;

c. Total amounts the sponsor or spouse pays to anyone not living in the household but whom the sponsor or spouse claims or could claim as a dependent for federal income tax purposes; and

d. Total verified alimony or child support the sponsor or spouse pays to persons not living in the household.

G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq. and 10602(c), R.S. 36:474, R.S. 46:231.1.B., R.S. 46:231.2, P.L. 108-447, Act 16, 2005 Reg. Session, 7 CFR 273.2, (j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:2449 (December 1999), amended LR 26:1342 (June 2000), LR 26:2831 (December 2000), LR 31:2956 (November 2005), LR 32:1616 (September 2006), LR 32:1912 (October 2006), LR 34:2678 (December 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2524 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1675 (September 2014).

Subpart 16. Strategies to Empower People (STEP) Program

Chapter 57. Strategies to Empower People (STEP) Program

Subchapter A. Designation and Authority of State Agency

§5703. Program Administration

A. The Department of Children and Family Services (DCFS) shall develop, implement, and administer STEP as the employment program for work-eligible recipients of the Family Independence Temporary Assistance Program (FITAP) in accordance with the provisions of the Federal Welfare Reform Act and make available to eligible FITAP recipients the allowable work, training, and education activities of the STEP Program.

B. Prior to receipt of FITAP, a work-eligible participant shall be notified in writing of program expectations and participant responsibilities. When possible, notification may be delivered via e-mail or other electronic means, and notification delivered in this manner shall be deemed to satisfy the written notification requirement established in this Chapter.

C. DCFS shall collaborate with the Louisiana Workforce Commission (LWC) to identify and coordinate employment services for the program. Employment services shall be delivered pursuant to performance-based contracts between the department and LWC, other government agencies, or any community partner.

D. ...

E. The secretary shall provide workers' compensation and liability insurance coverage for participants engaged in work experience or community service activities.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:497 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1676 (September 2014).

§5705. Definitions

Family Assessment—consists of an initial employability assessment and a comprehensive assessment if needed:

1. initial employability assessment is designed to determine the applicant's level of employability, immediate needs, and family circumstances during the application process;

2. comprehensive assessment is conducted once the applicant is certified for eligibility if needed and may include but is not limited to workplace literacy, basic skills and educational attainment, interests and aptitude related to employment, barriers to employment, need for education, supportive services such as child care and transportation, and other supportive services. Specialized assessments can occur for issues that arise after an initial assessment has been completed and could include substance abuse, domestic violence, mental health screening, or others as determined by the department.

Family Success Agreement (FSA)—the mutually developed contract between a Family Independence Temporary Assistance Program (FITAP) recipient, on behalf of their family, and the department that sets forth mutual and time-bound responsibilities, expectations, activities, and goals designed to transition the family from receipt of FITAP to self-sufficiency.

Family Transition Assessment (FTA)—Repealed.

* * *

Temporary Exception—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session; Act 110, 2004 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:497 (March 2004), amended LR 31:103 (January 2005), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1676 (September 2014).

§5707. Domestic Violence

A. The secretary shall waive, for as long as necessary, pursuant to a determination of good cause, any public assistance program requirement that will create obstacles for a victim of domestic violence to escape a domestic violence situation, including but not limited to time limits on receipt of assistance, work, training or educational requirements, limitations on TANF requirements, residency requirements, and any other program requirements which will create obstacles for such victim to escape violence or penalize that victim for past, present, and potential for abuse. However, a victim of domestic violence shall develop a plan that specifies the necessary actions, goals, and services that may enable the victim to become free of a domestic violence situation.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:498 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1676 (September 2014).

Subchapter B. Participation Requirements

§5709. School Attendance

A. Work-eligible FITAP recipients, in order to ensure appropriate child development, educational attainment, and school attendance for each minor child included in the assistance unit, shall agree in the family success agreement (FSA) to actively participate in their child's education through parent-teacher conferences, homework assistance, or other activities.

B. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:498 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1676 (September 2014).

§5713. Work Activities

A. Work-eligible recipients shall participate in appropriate work activities for the minimum number of hours specified by federal law as agreed upon in the FSA. Appropriate work activities may include but are not limited to:

1. subsidized or unsubsidized employment;
2. unpaid work experience;
3. on-the-job training;
4. job search;
5. job readiness;
6. vocational education;
7. attendance in secondary school for those individuals who have not graduated from high school;
8. participation in GED or basic skills training;
9. employment-related education;
10. job skills training;
11. community service; and
12. the provision of child care to an individual who is participating in community service.

B. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:498 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1677 (September 2014).

§5715. Good Cause

A. A work-eligible applicant or recipient of cash assistance shall immediately participate in work activities for the minimum number of hours per week required by federal law unless one of the following good cause reasons applies:

1. Appropriate child care is unavailable within a reasonable distance from the participant's home or worksite after efforts have been made, and assistance has been offered, to secure child care.

2. Appropriate transportation is:

a. unavailable and the participant's home or worksite are not within a reasonable walking distance, or

b. available but is cost prohibitive.

3. Situations Related to Domestic Violence. Any participant that receives a good cause exception related to domestic violence shall complete a plan that specifies the necessary actions, goals, and services that may enable the victim to become free of the violence.

4. Situations related to the treatment of a mental or physical illness, including substance abuse treatment, where there is verification that participation in required activities would impair a treatment plan of a mental health or medical professional.

5. Temporary, short-term illness, or the temporary care of a family member who is ill, as documented by a medical professional.

6. Temporary emergency crisis, such as homelessness, fire, accident, dislocation due to natural causes, hurricane, flood, or similar circumstances that can be substantiated.

B. Participants who are granted good cause shall be informed that this time is counted against their federal 60-month time limit and state 24-month time limit for receipt of cash assistance.

C. When good cause is granted, the basis for good cause shall be re-evaluated every six months to determine if good cause continues to exist.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session; Act 110 and Act 675, 2004 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:498 (March 2004), amended LR 31:103 (January 2005), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1677 (September 2014).

§5717. Sanctions

A. Sanctions shall be used as a last resort to inform participants that they have not met the expectations set forth in the FSA. Participants shall be sanctioned for the following violations:

1. failure of a work-eligible, minor parent with a child who has not yet received a high school diploma or its equivalent, to attend school or related education classes designed to obtain a high school diploma or its equivalent;

2. failure of a public assistance recipient who is pregnant or has a child under age one to attend parenting education and other training conducive to the unique needs of new parents;

3. failure of work-eligible families to meet the required employment and education activities for the minimum number of hours without good cause, as specified in the FSA; or

4. failure of work-eligible families to meet other requirements such as but not limited to immunization, cooperation with support enforcement services, compliance with substance abuse screening, testing, treatment, etc., as specified in the FSA.

B. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:499 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1677 (September 2014).

Subchapter C. STEP Program Process

§5719. Family Assessment

A. A family assessment shall be completed on all FITAP/STEP applicants in order to assist the worker in identifying family strengths, weaknesses, opportunities and barriers as well as determining programs that the applicants will need to become self-sufficient.

B. The family assessment may be created, sent, signed, or stored by electronic means.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:499 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1677 (September 2014).

§5721. Job Readiness

A. A work-eligible applicant of FITAP shall register for work with the Louisiana Workforce Commission (LWC). Registration for work shall be documented as a condition for certification of eligibility for FITAP. The applicant shall receive an initial employability assessment designed to determine their level of employability, immediate needs, and family circumstances.

B. DCFS will ensure job readiness services are provided through other state partners or through performance-based contracts.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:499 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1678 (September 2014).

§5723. Comprehensive Assessment

A. Once the applicant is certified for eligibility, a comprehensive assessment shall be conducted if needed and may include but is not limited to workplace literacy, basic skills and educational attainment, interests and aptitude related to employment, barriers to employment, need for education, supportive services such as child care and transportation, and other supportive services.

B. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:499 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1678 (September 2014).

§5725. Family Success Agreement (FSA)

A. Upon determination of eligibility and after completion of the comprehensive assessment if needed, work-eligible participants shall enter into a contractual agreement, known as the family success agreement (FSA), with the department. The FSA will specify:

1. the client's time-bound goals, responsibilities, and work activity participation; and

2. the department's obligation to provide necessary supportive services, assessments, notifications, information, and case management.

B. The FSA shall be updated at least every six months or as the client's needs, goals, barriers, and family circumstances change. It shall be the responsibility of the participant to inform the department or its representative of these changes.

C. The family success agreement may be created, sent, signed, or stored by electronic means. The electronic version of the Family Success Agreement is known as the Case Plan.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:500 (March 2004), amended by the Department of Children and Family Services, Economic Stability Section, LR 40:1678 (September 2014).

§5727. Family Transition Assessment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session; Act 110 and Act 675, 2004 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:500 (March 2004), amended LR 31:103 (January 2005), LR 33:1686 (August 2007), repealed by the Department of Children and Family Services, LR 40:1678 (September 2014).

§5729. Support Services

A. - A.7. ...

B. Support services may be provided to:

1. persons participating in the family assessment;

2. persons referred by the department to other activities, such as drug counseling, prior to their participation in a work activity;

B.3. - C.2. ...

D. The department shall inform participants of available supportive services as part of the initial family assessment and shall integrate the provision of any necessary supportive services to the family success agreement developed and signed by the department and the participant.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:231, R.S. 46:460, and Act 58, 2003 Reg. Session, ACYF-IM-CC-05-03.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 30:500 (March 2004), amended LR 32:2098 (November 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 38:1391 (June 2012), LR 40:1678 (September 2014).

Suzy Sonnier
Secretary

1409#050

RULE

Department of Civil Service
Board of Ethics

Food and Drink Limit (LAC 52:I.1703)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil Service, Louisiana Board of Ethics, has amended the rules for the Board of Ethics to bring the rules into compliance with current statutory provisions and section 1115.1C of the *Code of Governmental Ethics*.

Title 52
ETHICS
Part I. Board of Ethics
Chapter 17. Code of Governmental Ethics

§1703. Food and Drink Limit

A. In accordance with R.S. 42:1115.1(C), beginning on July 1, 2014, the limit for food, drink or refreshments provided in R.S. 42:1115.1(A) and (B) is $58.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1115.1.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:304 (February 2010), amended LR 36:1466 (July 2010), LR 38:1951 (August 2012), LR 39:3062 (November 2013), LR 40:1678 (September 2014).

Kathleen M. Allen
Ethics Administrator

1409#009

RULE

Department of Culture, Recreation, and Tourism
Office of Cultural Development
Division of Historic Preservation

Application Fees for the State
Commercial Tax Credit Program
(LAC 25:I.Chapter 13)

The Department of Culture, Recreation and Tourism, Office of Cultural Development, Division of Historic Preservation, in accordance with R.S. 47:6019 and with the Administrative Procedure Act, R.S. 49:950 et seq., hereby adopts LAC 25:I.1301-03, State Commercial Tax Credit for Historic Buildings.

The purpose of this regulation is to define a sliding scale fee structure for state commercial tax credit applications submitted to the Division of Historic Preservation. The proposed regulation sets forth the fee schedule, discusses definitions relating to the fee structure, and provides the circumstances under which a fee must be submitted.

Title 25
CULTURAL RESOURCES
Part I. Office of Cultural Development
Chapter 13. State Commercial Tax Credit for Historic Buildings

§1301. Definitions

A. The following definitions shall apply for purposes of this Chapter, unless specifically defined otherwise.

Application—the three-part state commercial tax credit for historic buildings application, which consists of: part 1—certification of contributing status; part 2—proposed work description; and, part 3—request for project certification.

Credit Amount—the dollar amount of credit earned.

Division—the Louisiana Division of Historic Preservation.

Qualified Rehabilitation Expenditures (QREs)—eligible costs and expenses as defined in section 47c(2)(A) of the *Internal Revenue Code* of 1986, as amended.

Rehabilitation—the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those aspects of the building, its site, and environment that are significant to its historic, architectural, and cultural values, as determined by the division.

AUTHORITY NOTE: Promulgated in accordance with Revised Statute 47:6019.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of Cultural Development, Division of Historic Preservation, LR 40:1679 (September 2014).

§1303. Fees

A. The Division of Historic Preservation shall charge an application fee for each rehabilitation project that is submitted. Application fees for a single rehabilitation project are as indicated.

Qualified Rehabilitation Expenditures (QREs)	Part 2 Fee, based on estimated QREs	Part 3 Fee, based on actual QREs
Up to $100,000	$250	None
$100,001 - $500,000	$250	1.5% of credit amount, minus Part 2 fee
$500,001 - $1 million	$500	1.5% of credit amount, minus Part 2 fee
$1,000,001 - $3 million	$1000	1.5% of credit amount, minus Part 2 fee
$3,000,001 - $6 million	$2000	1.5% of credit amount, minus Part 2 fee ($15,000 cap)
$6,000,001 - $15 million	$3500	1.5% of credit amount, minus Part 2 fee ($15,000 cap)
$15,000,001 +	$5,000	1.5% of credit amount, minus Part 2 fee ($15,000 cap)

B. A decision will not be issued on an application until the appropriate remittance is received, in a method determined by the division.

C. Fees are nonrefundable.

AUTHORITY NOTE: Promulgated in accordance with Revised Statute 47:6019.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of Cultural Development, Division of Historic Preservation, LR 40:1679 (September 2014).

Pamela Breaux
Assistant Secretary

1409#046

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for
School Administrators (LAC 28:CXV.2318)

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 College Diploma. The policy revisions delete unnecessary policy language.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 23. Curriculum and Instruction
Subchapter A. Standards and Curricula
§2318. The College Diploma

A. - C.2.j. …

k. - k.iv. Repealed.

3. - 6.a.vi. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, 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 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012),), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014).

Heather Cope
Executive Director

1409#022

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.243)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §243, PRAXIS Exams and Scores. The proposed policy will allow the adoption of new Praxis exams required for Louisiana teacher licensure.

Title 28
EDUCATION
Part CXXXI. Bulletin 746— Louisiana Standards for State Certification of School Personnel
Chapter 2. Louisiana Educator Preparation Programs
Subchapter D. Testing Required for Licensure Areas
§243. PRAXIS Exams and Scores

A. - A.2. …

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B. Content and Pedagogy Requirements

Certification Area	Name of Praxis Test	Content Exam Score	Pedagogy: Principles of Learning & Teaching		
			PLT K-6 (#0622 or 5622)	PLT 5-9 (#0623 or 5623)	PLT 7-12 (#0624 or 5624)
Early Childhood PK-3	Elementary Content Knowledge (0014 or 5014)	150	PLT: Early Childhood 0621 or 5621 (Score 157)		
Grades 1-5	Elementary Content Knowledge (0014 or 5014)	150	160	---	---
Grades 4-8 Mathematics	Middle School Mathematics (0069) Prior to 1/1/14 Middle School Mathematics (5169) Effective 1/1/14	148 165	---	160	---
Grades 4-8 Science	Middle School Science (0439) Prior to 6/8/14 Middle School Science (5440) Effective 6/8/14	150 150	---	160	---
Grades 4-8 Social Studies	Middle School Social Studies (0089 or 5089)	149	---	160	---
Grades 4-8 English/ Language Arts	Middle School English/Language Arts (0049 or 5049) Prior to 1/1/14 Middle School English (5047) Effective 1/1/14	160 164	---	160	---

C. Certification Areas

1. Grades 6-12 Certification

Grades 6-12 Certification Areas					
		Score			PLT 7-12
Agriculture	Agriculture (0700) Prior to 6/8/14 Agriculture (5701) Effective 6/8/14	510 147	---	---	157
Biology	Biology: Content Knowledge (0235 or 5235)	150	---	---	157
Business	Business Education: Content Knowledge (0101 or 5101)	154	---	---	157
Chemistry	Chemistry: Content Knowledge (0245 or 5245)	151			157
Chinese	Chinese (Mandarin): World Language (5665)	164	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		

Grades 6-12 Certification Areas					
		Score			PLT 7-12
English	English Language, Literature, and Composition: Content Knowledge (0041 or 5041) Pedagogy (0043) Prior to 1/1/14 English Language Arts: Content and Analysis (5039) Effective 1/1/14	160 130 168	---	---	157
Family and Consumer Sciences	Family and Consumer Sciences (0121 or 5121) Prior to 6/8/14 Family and Consumer Sciences (5122) Effective 6/8/14	141 153	---	---	157
French	French: World Language (5174)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
General Science	General Science: Content Knowledge (0435 or 5435)	156	---	---	157
German	German: World Language (5183)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
Mathematics	Mathematics: Content Knowledge (0061 or 5061) Effective 6/1/10-12/31/13 Mathematics: Content Knowledge (5161) Effective 1/1/14	135 160	---	---	157
Physics	Physics: Content Knowledge (0265 or 5265)	141			157
Social Studies	Social Studies: Content and Interpretation (0086 or 5086)	160	---	---	157
Spanish	Spanish: World Language (5195)	157	PLT7-12 (Score 157) until 6/30/13; After 6/30/13 World languages Pedagogy 0841 (Score 158)		
Speech	Speech Communications (0221 or 5221)	146	---	---	157
Technology Education	Technology Education (0051 or 5051)	159	---	---	157
Computer Science Earth Science Environmental Science Journalism Latin Marketing	At this time, a content area exam is not required for certification in Louisiana.	---	---	---	157

2. All-Level K-12 Certification

All-Level K-12 Certification Areas							
		Score	PLT K-6		PLT 5-9		PLT 7-12
Grades K-12 Art	Art: Content Knowledge (0134 or 5134)	159	160	or	160	or	157
Grades K-12 Dance	None Available**	---	160		160	or	157
Grades K-12 Foreign Languages	Chinese (Mandarin):World Language (5665)	164	PLT K-6 (Score 160) or PLT 5-9 (Score 160) or PL7-12 (Score 157) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)				
	French: World Language (5174)	157					
	German: World Language (5183)	157					
	Spanish: World Language (5195)	157					
Grades K-12 Music	Music: Content Knowledge (0113 or 5113)	151	160		160	or	157
Grades K-12 Health and Physical Education	Phys. Education: Content Knowledge (0091 or 5091) Prior to 6/8/14 Health and Physical Education (5857) Effective 6/8/14	146 160	160	or	160	or	157

**At this time, a content area exam is not required for certification in Louisiana.

D. - E. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014).

Heather Cope
Executive Director

1409#020

RULE

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators
(LAC 28:LXXIX.2102, 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 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators: §121, Emergency Planning and Procedures; §2109, High School Graduation Requirements; §2305, Art; §2313, English; §2317, Foreign Languages; §2319, Health and Physical Education; §2323, Mathematics; §2325, Music; §2329, Science; §2331, Social Studies; and §2337, Theatre Arts. The policy revisions align the high school courses required for the college diploma with the courses required for TOPS as listed in Act 359 of the 2013 Regular Session of the Legislature.

Title 28
EDUCATION
Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Programs of Study

Chapter 21. Curriculum and Instruction

Subchapter A. General

§2102. Carnegie Credit and Credit Flexibility

A. - D. …

E. Students meeting the requirements for Carnegie credit based on proficiency shall have the course title, the year proficiency was demonstrated, grade earned, and the unit of credit earned entered on their transcript.

1. School systems shall determine whether to award the letter grade earned on the proficiency assessment(s) or a P (pass) when a student demonstrates proficiency.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1444 (June 2013), amended LR 40:276 (February 2014), LR 40:1682 (September 2014).

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. Beginning with incoming freshmen in 2009-2010, all ninth graders will be enrolled in the Louisiana Core 4 Curriculum.

1. After the student has attended high school for a minimum of two years, as determined by the school, the student, the student's parent, guardian, or custodian may request that the student be exempt from completing the Louisiana Core 4 Curriculum.

2. The following conditions shall be satisfied for consideration of the exemption of a student from completing the Louisiana Core 4 Curriculum.

a. The student, the student's parent, guardian, or custodian and the school counselor (or other staff member who assists students in course selection) shall meet to discuss the student's progress and determine what is in the student's best interest for the continuation of his educational pursuit and future educational plan.

b. During the meeting, the student's parent, guardian, or custodian shall determine whether the student will achieve greater educational benefits by continuing the Louisiana Core 4 Curriculum or completing the Louisiana Core Curriculum.

c. The student's parent, guardian, or custodian shall sign and file with the school a written statement asserting their consent to the student graduating without completing the Louisiana Core 4 Curriculum and acknowledging that one consequence of not completing the Louisiana Core 4 Curriculum may be ineligibility to enroll in into a Louisiana four-year public college or university. The statement will then be approved upon the signature of the principal or the principal's designee.

3. The student in the Louisiana Core Curriculum may return to the Louisiana Core 4 Curriculum, in consultation with the student's parent, guardian, or custodian and the school counselor (or other staff member who assists students in course selection).

4. After a student who is 18 years of age or older has attended high school for two years, as determined by the school, the student may request to be exempt from completing the Louisiana Core 4 Curriculum by satisfying the conditions cited in Subparagraph 2.c with the exception of the requirement for the participation of the parent, guardian, or custodian, given that the parent/guardian has been notified.

C. For incoming freshmen in 2009-2010 through 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.

D. For incoming freshmen in 2009-2010 and beyond 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.

E. For incoming freshmen in 2014-2015 and beyond who are completing the Louisiana Core 4 Curriculum, the minimum course requirements shall be the following:

1. English—4 units:

a. English I;

b. English II;

c. one of the following:

i. English III;

ii. AP English language arts and composition;

iii. English III IB;

d. one of the following:

i. English IV;

ii. AP English literature and composition;

iii. English IV IB;

2. mathematics:

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. math methods I IB (mathematical studies SL);

vi. calculus;

vii. AP calculus AB;

viii. math methods II IB;

ix. AP calculus BC;

x. AP statistics;

xi. IB further mathematics HL;

xii. IB mathematics HL;

3. science—4 units:

a. biology I;

b. chemistry I;

c. 2 units chosen 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 II;

vi. one of:

(a). AP physics C: electricity and magnetism;

(b). AP physics C: mechanics;

(c). IB physics II;

vii. AP physics I and AP physics II;

viii. one of:

(a). biology II;

(b). AP biology;

(c). IB biology II;

4. social studies—4 units:

a. 1 unit chosen from:

i. U.S. history;

ii. AP U.S. history;

iii. IB U.S. history;

b. 1 unit chosen from:

i. 1 unit of civics with a section on free enterprise; or

ii. 1/2 unit of:

(a). government; or

(b). AP U.S. government and politics: comparative; or

(c). AP U.S. government and politics: United States; and

iii. 1/2 unit of:

(a). economics;

(b). AP macroeconomics; or

(c). AP microeconomics;

c. 2 units chosen from:

i. one of:

(a). European history;

(b). AP European history; or

(c). western civilization;

ii. one of:

(a). world geography;

(b). AP human geography; or

(c). IB geography; or

iii. one of:

(a). world history;

(b). AP world history;

(c). world history IB;

iv. history of religion;

v. IB economics;

5. foreign language—2 units:

a. 2 units from the same language;

6. art—1 unit chosen from the following:

a. art (§2333);

b. music (§2355);

c. dance (§2337);

d. theatre (§2369);

e. speech III and IV—one unit combined;

f. fine arts survey;

7. health and physical education—2 units;

8. electives—3 units;

9. total—24 units.

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 40:1682 (September 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 Studio 3-D Design	1
AP Art History	1
Fine Arts Survey	1
AP Studio Art: 2-D Design	1
AP Studio Art: 3-D Design	1
AP Studio Art: Drawing	1
Art Design III IB	1
Art Design IV IB	1

B. Fine Arts Survey (Art). Fine arts survey shall be taught by a qualified art teacher and the other semester by a qualified music teacher. If one or both of these teachers is not available, the principal is authorized to select the most qualified teacher, preferably one with a strong liberal arts or humanities background.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2353 (November 2003), amended LR 31:3085 (December 2005), LR 37:2143 (July 2011), LR 40:1684 (September 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	1
Reading II	1
English as a Second Language (ESL) I, II, III, and IV	1 each
AP English Language Arts and Composition	1
AP English Literature and Composition	1
English III IB	1
English IV IB	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 29:2353 (November 2003), amended LR 31:3085 (December 2005), LR 34:2101 (October 2008), LR 39:1448 (June 2013), LR 40:1684 (September 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
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
French IV IB	1
French V IB	1
Spanish IV IB	1
Spanish V IB	1

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 31:3086 (December 2005), LR 38:770 (March 2012), LR 40:1685 (September 2014).

§2319. Health and Physical Education

A. Two units of health and physical education shall be required for graduation. They shall be health and physical education I and health and physical education II, or adapted physical education for eligible special education students. The health and physical education course offerings shall be as follows.

B. The physical education course offerings shall be as follows.

Course Title(s)	Units
Adapted Health and Physical Education I, II, III, IV	1 each
Health and Physical Education I, II, III, IV	1 each
Marching Band	1/2
Cheering	1/2
Extracurricular Sports	1/2
Dance Team	1/2

1. It is recommended that physical education I and II be taught in the ninth and tenth grades.

2. A minimum of 30 hours of health instruction shall be taught in each of the two required health and physical education units.

3. Cardiopulmonary resuscitation (CPR) is required.

C. No more than four units of health and physical education shall be allowed for meeting high school graduation requirements.

D. In schools having approved Junior Reserve Officer Training Corps (R.O.T.C.) training, credits may, at the option of the local school board, be substituted for the required credits in health and physical education, including required hours in health instruction.

E. Marching band, cheering, extracurricular sports, and dance team may be substituted for physical education II credit and shall:

1. include a minimum of 100 minutes of physical activity per week;

2. encourage the benefits of a physically active lifestyle; and

3. include a minimum of 15 hours of health instruction per each one-half unit that may be taught in conjunction with the activity or separately.

F. Students shall be exempted from the requirements in health and physical education for medical reasons only; however, the minimum number of credits required for graduation shall remain 24.

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 29:2354 (November 2003), amended LR 31:3086 (December 2005), LR 39:1448 (June 2013), LR 40:1685 (September 2014).

§2323. Mathematics

A. The mathematics course offerings shall be as follows.

Course Title	Unit(s)
Advanced Mathematics I	1
Advanced Mathematics II	1
Algebra I	1
Algebra I-Part I	1
Algebra 1-Part II	1
Algebra II	1
Calculus	1
Discrete Mathematics	1
Financial Mathematics	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
Math Methods I IB (Mathematical Studies SL)	1
Math Methods II 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 40:1685 (September 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
AP Music Theory	1
Music I IB	1
Music II IB	1
Marching Band	1/2

B. Advanced choir, advanced band, advanced orchestra, intermediate choir, intermediate band, intermediate orchestra, studio strings III, sectional rehearsal, small vocal ensemble, wind ensemble, applied music, jazz ensemble, and studio piano III are performance classes with new literature each year; they may be repeated more than once.

C. Refer to §2741 for credit for private piano and studio strings instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 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 40:1686 (September 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
Physics for Technology I, II	1 each
AP Chemistry	1
IB Chemistry II	1
AP Environmental Science	1
IB Environmental Systems	1
AP Physics B	1
IB Physics I	1
AP Physics: Electricity and Magnetism	1
AP Physics C: Mechanics	1
IB Physics II	1
AP Physics I and II	½
AP Biology	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 40:1686 (September 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 US History	1
IB US History	1
AP US Government and Politics: Comparative	1/2
AP US Government and Politics: United States	1/2
AP Macroeconomics	1/2
AP Microeconomics	1/2
AP Human Geography	1
IB Geography	1
AP World History	1
World History IB	1
IB Economics	1

B. One unit of religious studies (§2335) may be used as the fourth social studies course required for the Louisiana Core 4 curriculum.

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 40:1686 (September 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
Film Study I IB	1
Film Study II IB	1
Theatre I IB	1

B. Theatre II, III, and IV are performance classes with new literature each year; they may be repeated more than once.

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 40:1686 (September 2014).

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Executive Director

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RULE

Board of Regents
Proprietary School Section

Minimum Cancellation and Refund Policy;
School Catalog; Forms (LAC 28:III.901 and 2301)

In accordance with the Administrative Procedure Act, R.S. 17:3141 et seq., the Board of Regents has adopted revisions to the rules and regulations to LAC 28:III, Proprietary Schools, by codifying current practices and procedures into administrative law to assist in the oversight of licensed Louisiana proprietary schools.

Title 28
EDUCATION
Part III. Proprietary Schools
Chapter 9. Proprietary Schools Applications
§901. Initial License or Change of Ownership License Procedures

A. Refer to the PSC-14 Form, Proprietary Schools License Requirements Checklist. Enclose one original application in a binder, with tabs of the applicable items as listed on the PSC-14.

B. Louisiana Minimum Cancellation and Refund Policy

1. Three-Business-Day Cancellation. All monies paid by a student shall be refunded if requested within three business days after signing an enrollment agreement and making an initial payment.

2. Cancellation after the Three-Business-Day Cancellation Period but Before Commencement of Classes by the Student. If tuition or fees are collected in advance of entrance, and if the student does not begin classes, not more than a $150 registration fee shall be retained by the institution. Appropriate refunds shall be made within 30 days of the start of the quarter, term, or semester.

3. For programs less than 300 clock hours, the withdrawal after commencement of classes refund policy shall be:

a. after a student has completed less than 15 percent of the program, the institution shall refund at least 80 percent of the tuition, less the registration fee, thereafter;

b. after a student has completed less than one fourth of the program, the institution shall refund at least 70 percent of the tuition, less the registration fee, thereafter;

c. after a student has completed one fourth, but less than one half of the program, the institution shall refund at least 45 percent of the tuition, less the registration fee, thereafter;

d. after a student has completed one half or more of the program, the institution may retain 100 percent of the stated program price.

4. Any unused portion of the book fee will be refunded.

5. For programs 300 clock hours or longer, the withdrawal after commencement of classes refund policy shall be:

a. during the first week of the program, the institution shall refund at least 90 percent of the tuition, less the registration fee, thereafter;

b. during the next three weeks of the program, the institution shall refund at least 75 percent of the tuition, less the registration fee, thereafter;

c. during the first 25 percent of the program, the institution shall refund at least 55 percent of the tuition, less the registration fee, thereafter;

d. during the second 25 percent of the program, the institution shall refund at least 30 percent of the tuition, less the registration fee, thereafter;

e. during the third and fourth 25 percent of the program, the institution shall retain 100 percent of the stated program price. Percentages of the program completion are to be computed on the basis of clock hour. For programs longer than one year (12 calendar months) in length, 100 percent of the stated program price attributable to the period beyond the first year will be refunded when the student withdraws during the prior period.

6. Any unused portion of the book fee will be refunded.

C. Items to be Included in School Catalog

1. A prospective student is entitled to sufficient data to make an informed decision on training opportunities and institutions. A school is therefore obligated to provide sufficiently detailed information in advance of enrollment to enable prospective students to clearly understand their opportunities, limitations, and obligations.

2. Each school shall prepare and make available a typed and bound publication which is readily identifiable as a catalog and each student shall receive a copy. This catalog shall be designed and written to convey accurate information on the school. It shall avoid false, misleading, or exaggerated statements.

3. The following items shall be listed in the catalog:

a. the name, address, phone number, email, and fax of school;

b. the date of publication;

c. a statement of institutional philosophy;

d. licensure statement;

e. the admission requirements and procedures;

f. the educational objectives of each program offering, including the name, nature, and level of occupations for which training is provided;

g. a detailed program outline for each program of study that includes subject abbreviations and numbers, subject titles, the number of clock and/or credit hours of instruction in lecture, lab, and/or clinical/externship, and the length of time in weeks or months normally required for completion;

h. the subject descriptions for each program of study;

i. a brief description of the school's physical facilities, equipment to be used in class, and the maximum class size;

j. the school policies relative to tardiness, absences, make-up work, conduct, termination, re-entry, and other rules and regulations of the school;

k. the grading system, including a definition of ratings;

l. the required levels of performance for graduation;

m. a statement of certificates, diplomas, or degrees awarded upon graduation;

n. a statement of student charges related to enrollment: registration fee, tuition, book fee, lab fee, and any other charges for which a student will be responsible;

o. a statement of the cancellation and refund policy of the school;

p. a detailed and explicit description of the extent and nature of job placement assistance that is available to graduates, if any;

q. specifics describing the availability of residential housing, vocational counseling services, scholarships, and the extent of other services available to students, if any;

r. a school calendar including holidays and other dates of importance;

s. the school's student complaint procedure;

t. any other facts concerning the school and its programs of instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.4 and R.S. 17:3141.5.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Regents, LR 33:1862 (September 2007), amended by the Department of Education, Board of Regents, Proprietary School Section, LR 40:1687 (August 2014).

Chapter 23. Forms

§2301. Proprietary Schools Licensure Forms

A. The following forms have been adopted by the commission.

1. PSC-1 Proprietary School Application. The applicant shall complete the following items of the PSC-1 form:

a. name and contact information of institution;
b. method of instruction;
c. accreditation;
d. classification of school;
e. owner name and contact information;
f. programmatic information; and
g. instructional staff.

2. PSC-2 Notarized Commitment Statement. The applicant shall complete the following items of the PSC-2 form:

a. name of institution;
b. name of owner(s);
c. name and contact information of statutory agent;
d. signature and title of school official; and
e. name, signature, and seal of notary.

3. PSC-3 Surety Bond for Certificate of Registration. The applicant shall complete the following items of the PSC-3 form:

a. bond number;
b. name and location of principal;
c. name of surety and state of organization;
d. name of principal;
e. signature and title of school official;
f. attorney-in-fact; and
g. name, address, and phone number of insurance or bonding agency.

4. PSC-4 Application for Solicitor Permit. The applicant shall complete the following items of the PSC-4 form:

a. name and contact information of applicant;
b. employment history;
c. education;
d. required references;
e. attestation of applicant's criminal history;
f. signature of applicant;
g. signature and seal of notary; and
h. employer's certificate.

5. PSC-5 Surety Bond for Solicitor's Permit. The applicant shall complete the following items of the PSC-5 form:

a. bond number;
b. name and location of principal;
c. name of surety and state of organization;
d. name, signature, and title of principal;
e. attorney-in-fact; and
f. name, address, and phone number of insurance or bonding agency.

6. PSC-6 Blanket Bond for Solicitor(s) Permit. The applicant shall complete the following items of the PSC-6 form:

a. bond number;
b. name and location of proprietary school;
c. name of surety and state of organization;
d. bond coverage amount;
e. name of principal;
f. signature and title of school official;
g. attorney-in-fact; and
h. name, address, and phone number of insurance or bonding agency.

7. PSC-9 Personnel Affidavit. The applicant shall complete the following items of the PSC-9 form:

a. name and contact information of applicant;
b. proposed date of employment;
c. name and address of proprietary school;
d. position;
e. subjects to be taught;
f. employment history;
g. education;
h. required references;
i. signature of applicant;
j. places of residence for the past five years;
k. attestation of applicant's criminal history; and
l. signature and seal of notary.

8. PSC-11 Application for Associate in Occupational Studies Degree. The applicant shall complete the following items of the PSC-11 form:

a. title of associate in occupational studies degree proposal;
b. name and location of proprietary school;
c. name and address of institution;
d. signature and title of school official; and
e. name, signature, and seal of notary.

9. PSC-12 Annual Renewal Fee Affidavit. The applicant shall complete the following items of the PSC-12 form:

a. name and location of proprietary school;

b. attestation of the dates of the previous business year and the gross tuition collected;

c. number of students enrolled in the previous business year;

d. number of students graduated in the previous business year;

e. signature and title of school official;

f. name, signature, and seal of notary; and

g. enrollment data.

10. PSC-13 Annual Student Protection Fee. The applicant shall complete the following items of the PSC-13 form:

a. name and location of proprietary school;

b. attestation of the dates of the previous business year and the gross tuition collected;

c. signature and title of school official; and

d. name, signature, and seal of notary.

11. PSC-14 Proprietary School License Requirements Checklist. The applicant shall complete the following items of the PSC-14 form:

a. PSC-1 form;

b. PSC-2 form;

c. copy of documents from the Office of the Secretary of State validating legal structure and any other documentation as required;

d. current audited balance sheet of the school prepared by an independent CPA licensed in the state of Louisiana;

e. inventory list of equipment available for each course of study;

f. copies of all enrollment contracts or agreements with a minimum cancellation and refund policy that has been approved by the commission;

g. copies of all circulars, brochures, bulletins, certificates, diplomas, and advertising copy for all media;

h. copy of school catalog;

i. PSC-3 form;

j. copy of bill of sale (for change of ownership applications only);

k. PSC-6 or PSC-5 form;

l. license fee;

m. student protection fund fee;

n. solicitor fee;

o. PSC-4;

p. PSC-9;

q. copy of detailed program outline and subject descriptions for each program of study;

r. copy of fee schedule for each program of study;

s. narrative geographic description of school location;

t. copy of certificate of occupancy;

u. PSC-17 form; and

v. business plan.

12. PSC-15 Student Claim Form. The applicant shall complete the following items of the PSC-15 form:

a. name and contact information of claimant;

b. name and contact information of next of kin;

c. name and address of school claim filed against;

d. course of instruction;

e. student's enrollment status at time of closure;

f. dates of attendance;

g. graduation status;

h. claimant's attendance status within 90 days of school closure;

i. reason for leaving/withdrawing;

j. method of payment to school;

k. name and address lender if applicable;

l. claimant's signature and social security number; and

m. date of claim.

13. PSC-17 Initial License Tuition Refund Affidavit. The applicant shall complete the following items of the PSC-17 form:

a. legal structure of school;

b. name of proprietary school and/or name of corporation and state of incorporation;

c. signature of owner(s) and/or name and signature of corporate secretary; and

d. name, signature, and seal of notary;

14. PSC-18 License Renewal Tuition Refund Affidavit. The applicant shall complete the following items of the PSC-18 form:

a. legal structure of school;

b. name of proprietary school and/or name of corporation and state of incorporation;

c. attestation of payable tuition refunds;

d. signature of owner(s) and/or name and signature of corporate secretary; and

e. name, signature, and seal of notary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3141.3(E) and R.S. 17:3141.3(D)(2).

HISTORICAL NOTE: Promulgated amended by the Department of Education, Board of Regents, Proprietary School Section, LR 40:1688 (August 2014).

Larry Tremblay
Deputy Commissioner

1409#001

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Ambient Air Quality (LAC 33:III.711 and 918)(AQ344ft)

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.711 and 918 (Log #AQ344ft).

This Rule is identical to federal regulations found in 40 CFR 50.5; 50.11; 50.15; 50.16; 50.17; 50.18 and 78, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule includes LAC 33:III, Chapter 7, Ambient Air Quality, 711, Table 1, 1a, and 2. Also included in this Rule is Chapter 9, General Regulations on Control of Emission and Emission Standards, §918.B, Table 6. These revisions update the national ambient air quality standards (NAAQS) for certain criteria pollutants (ozone, particular matter (2.5), nitrogen oxide, lead and sulfur dioxide) and the Louisiana designated nonattainment area for the sulfur dioxide standard.

The Clean Air Act (CAA) directs EPA to propose and promulgate primary and secondary NAAQS (section 109) and to designate areas following promulgation of a new or revised NAAQS (section 107). To reflect the most current federal revisions to the NAAQS and nonattainment designated area(s) as promulgated by EPA, Louisiana is adopting the updated standards and is specifically updating the nonattainment area as it relates to the 2010 sulfur dioxide standard.

This Rule is necessary to maintain equivalency with the federal regulations and/or standards and to enable Louisiana to carry out its duty as required under R.S. 30:2054 and the provisions of the CAA and state implementation plan (SIP) to implement, maintain and enforce the NAAQS in each affected region within the state. The basis and rationale for this Rule are to update the NAAQS and to specify the designated nonattainment area to mirror federal regulations as they apply to Louisiana's affected sources. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 7. Ambient Air Quality

§711. Tables 1, 1a, 2—Air Quality

A. Table 1. Primary Ambient Air Quality Standards

Table 1. Primary Ambient Air Quality Standards		
Air Contaminant	**Maximum Permissible Concentration**	
PM_{10}	150 μg/m^3	(Maximum 24-hour concentration not to be exceeded more than once per year)
$PM_{2.5}$	12 μg/m^3	(Annual arithmetic mean, averaged over 3 years) The standard is met when the annual arithmetic mean concentration, as determined in accordance with appendix N of 40 CFR Part 50 is less than or equal to 12 μg/m^3.
	35 μg/m^3	(24-hour, averaged over 3 years) The standard is met when the 98th percentile 24-hour concentration, as determined in accordance with Appendix N of 40 CFR Part 50 is less than or equal to 35 ug/m^3.
Sulfur Dioxide (SO_2)	75 ppb daily maximum 1-hour concentration	The standard is met at an ambient air monitoring site when the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentration is less than or equal to 75 ppb, as determined in accordance with 40 CFR Part 50 appendix T.
Carbon Monoxide (CO)	10,000 μg/m^3	or 9 ppm (Maximum 8-hour concentration not to be exceeded more than once per year)
	40,000 μg/m^3	or 35 ppm (Maximum 1-hour concentration not to be exceeded more than once per year)
Ozone	0.075 ppm daily maximum 8-hour average	The standard is met at an ambient air monitoring site when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.075 ppm, as determined in accordance with 40 CFR Part 50, appendix P.
Nitrogen Dioxide (NO_2)	53 ppb	(Annual arithmetic mean) The Standard is met when the annual arithmetic mean is less than or equal to 53 ppb, as determined in accordance with 40 CFR Part 50, appendix S.
	100 ppb	(1-hour average concentration) The standard is met when the 3-year average of the annual 98th percentile of the daily maximum 1-hour average concentration is less than or equal to 100 ppb, as determined in accordance with 40 CFR Part 50, appendix S.
Lead	0.15 μg/m^3	(3-month rolling average) (The standard is met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with appendix R of 40 CFR Part 50 is less than or equal to 0.15 μg/m^3.

1. - 2. …

B. Table 1a. Secondary Ambient Air Quality Standards

Table 1a. Secondary Ambient Air Quality Standards		
Air Contaminant	**Maximum Permissible Concentration**	
PM_{10}	150 μg/m^3	(Maximum 24-hour concentration not to be exceeded more than once per year)
Sulfur Dioxide (SO_2)	0.5 ppm	(3-hour average concentration not to be exceeded more than once per year)
$PM_{2.5}$	15.0 μg/m^3	(Annual arithmetic mean, averaged over 3 years) The standard is met when the annual arithmetic mean concentration, as determined in accordance with appendix N of 40 CFR Part 50 is less than or equal to 15 μg/m^3.
	35 μg/m^3	(24-hour, averaged over 3 years) The standard is met when the 98th percentile 24-hour concentration, as determined in accordance with appendix N of 40 CFR Part 50 is less than or equal to 35 μg/m^3.
Carbon Monoxide (CO)	10,000 μg/m^3	or 9 ppm (Maximum 8-hour concentration not to be exceeded more than once per year)
	40,000 μg/m^3	or 35 ppm (Maximum 1-hour concentration not to be exceeded more than once per year)

Table 1a. Secondary Ambient Air Quality Standards		
Air Contaminant	Maximum Permissible Concentration	
Ozone	0.075 ppm daily maximum 8-hour average	The standard is met at an ambient air monitoring site when the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.075 ppm, as determined in accordance with 40 CFR Part 50, appendix P.
Nitrogen Dioxide (NO_2)	100 µg/m³	(0.053 ppm) (Annual arithmetic mean) The Standard is met when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm.
Lead	0.15 µg/m³	(3-month rolling average) (The standard is met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with appendix R of 40 CFR Part 50 is less than 0.15 µg/m³.

1. - 2 …

C. Table 2. Ambient Air—Methods of Contaminant Measurement

Table 2. Ambient Air—Methods of Contaminant Measurement		
Air Contaminant	Sampling Interval	Analytical Method
PM_{10}	24 hours	Any method complying with reference method in Title 40, Code of Federal Regulations, Part 50, appendix J.
$PM_{2.5}$	24 hours	Reference method based on appendix L to 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or an equivalent method designated in accordance with 40 CFR Part 53.
Sulfur Dioxide	24 hours	Reference method based on appendix A-1 or A-2 to 40 CFR Part 50 or an equivalent method designated in accordance with 40 CFR Part 53.
	Continuous	Reference method based on appendix A-1 or A-2 to 40 CFR Part 50 or an equivalent method designated in accordance with 40 CFR Part 53.
Total Oxidants	Continuous	Reference method based on appendix D to 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or an equivalent method designated in accordance with 40 CFR Part 53.
Carbon Monoxide	Continuous	Any method complying with reference or equivalent methods in Title 40, Code of Federal Regulations, Part 50, appendix C, and Part 53, Subpart B.
Nitrogen Dioxide	24 hours	Reference method based on appendix F to 40 CFR Part 50 or an equivalent method designated in accordance with 40 CFR Part 53.
Lead	24 hours	Reference method based on appendix G to 40 CFR Part 50 or an equivalent method designated in accordance with 40 CFR Part 53.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), amended by the Office of the Secretary, Legal Affairs Division, LR 32:1602 (September 2006), LR 34:433 (March 2008), amended by the Office of the Secretary, Legal Division, LR 40:1690 (September 2014).

Chapter 9. General Regulations on Control of Emissions and Emission Standards

§918. Nonattainment Areas and Adjoining Parishes List

A. - B, Table 5. …

Table 6	
Sulfur Dioxide (SO_2) Nonattainment Areas and Adjoining Parishes	
Parish Code	Nonattainment Parish(es)
2500	St. Bernard
Parish Code	Adjoining Parishes to Nonattainment Areas
2140, 2240	Orleans and Plaquemines

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:339 (May 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 29:2776 (December 2003), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2083 (October 2007), LR 37:3221 (November 2011), amended by the Office of the Secretary, Legal Division, LR 40:1691 (September 2014).

Herman Robinson, CPM
Executive Counsel

1409#059

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Conrad Industries Delisting
(LAC 33:V.4999)(HW115)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.105 and 4999, Appendix E. (HW115)

This is a resubmittal of HW111, which was published as a proposed Rule on November 20, 2012. The one-year time limit on issuing a final Rule was exceeded.

Conrad Industries Inc. (Conrad) is petitioning to exclude from the hazardous waste regulations (delist) approximately 4,000 tons of aggregate generated and used as fill in 1986. This is a one-time delisting which applies to the particular aggregate used as fill in the "Rim Tide" barge slip located in Amelia, Louisiana.

The delisting program is regulated by LAC 33:V.105.M, which includes a formal rulemaking process. Applicants who wish to exclude a particular waste from the list of hazardous wastes must submit a petition and satisfy all other requirements of LAC 33:V.105.M. The exclusion, if granted, applies only to the 4,000 tons of aggregate used as fill in the "Rim Tide" barge slip area located in Amelia, Louisiana.

LDEQ-USTRD has reviewed Conrad's petition and found that it satisfies the delisting requirements of LAC 33:V.105.M. LDEQ used the delisting risk assessment software (DRAS) in the evaluation of the impact of the petitioned waste on human health and the environment.

Conrad purchased approximately 4,000 tons of aggregate in 1986 for use as fill from Marine Shale Processors, Inc. (MSP). The aggregate was generated as the ash or residue from MSP's incineration of various wastes, including hazardous wastes and contaminated media. LDEQ bases its proposed action to grant the petition on an evaluation of waste-specific information provided by the petitioner. Based on the information submitted by Conrad, the results of the analytical data, and LDEQ's evaluation using DRAS, there was no obvious adverse impact on human health or the environment. Conrad has complied with the delisting requirements as outlined in LAC 33:V.105.M. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 49. Lists of Hazardous Wastes

Editor's Note: Chapter 49 is divided into two Sections: category I hazardous wastes, which consist of hazardous wastes from nonspecific and specific sources (F and K wastes), acute hazardous wastes (P wastes), and toxic wastes (U wastes) (LAC 33:V.4901); and category II hazardous wastes, which consist of wastes that are ignitable, corrosive, reactive, or toxic (LAC 33:V.4903).

§4999. Appendices—Appendix A, B, C, D, E, and F

Appendix A. - Appendix D. …

* * *

Appendix E. Wastes Excluded under LAC 33:V.105.M

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

* * *

Table 2 – One-Time Wastes Excluded
Conrad Industries, Inc. (Conrad), Morgan City, LA
Hazardous waste incinerator ash was generated as a result of the combustion of hazardous wastes and nonhazardous wastes in a rotary kiln incinerator at Marine Shale Processors (MSP) in Amelia, Louisiana. In 1986, a quantity of the MSP ash was used as fill material for the former slip area at the Conrad Industries, Inc. (Conrad) facility located in Morgan City, Louisiana. For the purpose of this exclusion, MSP generated ash used as fill material by Conrad includes all hazardous waste codes listed in LAC 33:V.4901. This is a one-time exclusion for approximately 4,000 tons of MSP generated ash placed in the former slip area at the Conrad facility in Morgan City, Louisiana, for the purpose of excavation, transportation and disposal in a Subtitle D landfill, or management in place as non-hazardous solid waste pursuant to alternate methods approved by the administrative authority.

Appendix F. …

A. - B.3., Table 2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR 29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:445 (March 2007), LR 33:825 (May 2007), LR 33:1016 (June 2007), LR 34:73 (January 2008), LR 34:1021 (June 2008), LR 34:1613 (August 2008), amended by the Office of the Secretary, Legal Division, LR 38:2757 (November 2012), LR 40:1692 (September 2014).

Herman Robinson, CPM
Executive Counsel

1409#058

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Incorporation by Reference—LPDES Program
(LAC 33:IX.4901 and 4903)(WQ089ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.4901 and 4903 (Log #WQ089ft).

This Rule is identical to federal regulations found in 4 CFR Part 136 and 40 CFR Chapter I, Subchapter N, parts 401 and 405-471, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule is the annual incorporation by reference update of the water regulations. This Rule changes the reference dates found in 40 CFR Part 136 and 40 CFR Chapter I, Subchapter N, Parts 401, 405-471. LAC 33: IX, Chapter 49 incorporates the following portions of federal regulations into the Louisiana water quality regulations:

1. 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2012, in its entirety; and

2. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, parts 401 and 405-471, July 1, 2012.

This action incorporates the recently updated federal regulations into Louisiana's water quality regulations, increasing the enforceability of LPDES permits that include EPA-approved analytical methods and effluent limitations guidelines. The published edition of the 40 CFR is regularly updated on July 1 of every calendar year; therefore, this Rule will incorporate the date of July 1, 2013 in anticipation of the most recent publication, which will include the above referenced Rules. The basis and rationale for this Rule are to mirror the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality
Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program
Chapter 49. Incorporation by Reference
§4901. 40 CFR Part 136

A. 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2013, in its entirety, is hereby incorporated by reference.

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 LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014).

§4903. 40 CFR, Chapter I, Subchapter N

A. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405-471, July 1, 2013, are hereby incorporated by reference.

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 LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division LR 32:604 (April 2006), LR 32:819 (May 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:654 (April 2009), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2747 (November 2012), LR 40:1693 (September 2014).

Herman Robinson, CPM
Executive Counsel

1409#057

RULE

Office of the Governor
Board of Architectural Examiners

Reinstatement (LAC 46:I.1315)

Under the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), the Board of Architectural Examiners amends its continuing education rules (LAC 46:I.1315) to reduce the number of continuing education hours which must be earned: (i) by a former registrant seeking to reinstate his or her architectural license; or (ii) by an architect emeritus seeking to return to the active practice of architecture. Existing §1315.D.4 provides that if an architect is being re-registered after having been unregistered then, in addition to all other requirements, the architect must have acquired that number of total continuing education hours that would have been required if registration had been regularly renewed. The Rule amends the existing rules and provides that a former registrant may only apply for reinstatement if he has earned all delinquent continuing education hours in the year preceding the application, or the current year; however, the maximum number of continuing education hours to be earned shall not exceed 24 hours. Similarly, the Rule provides that an architect who has been granted emeritus or other honorific status may only return to the active practice of architecture if he has completed the continuing education requirements for each exempted year in the year preceding the application, or the current year; however, the maximum number of continuing education hours to be earned shall not exceed 24 hours.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects
Chapter 13. Administration
§1315. Continuing Education

A. - C. …

* * *

D. Continuing Education Requirements

1. - 3. …

4. Repealed.

E. - I.2. …

* * *

J. Reinstatement

1. A former registrant may only apply for reinstatement if he has earned all delinquent continuing education hours in the year preceding the application, or the current year. However, if the total number of delinquent continuing education hours exceeds 24, then 24 shall be the maximum number of hours required.

2. An architect who has been granted emeritus or other similar honorific but inactive status by the board may only return to the active practice of architecture if he has earned the continuing education requirements for each exempted year in the year preceding the application, or the current year. However, if the total number of delinquent continuing education hours exceeds 24, then 24 shall be the maximum number of hours required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners LR 29:565 (April 2003), amended LR 33:2419 (November 2007), 38:1012 (April 2012), LR 40:1693 (September 2014).

Mary "Teeny" Simmons
Executive Director

1409#005

RULE

Office of the Governor
Board of Examiners of Interior Designers

Use of Term (LAC 46:XLIII.1001)

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 hereby amends its existing rules and regulations to clarify the definition of a *registered interior designer* and to restate the definition of the *practice of interior design*.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLIII. Interior Designers
Chapter 10. Use of Term
§1001. Limitation of Use of Term

A. Only those who are a *registered interior designer* licensed by the board may use the appellation registered interior designer or the plural thereof in advertising or in business usage when referring to themselves or services to be rendered.

B. Definitions. The purpose of this Section is to clarify the definition of a *registered interior designer* and to restate the definition of the practice of *interior design*. The primary purpose of a *registered interior designer* is to protect the public and to adhere to the Life Safety Codes, requirements of the Americans with Disability Act, and other building codes, statutes and ordinances which may apply to the interior spaces of a structure.

Board—the Louisiana State Board of Examiners of Interior Designers.

Interior Design—includes a scope of services performed by a professional design practitioner, qualified by means of education, experience, and examination as required by statute, to protect and enhance the health, life safety and welfare of the public. These services may include any or all of the following tasks.

a. *Interior design* includes but is not limited to space planning, finishes, furnishings, and the design for fabrication of nonstructural elements within and surrounding interior spaces of buildings.

b. *Interior design* specifically excludes the design of or the responsibility for architectural and engineering work, as defined by those occupations' organic statutes.

c. In all other matters interior designers are entitled to do all those things itemized in the practice of *interior design* stated below.

Interior Design Document—detailed drawings and specifications sealed and signed by a registered interior designer in accordance with applicable current building codes, ordinances, laws and regulations that define the work to be constructed in such form as is required for approval of a construction permit by a building official or fire marshal. Such document may be combined with documents prepared under the responsible control, seal and signature of other registered or licensed professionals.

Non-Structural or *Non-Seismic*—interior elements or components that are not load-bearing or do not assist in the seismic design and do not require design computations for a building's structure. It excludes the structural frame supporting a building. Common *non-structural* elements or components include, but are not limited to, ceiling and *partition* systems. These elements employ normal and typical bracing conventions and are not part of the structural integrity of the building.

Partition—a wall which does not support a vertical load of a structure other than its own weight, but may support loads attached to it such as cabinetry, shelving or grab bars, and does not extend further than from the floor of an interior area of a structure designed for human habitation or occupancy, to the underside of the deck of that structure.

Practice of Interior Design—

a. the rendering of services to enhance the quality and function of an interior area of a structure designed for human habitation or occupancy. The term includes:

i. an analysis of a client's needs and goals for an interior area of a structure designed for human habitation or occupancy and the requirements for safety relating to that area;

ii. the formulation of preliminary designs for an interior area designed for human habitation or occupancy that are appropriate, functional, and code compliant;

iii. the confirmation that preliminary space plans and design concepts are safe, functional, aesthetically appropriate, and meet all public health, safety and welfare requirements, including code, accessibility, environmental, and sustainability guidelines;

iv. the selection of colors, materials and finishes to appropriately convey the design concept and to meet socio-psychological, functional, maintenance, lifecycle performance, environmental, and safety requirements;

v. the development and presentation of final design documents that are appropriate for the alteration or construction of an interior area of a structure designed for human habitation or occupancy;

vi. the collaboration with licensed professionals in preparation of interior design contract documents for the alteration or construction of an interior area of a structure designed for human habitation or occupancy, including specifications for partitions, materials, finishes, furniture, fixtures, and equipment;

vii. the collaboration with licensed professionals in the completion of a project for the alteration or construction of an interior area of a structure designed for human habitation or occupancy;

viii. the preparation and administration of bids or contracts as the agent of a client;

ix. the review and evaluation of problems relating to the design of a project for the alteration or construction of an area designed for human habitation or occupancy during the alteration or construction and upon completion of the alteration or construction;

x. preparing *interior design documents* reflecting space planning, finishes, furnishings, and the design for fabrication of nonstructural interior construction within

interior spaces of buildings; reflected ceiling plan and location of teledata and electrical outlets;

xi. preparing *interior design documents* in accordance with life safety of proposed or modification of existing nonstructural and non-engineered elements of construction such as partitions, doors, stairways, and paths of egress connecting to exits or exit ways; and

xii. modification of existing building construction so as to alter the number of persons for which the egress systems of the building are designed;

b. encompasses the ability to submit documents required for the issuance of building permits or other construction documents, either by the registered interior designer alone or in collaboration with other licensed design professionals responsible for structural, mechanical, electrical, or life safety systems. This includes those systems, such as sprinklers, fire alarms, special locking, or cooking hood suppression, that require a review by the professional of record prior to submittal.

Programming—the scope of work which includes, but is not limited to:

a. conducting research;

b. identifying and analyzing the needs and goals of the client and/or occupant(s) of the space;

c. evaluating existing documentation and conditions;

d. assessing project resources and limitations;

e. identifying life, safety and code requirements; and

f. developing project schedules and budgets.

Reflected Ceiling Plan—a ceiling design that illustrates a ceiling as if it was projected downward and may include lighting and other code compliant elements.

Registered Interior Designer—a person who has received a certificate of registration pursuant to the provisions of this Chapter.

Space Planning—the analysis, programming, or preparation of design to meet special requirements, including preliminary space layouts, placement of partitions, furniture and equipment, and final planning in accordance with life safety codes.

Specifications—the detailed written description of construction, workmanship and materials of the work to be undertaken.

Sustainability—the use of resources in such a way that they are not depleted; a method of practice or use of materials that is capable of being continued with minimal long-term effect on the environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3171 and R.S. 37:3176.

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 30:1014 (May 2004), LR 34:1925 (September 2008), LR 40:1694 (September 2014).

Sandy Edmonds
Executive Director

1409#026

RULE

Office of the Governor
Board of Pardons
Committee on Parole

Meetings and Hearings of the Committee and Violations of Parole (LAC 22:XI.513, 1113, and 1115)

Editor's Note: The following Rule is being repromulgated to correct citation errors. The original Rule can be viewed in the August 20, 2014 edition of the *Louisiana Register* on pages 1528-1529.

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Board of Pardons, Committee on Parole, has amended its rules and promulgated rules of LAC 22:XI.513, 1113, and 1115. This rulemaking provides that an offender's final revocation hearing must be scheduled within 60 calendar days of the offender's return to prison unless the offender waives the right to a final revocation hearing, provides that a delay may only be authorized for good cause, provides for due process at the revocation hearing, and that the Committee on Parole may order that the offender's parole not be revoked.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part XI. Committee on Parole

Chapter 5. Meetings and Hearings of the Committee on Parole

§513. Single-Member Action

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

d. Consideration to delay an offender's revocation hearing beyond 60 calendar days of the offender's return to prison (arrest or detainment), but such a delay may only be authorized by a committee member for good cause.

A.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2300 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2264 (August 2013), LR 40:1528 (August 2014), repromulgated LR 40:1695 (September 2014).

Chapter 11. Violations of Parole

§1113. Revocation Hearing

A. When the Division of Probation and Parole has found probable cause and a preliminary hearing has been conducted, a revocation hearing shall be scheduled, unless the offender waives his right to a final revocation hearing. The revocation hearing shall be conducted within 60 calendar days after the offender's return to prison. Any delay for good cause must be approved by the chairman or designee. The purpose of the final revocation hearing is to determine if one or more conditions of parole have been violated by the offender, and if such violation(s) are serious enough to warrant re-incarceration of the offender to serve the balance of his sentence.

B. The revocation hearing is a public hearing and shall be conducted as outlined in Chapter 3 of these rules. The same procedural and substantive rights which are afforded to an offender at a preliminary hearing are afforded at the revocation.

C.1. - C.2. ...

3. The offender may be allowed to present mitigating circumstances.

D. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2273 (August 2013), LR 40:1528 (August 2014), repromulgated LR 40:1695 (September 2014).

§1115. Decision of the Parole Panel

A. - A.6. ...

7. do not revoke, continue on supervision.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:574.2 et seq., R.S. 15:535 et seq., and R.S. 15:540 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Parole, LR 24:2306 (December 1998), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 39:2274 (August 2013), amended by the Office of the Governor, Board of Pardons, LR 40:59 (January 2014), amended by the Office of the Governor, Board of Pardons, Committee on Parole, LR 40:1529 (August 2014), repromulgated LR 40:1696 (September 2014).

Sheryl M. Ranatza
Chairman

1409#006

RULE

Department of Health and Hospitals
Board of Dentistry

Oral Administration of Versed (LAC 46:XXXIII.1508)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751 et seq., and particularly R.S. 37:760(8), the Department of Health and Hospitals, Board of Dentistry has amended LAC 46:XXXIII.1508.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Profession
Chapter 15. Anesthesia/Analgesia Administration
§1508. Oral Administration of Versed

A. Oral administration of Versed shall be performed on the dental premises only. Prescriptions for oral Versed intended for at-home pre-medication is prohibited. Further, all dental offices where oral Versed is administered shall be in compliance with LAC 46:XXXIII.1511, "Required Facilities, Personnel and Equipment for Sedation Procedures," as it pertains to the administration of moderate sedation with parenteral drugs.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:760(8) and R.S. 37:793.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 26:488 (March 2000), amended LR 40:1696 (September 2014).

Arthur Hickham Jr.
Executive Director

1409#113

RULE

Department of Health and Hospitals
Board of Nursing

Fees for Registration and Licensure (LAC 46:XLVII.3341)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:918, the Louisiana State Board of Nursing (LSBN) has amended Chapter 33 of its rules particular, by amending §3341 A.1-B.1. The Rule for fee increases will be utilized for operating funds which will further the mission of the Louisiana State Board of Nursing. Top funding expenditures will address key operation issues and process improvements including: disaster preparedness, paperless systems, workforce planning and research through the Louisiana Center for Nursing, personnel costs and related benefits, caseload complexity in investigative and legal services, monitoring and recovery services through Recovery Nurse Program (RNP) and the LSBN's adoption and implementation of the National Council of State Boards of Nursing (NCSBN) evidence-based regulatory management system. With the current overall growth rate of three percent annually in the number of nurses served by the LSBN along with an increase in the number of criminally and drug related complaints, it is projected that LSBN's annual operational expenses will exceed the revenues currently generated. The fundamental purpose of the LSBN is to protect the public. The increased revenue generated from the modest increase in fees will impact the LSBN's ability to better serve the public.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLVII. Nurses: Practical Nurses and Registered Nurses
Subpart 2. Registered Nurses
Chapter 33. General
Subchapter C. Registration and Registered Nurse Licensure
§3341. Fees for Registration and Licensure

A. Notwithstanding any provisions of this Chapter, the board shall collect in advance fees for licensure and administrative services as follows:

1. licensure:

a. - b. …

c. enrollment application—$50;

d. RN renewal fee—$100;

e. RN late fee (plus renewal fee)—$50;

f. retired license fee (one-time fee)—$100;

g. - h. …

i. RN/APRN endorsement temporary permit fee—$100;

j. …

k. APRN renewal fee—$100;

l. APRN late fee (plus renewal fee)—$50;

m. - n. …

o. APRN prescriptive authority site change—$50;

p. reinstatement of prescriptive authority privileges—$100;

1.q. - 2.e. …

B. Fees for Returned Items

1. The board shall collect a $25 fee for returned items for payment of any of the fees discussed in LAC 46:XLVII.3341.A.

B.2. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 and R.S. 37:927.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 8:417 (August 1982), amended by the Department of Health and Hospitals, Board of Nursing, LR 14:533 (August 1988), LR 22:981 (October 1996), repromulgated LR 24:1293 (July 1998), amended LR 26:84 (January 2000), LR 30:2829 (December 2004), LR:31:2027 (August 2005), LR 36:1246 (June 2010), LR 37:3027 (October 2011), LR 40:1696 (September 2014).

Karen C. Lyon
Executive Director

1409#014

RULE

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health have amended LAC 50:XXXIII.1701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This 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 XXXIII. Behavioral Health Services
Subpart 2. General Provisions
Chapter 17. Behavioral Health Services Reimbursements
§1701. Physician Payment Methodology

A. - B. Reserved.

C. Effective for dates of service on or after September 1, 2013, the reimbursement for procedure codes 90791, 90792, 90832, 90834 and 90837 shall be excluded from the January 2013 Medicare rate changes and shall remain at the Medicaid fee schedule on file as of December 31, 2012.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Behavioral Health, LR 40:1697 (September 2014).

Kathy H. Kliebert
Secretary

1409#101

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Inpatient Hospital Services
Major Teaching Hospitals
Qualifying Criteria
(LAC 50:V.Chapter 13)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.1301-1309 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 13. Teaching Hospitals
Subchapter A. General Provisions
§1301. Major Teaching Hospitals

A. The Louisiana Medical Assistance Program's recognition of a major teaching hospital is limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education (LCME). A major teaching hospital shall meet one of the following criteria:

1. be a major participant in at least four approved medical residency programs and maintain at least 15 intern and resident un-weighted full-time equivalent positions. For purposes of this Rule, full-time equivalent positions will be calculated as defined in 42 CFR 413.78. At least two of the programs must be in medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry; or

2. maintain at least 20 intern and resident un-weighted full-time equivalent positions, with an approved medical residency program in family practice located more than 150 miles from the medical school accredited by the LCME. For purposes of this Rule, full-time equivalent positions will be calculated as defined in 42 CFR 413.78.

B. For the purposes of recognition as a major teaching hospital, a facility shall be considered a "major participant" in a graduate medical education program if it meets the following criteria. The facility must participate in residency programs that:

1. require residents to rotate for a required experience;

a. - c. Repealed.

2. require explicit approval by the appropriate residency review committee (RRC) of the medical school

with which the facility is affiliated prior to utilization of the facility; or

a. - c. Repealed.

3. provide residency rotations of more than one sixth of the program length or more than a total of six months at the facility and are listed as part of an accredited program in the graduate medical education directory of the Accreditation Council for Graduate Medical Education (ACGME).

AUTHORITY NOTE: 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 39:324 (February 2013), amended LR 40:1697 (September 2014).

§1303. Minor Teaching Hospitals

A. The Louisiana Medical Assistance Program's recognition of a minor teaching hospital is limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the LCME. A minor teaching hospital shall meet the following criteria:

1. …

2. maintain at least six intern and resident un-weighted full-time equivalent positions. For purposes of this Rule, full-time equivalent positions will be calculated as defined in 42 CFR 413.78.

B. For the purposes of recognition as a minor teaching hospital, a facility is considered to "participate significantly" in a graduate medical education program if it meets the following criteria. The facility must participate in residency programs that:

1. require residents to rotate for a required experience;

a. - c. Repealed.

2. require explicit approval by the appropriate residency review committee of the medical school with which the facility is affiliated prior to utilization of the facility; or

a. - c.i. Repealed.

3. provide residency rotations of more than one sixth of the program length or more than a total of six months at the facility and are listed as part of an accredited program in the graduate medical education directory of the Accreditation Council for Graduate Medical Education.

a. If not listed, the sponsoring institution must have notified the ACGME, in writing, that the residents rotate through the facility and spend more than one sixth of the program length or more than a total of six months at the facility.

AUTHORITY NOTE: 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 39:324 (February 2013), amended LR 40:1698 (September 2014).

§1305. Approved Medical Residency Program

A. An approved medical residency program is one that meets one of the following criteria:

1. is approved by one of the national organizations listed in 42 CFR 415.152;

2. may count towards certification of the participant in a specialty or subspecialty listed in the current edition of either of the following publications:

a. *The Directory of Graduate Medical Education Programs* published by the American Medical Association, and available from American Medical Association, Department of Directories and Publications; or

b. *The Annual Report and Reference Handbook* published by the American Board of Medical Specialties, and available from American Board of Medical Specialties;

3. is approved by the Accreditation Council for Graduate Medical Education (ACGME) as a fellowship program in geriatric medicine; or

4. is a program that would be accredited except for the accrediting agency's reliance upon an accreditation standard that requires an entity to perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training, regardless of whether the standard provides exceptions or exemptions.

B. - B.2. 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 39:324 (February 2013), amended LR 40:1698 (September 2014).

§1307. Graduate Medical Education

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 39:325 (February 2013), repealed LR 40:1698 (September 2014).

§1309. Requirements for Reimbursement

A. Qualification for teaching hospital status shall be re-established at the beginning of each fiscal year.

B. To be reimbursed as a teaching hospital, a facility shall submit a signed “certification for teaching hospital recognition” form to the Bureau of Health Services, Rate Setting and Audit Section at least 30 days prior to the beginning of each state fiscal year or at least 30 days prior to the effective date of the conversion of a state owned and operated teaching hospital to private ownership in accordance with a public/private partnership cooperative endeavor agreement that was instituted to preserve graduate medical education training and access to healthcare services for indigent patients.

1. - 3. Repealed.

C. Each hospital which is reimbursed as a teaching hospital shall submit the following documentation with their Medicaid cost report filing:

1. - 2. ...

D. Copies of all affiliation agreements, contracts, payroll records and time allocations related to graduate medical education must be maintained by the hospital and available for review by the state and federal agencies or their agents upon request.

E. If it is subsequently discovered that a hospital has been reimbursed as a major or minor teaching hospital and did not qualify for that peer group for any reimbursement period, retroactive adjustment shall be made to reflect the correct peer group to which the facility should have been assigned. The resulting overpayment will be recovered

through either immediate repayment by the hospital or recoupment from any funds due to the hospital from the department.

F. - 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, Bureau of Health Services Financing, LR 39:325 (February 2013), amended LR 40:1698 (September 2014).

Kathy H. Kliebert
Secretary

1409#102

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Public Hospitals
Supplemental Payments
(LAC 50:V.5315, 5515, 5717, 5915 and 6117)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:V.5315, §5515, §5717, §5915 and §6117 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 5. Outpatient Hospitals
Chapter 53. Outpatient Surgery
Subchapter B. Reimbursement Methodology
§5315. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for outpatient surgical services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a Medicare metropolitan statistical area (MSA) per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 40:1699 (September 2014).

Chapter 55. Clinic Services
Subchapter B. Reimbursement Methodology
§5515. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for clinic services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 40:1699 (September 2014).

Chapter 57. Laboratory Services
Subchapter B. Reimbursement Methodology
§5717. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for laboratory services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2868 (December 2010), amended LR 39:1473 (June 2013), LR 40:1699 (September 2014).

Chapter 59. Rehabilitation Services
Subchapter B. Reimbursement Methodology
§5915. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for rehabilitation services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 40:1700 (September 2014).

Chapter 61. Other Outpatient Hospital Services
Subchapter B. Reimbursement Methodology
§6117. Non-Rural, Non-State Public Hospitals

A. Effective for dates of service on or after July 1, 2013, quarterly supplemental payments may be issued to qualifying non-rural, non-state public hospitals for outpatient services other than clinic services, diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered during the quarter. Payment amounts may be reimbursed up to the Medicare outpatient upper payment limits as determined in accordance with 42 CFR §447.321.

1. Qualifying Criteria. In order to qualify for the quarterly supplemental payment, the non-rural, non-state public acute care hospital must be designated as a non-teaching hospital by the department and must:

a. be located in a MSA per 42 CFR 413.231(b)(1);

b. provide inpatient obstetrical and neonatal intensive care unit services; and

c. per the cost report period ending in SFY 2012, have a Medicaid inpatient day utilization percentage in excess of 21 percent and a Medicaid newborn day utilization percentage in excess of 65 percent as documented on the as filed cost report.

2. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2867 (December 2010), amended LR 39:1473 (June 2013), LR 40:1700 (September 2014).

Kathy H. Kliebert
Secretary

1409#103

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Targeted Case Management
HIV Coverage Termination
(LAC 50:XV.10505, 10701 and Chapter 119)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.10505, §10701 and repealed Chapter 119 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 7. Targeted Case Management
Chapter 105. Provider Participation
§10505. Staff Education and Experience

A - D.2. …

E. Case Manager Trainee

1. The case management agency must obtain prior approval from the bureau before a case management trainee can be hired. The maximum allowable caseload for a case manager trainee is 20 recipients. The case management trainee position may be utilized to provide services to the following target populations:

a. …

b. new opportunities waiver;

c. elderly and disabled adult waiver;

d. targeted EPSDT; and

e. children's choice waiver.

f. Repealed.

2. - 2.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 Human Resources, Office of Family Security, LR 12:834 (December 1986) amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 23:732 (June 1997) repealed and promulgated LR 25:1251 (July 1999), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 29:38 (January 2003), repromulgated for inclusion in LAC, LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:663 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1700 (September 2014).

Chapter 107. Reimbursement
§10701. Reimbursement

A. - H.3.a. …

I. Effective for dates of service on or after February 1, 2013, reimbursement shall not be made for case management services rendered to HIV disabled individuals.

J. 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 30:1040 (May 2004), amended LR 31:2032 (August 2005), amended LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1903 (September 2009), amended LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 January 2013, amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3302 (December 2013), LR 40:1700 (September 2014).

Chapter 119. HIV Disabled

§11901. Introduction

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1701 (September 2014).

§11903. Recipient Requirements

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1701 (September 2014).

§11905. Provider Requirements

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1043 (May 2004), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1701 (September 2014).

Kathy H. Kliebert
Secretary

1409#104

RULE

Department of Health and Hospitals
Bureau of Health Services Financing

Targeted Case Management
Nurse Family Partnership
Program Termination
(LAC 50:XV.10505, 10701 and Chapter 111)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XV.10505, §10701 and repealed Chapter 111 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 7. Targeted Case Management

Chapter 105. Provider Participation

§10505. Staff Education and Experience

A. …

B. Case Managers. All case managers must meet one of the following minimum education and experience qualifications:

1. - 3.a. …

b. Repealed.

4. …

C. Case Management Supervisors. All case management supervisors must meet one of the following education and experience requirements:

C.1. - E.2.e. …

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1038 (May 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1608 (September 2006), amended LR 34:663 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1701 (September 2014).

Chapter 107. Reimbursement

§10701. Reimbursement

A. - I. …

J. Effective for dates of service on or after February 1, 2013, the department shall terminate Medicaid reimbursement of targeted case management services provided to first-time mothers in the Nurse Family Partnership Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1040 (May 2004), amended LR 31:2032 (August 2005), amended LR 35:73 (January 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, amended LR 35:1903 (September 2009), amended LR 36:1783 (August 2010), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Public Health, LR 39:97 (January 2013), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:3302 (December 2013), LR 40:1701 (September 2014).

Chapter 111. Nurse Family Partnership Program

§11101. Introduction

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1036 (June 2008), amended LR 36:1783 (August 2010), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1701 (September 2014).

§11103. Recipient Qualifications

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Community Supports and Services, LR 30:1041 (May 2004), amended LR 31:2028 (August 2005), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1037 (June 2008), LR 36:1783 (August 2010), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1702 (September 2014).

§11105. Staff Qualifications

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 26:2796 (December 2000), repromulgated for inclusion in LAC, LR 30:1042 (May 2004), amended LR 31:2028 (August 2005), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:1702 (September 2014).

Kathy H. Kliebert
Secretary

1409#105

RULE

Department of Insurance
Office of the Commissioner

Rule Number 8—Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities
(LAC 37:XI.Chapter 21)

Under the authority of the *Louisiana Insurance Code*, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., R.S. 22:11, and R.S. 22:753, the Department of Insurance has amended Rule Number 8. The purpose of the amendment is to update the current provisions of Rule Number 8 to maintain consistency with the National Association of Insurance Commissioners' (NAIC) model rule regarding the mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts: the 1983 table "a," the 1983 group annuity mortality (1983 GAM) table, the annuity 2000 mortality table, the 2012 individual annuity reserving (2012 IAR) table, and the 1994 group annuity reserving (1994 GAR) table.

Title 37
INSURANCE
Part XI. Rules

Chapter 21. Rule Number 8—A New Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities

§2100. Authority

A. This Rule is promulgated by the commissioner of insurance pursuant to R.S. 22:753 of the *Insurance Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:753.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 24:2281 (December 1998), amended by the Department of Insurance, Office of the Commissioner, LR 40:1702 (September 2014).

§2101. Purpose

A. The purpose of this Rule is to recognize the following mortality tables for use in determining the minimum standard of valuation for annuity and pure endowment contracts: the 1983 table "a," the 1983 group annuity mortality (1983 GAM) table, the annuity 2000 mortality table, the 2012 individual annuity reserving (2012 IAR) table, and the 1994 group annuity reserving (1994 GAR) table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:753.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 11:1089 (November 1985), amended LR 24:2281 (December 1998), amended by the Department of Insurance, Office of the Commissioner, LR 40:1702 (September 2014).

§2103. Definitions

1983 GAM Table—that mortality table developed by the Society of Actuaries Committee on Annuities and adopted as a recognized mortality table for annuities in December 1983 by the National Association of Insurance Commissioners.

1983 Table "a"—that mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners.

1994 GAR Table—that mortality table developed by the Society of Actuaries Group Annuity Valuation Table Task Force. The *1994 GAR table* is included in the report on pages 866-867 of volume XLVII of the *Transactions of the Society of Actuaries* (1995).

2012 IAR Table—that generational mortality table developed by the Society of Actuaries Committee on Life Insurance Research and containing rates, qx 2012+n, derived from a combination of the 2012 IAM period table and projection scale G2, using the methodology stated in §2106.

2012 Individual Annuity Mortality Period Life (2012 IAM Period) Table—the period table containing loaded mortality rates for calendar year 2012. This table contains rates, qx 2012, developed by the Society of Actuaries Committee on Life Insurance Research and is shown in §2113.A and B.

Annuity 2000 Mortality Table—that mortality table developed by the Society of Actuaries Committee on Life Insurance Research. The annuity 2000 table is included in the report on page 240 of volume XLVII of the *Transactions of the Society of Actuaries* (1995).

Generational Mortality Table—a mortality table containing a set of mortality rates that decrease for a given age from one year to the next based on a combination of a period table and a projection scale containing rates of mortality improvement.

Period Table—a table of mortality rates applicable to a given calendar year (the period).

Projection Scale G2 (Scale G2)—is a table of annual rates, G2x, of mortality improvement by age for projecting future mortality rates beyond calendar year 2012. This table

was developed by the Society of Actuaries Committee on Life Insurance Research and is shown in §2113.C and D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:753.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 11:1089 (November 1985), amended LR 24:2281 (December 1998), amended by the Department of Insurance, Office of the Commissioner, LR 40:1702 (September 2014).

§2105. Individual Annuity for Pure Endowment Contracts

A. Except as provided in Subsections B and C of this Section, the 1983 table "a" is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after September 7, 1979.

B. Except as provided in Subsection C of this Section, either the 1983 table "a" or the annuity 2000 mortality table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1987.

C. Except as provided in Subsection D of this Section, the annuity 2000 mortality table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1999.

D. Except as provided in Subsection E of this Section, the 2012 IAR mortality table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015.

E. The 1983 table "a" without projection is to be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after January 1, 1999, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:

1. settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions;

2. settlements involving similar actions such as worker's compensation claims; or

3. settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:753.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 11:1089 (November 1985), amended LR 24:2281 (December 1998), amended by the Department of Insurance, Office of the Commissioner, LR 40:1703 (September 2014).

§2106. Application of the 2012 IAR Mortality Table

A. In using the 2012 IAR mortality table, the mortality rate for a person age x in year (2012 + n) is calculated as follows:

$$q_x^{2012+n} = q_x^{2012}(1 - G2_x)^n$$

The resulting q_x^{2012+n} shall be rounded to three decimal places per 1,000, e.g., 0.741 deaths per 1,000. Also, the rounding shall occur according to the formula above, starting at the 2012 period table rate. For example, for a male age 30, q_x^{2012}= 0.741. q_x^{2013}= 0.741 * (1 – 0.010) ^ 1 = 0.73359, which is rounded to 0.734. q_x^{2014}= 0.741 * (1 – 0.010) ^ 2 = 0.7262541, which is rounded to 0.726. A method leading to incorrect rounding would be to calculate q_x^{2014} as q_x^{2013} * (1 – 0.010), or 0.734 * 0.99 = 0.727. It is incorrect to use the already rounded q_x^{2013} to calculate q_x^{2014}.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:753.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:1703 (September 2014).

§2107. Group Annuity or Pure Endowment Contracts

A. Except as provided in Subsections B and C of this Section, the 1983 GAM table, the 1983 table "a" and the 1994 GAR table are recognized and approved as group annuity mortality tables for valuation and, at the option of the company, any one of these tables may be used for purposes of valuation for an annuity or pure endowment purchased on or after September 7, 1979 under a group annuity or pure endowment contract.

B. Except as provided in Subsection C of this Section, either the 1983 GAM table or the 1994 GAR table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1987 under a group annuity or pure endowment contract.

C. The 1994 GAR table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1999 under a group annuity or pure endowment contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:753.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 11:1089 (November 1985), amended LR 24:2281 (December 1998), amended by the Department of Insurance, Office of the Commissioner, LR 40:1703 (September 2014).

§2108. Application of the 1994 GAR Table

A. In using the 1994 GAR table, the mortality rate for a person age x in year (1994 + n) is calculated as follows:

$$q_x^{1994+n} = q_x^{1994}(1 - AA_x)^n$$

where the q_x^{1994}s and AA_xs are as specified in the 1994 GAR Table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:753.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 24:2281 (December 1998), amended by the Department of Insurance, Office of the Commissioner, LR 40:1703 (September 2014).

§2109. Separability

A. If any provision of this rule or its application to any person or circumstances is for any reason held to be invalid, the remainder of the regulation and the application of its provisions to other persons or circumstances shall not be affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:753.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 11:1089 (November 1985), amended LR 24:2281 (December 1998), amended by the Department of Insurance, Office of the Commissioner, LR 40:1703 (September 2014).

§2111. Effective Date

A. The effective date of this Rule is January 1, 2015.

§2113. Tables

A. 2012 IAM Period Table, Female, Age nearest Birthday

Age	1000 q_x^{2012}	Age	1000 q_x^{2012}	Age	1000 q_x^{2012}	Age	1000 q_x^{2012}
0	1.621	30	0.300	60	3.460	90	88.377
1	0.405	31	0.321	61	3.916	91	97.491
2	0.259	32	0.338	62	4.409	92	107.269
3	0.179	33	0.351	63	4.933	93	118.201
4	0.137	34	0.365	64	5.507	94	130.969
5	0.125	35	0.381	65	6.146	95	146.449
6	0.117	36	0.402	66	6.551	96	163.908
7	0.110	37	0.429	67	7.039	97	179.695
8	0.095	38	0.463	68	7.628	98	196.151
9	0.088	39	0.504	69	8.311	99	213.150
10	0.085	40	0.552	70	9.074	100	230.722
11	0.086	41	0.600	71	9.910	101	251.505
12	0.094	42	0.650	72	10.827	102	273.007
13	0.108	43	0.697	73	11.839	103	295.086
14	0.131	44	0.740	74	12.974	104	317.591
15	0.156	45	0.780	75	14.282	105	340.362
16	0.179	46	0.825	76	15.799	106	362.371
17	0.198	47	0.885	77	17.550	107	384.113
18	0.211	48	0.964	78	19.582	108	400.000
19	0.221	49	1.051	79	21.970	109	400.000
20	0.228	50	1.161	80	24.821	110	400.000
21	0.234	51	1.308	81	28.351	111	400.000
22	0.240	52	1.460	82	32.509	112	400.000
23	0.245	53	1.613	83	37.329	113	400.000
24	0.247	54	1.774	84	42.830	114	400.000
25	0.250	55	1.950	85	48.997	115	400.000
26	0.256	56	2.154	86	55.774	116	400.000
27	0.261	57	2.399	87	63.140	117	400.000
28	0.270	58	2.700	88	71.066	118	400.000
29	0.281	59	3.054	89	79.502	119	400.000
						120	1000.000

B. 2012 IAM Period Table, Male, Age nearest Birthday

Age	1000 q_x^{2012}	Age	1000 q_x^{2012}	Age	1000 q_x^{2012}	Age	1000 q_x^{2012}
0	1.605	30	0.741	60	5.096	90	109.993
1	0.401	31	0.751	61	5.614	91	123.119
2	0.275	32	0.754	62	6.169	92	137.168
3	0.229	33	0.756	63	6.759	93	152.171
4	0.174	34	0.756	64	7.398	94	168.194
5	0.168	35	0.756	65	8.106	95	185.260
6	0.165	36	0.756	66	8.548	96	197.322
7	0.159	37	0.756	67	9.076	97	214.751
8	0.143	38	0.756	68	9.708	98	232.507
9	0.129	39	0.800	69	10.463	99	250.397
10	0.113	40	0.859	70	11.357	100	268.607
11	0.111	41	0.926	71	12.418	101	290.016
12	0.132	42	0.999	72	13.675	102	311.849
13	0.169	43	1.069	73	15.150	103	333.962
14	0.213	44	1.142	74	16.860	104	356.207
15	0.254	45	1.219	75	18.815	105	380.000
16	0.293	46	1.318	76	21.031	106	400.000
17	0.328	47	1.454	77	23.540	107	400.000
18	0.359	48	1.627	78	26.375	108	400.000
19	0.387	49	1.829	79	29.572	109	400.000
20	0.414	50	2.057	80	33.234	110	400.000

Age	1000 q_x^{2012}	Age	1000 q_x^{2012}	Age	1000 q_x^{2012}	Age	1000 q_x^{2012}
21	0.443	51	2.302	81	37.533	111	400.000
22	0.473	52	2.545	82	42.261	112	400.000
23	0.513	53	2.779	83	47.441	113	400.000
24	0.554	54	3.011	84	53.233	114	400.000
25	0.602	55	3.254	85	59.855	115	400.000
26	0.655	56	3.529	86	67.514	116	400.000
27	0.688	57	3.845	87	76.340	117	400.000
28	0.710	58	4.213	88	86.388	118	400.000
29	0.727	59	4.631	89	97.634	119	400.000
						120	1000.000

C. Projection Scale G2, Female, Age nearest Birthday

Age	$G2_x$	Age	$G2_x$	Age	$G2_x$	Age	$G2_x$
0	0.010	30	0.010	60	0.013	90	0.006
1	0.010	31	0.010	61	0.013	91	0.006
2	0.010	32	0.010	62	0.013	92	0.005
3	0.010	33	0.010	63	0.013	93	0.005
4	0.010	34	0.010	64	0.013	94	0.004
5	0.010	35	0.010	65	0.013	95	0.004
6	0.010	36	0.010	66	0.013	96	0.004
7	0.010	37	0.010	67	0.013	97	0.003
8	0.010	38	0.010	68	0.013	98	0.003
9	0.010	39	0.010	69	0.013	99	0.002
10	0.010	40	0.010	70	0.013	100	0.002
11	0.010	41	0.010	71	0.013	101	0.002
12	0.010	42	0.010	72	0.013	102	0.001
13	0.010	43	0.010	73	0.013	103	0.001
14	0.010	44	0.010	74	0.013	104	0.000
15	0.010	45	0.010	75	0.013	105	0.000
16	0.010	46	0.010	76	0.013	106	0.000
17	0.010	47	0.010	77	0.013	107	0.000
18	0.010	48	0.010	78	0.013	108	0.000
19	0.010	49	0.010	79	0.013	109	0.000
20	0.010	50	0.010	80	0.013	110	0.000
21	0.010	51	0.010	81	0.012	111	0.000
22	0.010	52	0.011	82	0.012	112	0.000
23	0.010	53	0.011	83	0.011	113	0.000
24	0.010	54	0.011	84	0.010	114	0.000
25	0.010	55	0.012	85	0.010	115	0.000
26	0.010	56	0.012	86	0.009	116	0.000
27	0.010	57	0.012	87	0.008	117	0.000
28	0.010	58	0.012	88	0.007	118	0.000
29	0.010	59	0.013	89	0.007	119	0.000
						120	0.000

D. Projection Scale G2, Male, Age nearest Birthday

Age	$G2_x$	Age	$G2_x$	Age	$G2_x$	Age	$G2_x$
0	0.010	30	0.010	60	0.015	90	0.007
1	0.010	31	0.010	61	0.015	91	0.007
2	0.010	32	0.010	62	0.015	92	0.006
3	0.010	33	0.010	63	0.015	93	0.005
4	0.010	34	0.010	64	0.015	94	0.005
5	0.010	35	0.010	65	0.015	95	0.004
6	0.010	36	0.010	66	0.015	96	0.004
7	0.010	37	0.010	67	0.015	97	0.003
8	0.010	38	0.010	68	0.015	98	0.003
9	0.010	39	0.010	69	0.015	99	0.002
10	0.010	40	0.010	70	0.015	100	0.002
11	0.010	41	0.010	71	0.015	101	0.002
12	0.010	42	0.010	72	0.015	102	0.001
13	0.010	43	0.010	73	0.015	103	0.001
14	0.010	44	0.010	74	0.015	104	0.000
15	0.010	45	0.010	75	0.015	105	0.000
16	0.010	46	0.010	76	0.015	106	0.000
17	0.010	47	0.010	77	0.015	107	0.000
18	0.010	48	0.010	78	0.015	108	0.000
19	0.010	49	0.010	79	0.015	109	0.000

Age	$G2_x$	Age	$G2_x$	Age	$G2_x$	Age	$G2_x$
20	0.010	50	0.010	80	0.015	110	0.000
21	0.010	51	0.011	81	0.014	111	0.000
22	0.010	52	0.011	82	0.013	112	0.000
23	0.010	53	0.012	83	0.013	113	0.000
24	0.010	54	0.012	84	0.012	114	0.000
25	0.010	55	0.013	85	0.011	115	0.000
26	0.010	56	0.013	86	0.010	116	0.000
27	0.010	57	0.014	87	0.009	117	0.000
28	0.010	58	0.014	88	0.009	118	0.000
29	0.010	59	0.015	89	0.008	119	0.000
						120	0.000

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:753.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 40:1704 (September 2014).

James J. Donelon
Commissioner

1409#072

Notices of Intent

NOTICE OF INTENT

Department of Economic Development
Office of Business Development
Office of Entertainment Industry Development

Entertainment Industry Tax Credit Programs—Motion Picture Investor Tax Credit Program (LAC 61:I.Chapter 16)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Economic Development has initiated rulemaking procedures to make amendments to the rules for the Motion Picture Investor Tax Credit Program to bring the rules into compliance with current statutory provisions and administrative practices.

Title 61
REVENUE AND TAXATION
Part I. Taxes Collected and Administered by the Secretary of Revenue
Chapter 16. Louisiana Entertainment Industry Tax Credit Programs
Subchapter A. Motion Picture Investor Tax Credit Program
§1605. Definitions

A. - B. …

* * *

Expenditure—actual payment of cash or cash equivalent, paid by or on behalf of a state certified production or state-certified infrastructure project, exchanged for goods or services, as evidenced by an invoice, receipt or other such document. The department may determine whether *expenditures* submitted as production-related costs represent legitimate *expenditures* for the actual costs of goods and services that have economic substance and a business purpose related to the certified production, or such costs constitute constructive dividends, self-dealing, inflated prices or similar transactions entered into for the purpose of inflating the amount of tax credits earned rather than for the benefit of the production.

* * *

Non-Applicable Production Expenditures—Repealed.

* * *

Payroll—all salary, wages and other compensation, including benefits paid to an employee, on which withholding payments are remitted to the Department of Revenue, in accordance with R.S. 47:164(D). However, payroll for purposes of the additional tax credit for Louisiana-resident payroll shall exclude any portion of an individual salary in excess of $1,000,000.

* * *

Production Audit Report—an audit report issued by a qualified accountant who is unrelated to the motion picture production company and that is a report of the qualified accountant's audit of the motion picture production's cost report of production expenditures.

* * *

Production Expenditures—preproduction, production and postproduction expenditures directly relating to and proportionate with work performed in Louisiana on a state certified production, see §1606 for detailed examples of qualifying and non-qualifying expenditures commonly associated with motion picture production projects.

a. - n. Repealed.

* * *

Qualified Accountant—an independent certified public accountant authorized to practice in Louisiana who has sufficient knowledge of accounting principles and practices generally recognized in the film and television industry.

* * *

Related Party Transaction—a transaction between parties deemed to be related by common ownership or control under generally accepted auditing standards. Related party transactions may be subject to limitations, as provided for in §1612.

* * *

Special Events—an event that occurs irrespective of filming, such as Mardi Gras, music festivals, concerts or other similarly situated events.

Special Event Production Expenditures—only costs directly related to filming the special event shall qualify for tax credits. Costs that are indirectly related to filming shall not qualify for tax credits, including but not limited to artist compensation for festival or concert appearances and costs associated with the usual activities of a reality show or documentary.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:53 (January 2010), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 40:

§1606. Illustrative Chart of Qualifying and Non-Qualifying Expenditures

A. The chart below is intended only as a guide, and not an exact list of what may be considered qualified expenditures. LED/OEID can only make a determination on the qualifying nature of any expenditure upon receipt of an audit performed by a Louisiana licensed CPA. Related party transactions may be subject to additional limitations as provided for in §1612.

Description	Qualified	Comments
Story and Rights		
Story Rights	Yes *	Only if purchased directly from a Louisiana company primarily engaged in such business, e.g. a Publishing House.
Writing		
Writers	Yes	
Story Editor	Yes	

Description	Qualified	Comments
Research	Yes	
Script Printing	Yes	
Producer and Staff		
Executive Producer	Yes	
Line Producer	Yes	
Producers	Yes	
Associate Producers	Yes	
Director and Staff		
Director	Yes	
Dialogue Coach	Yes	
Talent		
Principal Cast	Yes	
Supporting Cast	Yes	
Day Player	Yes	
Weekly Player	Yes	
Talent Staff	Yes	
Talent Expenses	Yes	
Stunt Coordinator	Yes	
Stunts	Yes	
Casting Director	Yes	
Travel and Living Above The Line (Atl)		
ATL Travel and Living	Yes	
ATL Airfare	Yes *	Only for travel containing a Louisiana departure or arrival city, if purchased directly from a Louisiana company primarily engaged in such business, e.g. a Travel Agent.
Talent Travel--Intrastate	Yes	
Fringe Benefits (Atl)		
Pension Plan and Health and Welfare	Yes	
Employer Taxes	Yes*	State Unemployment Insurance (SUI) does not qualify
Production Staff		
Production Manager	Yes	
Production Supervisor	Yes	
First Assistant Director	Yes	
Second AD's and Trainees	Yes	
Script Supervisor	Yes	
Location Manager	Yes	
Asst Location Managers and Scouts	Yes	
Tech Advisors	Yes	
Production Coordinators	Yes	
Asst Production Coordinators	Yes	
Production Accountants	Yes	
Assistant Accountants	Yes	
Payroll	Yes	
Post Accounting	Yes	
Production Assistants	Yes	
Extra Talent		
Standins	Yes	
Extras	Yes	
Camera		
Director of Photography	Yes	
Operator	Yes	
Asst Cameramen and Operators	Yes	
Still Photographer	Yes	
Loader	Yes	
Camera Rentals	Yes	
Box and Still Camera Rentals	Yes*	Only if payments are made to an individual (not a loan out corporation) and included as other income on payroll records, such as a W2.
Art Department		
Production Designer	Yes	

Description	Qualified	Comments
Art Director and Assistants	Yes	
Set Designers	Yes	
Illustrators	Yes	
Storyboard Artist	Yes	
Box Rentals	Yes *	Only if payments are made to an individual (not a loan out corporation) and included as other income on payroll records, such as a W2.
Set Construction		
Construction Coordinators	Yes	
Construction Foremen	Yes	
Stage Set Construction Labor	Yes	
Location Set Construction Labor	Yes	
Stage Set Striking Labor	Yes	
Stage Set Striking Materials Purchase and Rental	Yes	
Location Set Striking Labor	Yes	
Set Restoration	Yes	
Greens Purchase	Yes	
Trash Removal	Yes	
Scissor Lifts/Forklifts	Yes	
Box Rental	Yes *	Only if payments are made to an individual (not a loan out corporation) and included as other income on payroll records, such as a W2.
Construction Expendables	Yes	
Fringes	Yes *	SUI does not qualify
Special Effects		
SFX Coordinator	Yes	
SFX Assistants	Yes	
Rig and Strike	Yes	
Box Rental	Yes *	Only if payments are made to an individual (not a loan out corporation) and included as other income on payroll records, such as a W2.
Set Operations		
Key Grip	Yes	
Grips—all	Yes	
Craft Service Persons	Yes	
Greensperson- Company	Yes	
Stand By Carpenters	Yes	
Stand By Painters	Yes	
Set Watch/Fireman	Yes	
Medics	Yes	
Heating/Air Conditioning	Yes	
Grip Expendables	Yes	
Lumber	Yes	
Craft Service Purchases	Yes	
Grip Package	Yes	
Truck Package	Yes	
Additional Equipment	Yes	
Helicopter Rental	Yes	
Box Rentals	Yes *	Only if payments are made to an individual (not a loan out corporation) and included as other income on payroll records, such as a W2.
Electrical		
Chief Lighting Technician	Yes	
Lighting Assistant and Technicians	Yes	

Description	Qualified	Comments
Rig and Strike	Yes	
Generator Operator	Yes	
Special Equipment Operator	Yes	
Purchases-- Expendables, Gels, Etc.	Yes	
Globes and Carbons	Yes	
Electric Package	Yes	
Stage Package	Yes	
Rigging Package	Yes	
Specialty Lighting	Yes	
Generator Rentals	Yes	
Box Rentals	Yes *	Only if payments are made to an individual (not a loan out corporation) and included as other income on payroll records, such as a W2.
Fringes	Yes *	SUI does not qualify
Set Dressing		
Set Decorator	Yes	
Leadman/Buyer	Yes	
Set Dressing Labor	Yes	
Drapery/Carpet	Yes	
Manufacturing/Materials	Yes	
Set Dress Purchase and Materials	Yes	
Fixtures	Yes	
Box Rentals	Yes *	Only if payments are made to an individual (not a loan out corporation) and included as other income on payroll records, such as a W2.
Research	Yes	
Expendables	Yes	
Action Props		
Propmaster	Yes	
Assistant Propmaster and Labor	Yes	
Manufacturing Labor/Materials	Yes	
Purchases and Rentals	Yes	
Research	Yes	
Expendables	Yes	
Car and Box Rentals	Yes *	Only if payments are made to an individual (not a loan out corporation) and included as other income on payroll records, such as a W2.
Picture Vehicles/Animals		
Picture Car Coordinator	Yes	
Picture Car Drivers	Yes	
Picture Car Rentals	Yes	
Marine Expense	Yes	
Aircraft/Helicopter Expense	Yes	
Pic Vehicle Manufacturing	Yes	
Mechanic	Yes	
Animals	Yes	
Wranglers, Handlers	Yes	
Feeding and Stabling	Yes	
Wardrobe		
Costume Designer	Yes	
Designer Staff	Yes	
Wardrobe Labor	Yes	
Costumers	Yes	
Cleaning and Dying	Yes	
Alterations and Repairs	Yes	
Purchases and Rentals	Yes	
Research	Yes	

Description	Qualified	Comments
Expendables	Yes	
Washing Machine and Dryer	Yes	
Box Rentals	Yes *	Only if payments are made to an individual (not a loan out corporation) and included as other income on payroll records, such as a W2.
Makeup and Hairdressing		
Makeup Artist	Yes	
Key Makeup	Yes	
Additional Makeup	Yes	
Additional Hairstylists	Yes	
Makeup and Hairdressing Supplies	Yes	
Wigs Purchase/Rentals	Yes	
Production Sound		
Mixer	Yes	
Boom Operator	Yes	
Sound Package	Yes	
Addl Equipment	Yes	
Walkie Talkies	Yes	
Box Rental	Yes *	Only if payments are made to an individual (not a loan out corporation) and included as other income on payroll records, such as a W2.
Locations		
Site Fees and Rentals	Yes	
Police/Firemen/Watchmen	Yes	
Set Security	Yes	
Scouting	Yes	
Hotels	Yes	
Per Diems	Yes	
Meals	Yes	
Extras Catering	Yes	
Catering Assistants	Yes	
Mileage and Parking	Yes	
Location Restoration	Yes	
Purchases	Yes	
Office Supplies and Equipment	Yes	
Utilities	Yes	
Cleaning	Yes	
Set Dec/Props Warehouse	Yes	
Construction Mill	Yes	
Phone Charges	Yes	
Video Tape		
Supervision	Yes	
Technical Director	Yes	
Video Operator	Yes	
Video Recordist	Yes	
Video Assist Package	Yes	
Video Transfers	Yes	
Video Editing	Yes	
Video Contact	Yes	
Transportation		
Transportation Coordinator	Yes	
Captains	Yes	
Location Drivers	Yes	
Repairs/Maintenance	Yes	
Pickup Service	Yes	
Taxis	Yes	
Gas and Oil	Yes *	State fuel tax must be excluded.
Honeywagon Supplies	Yes	
Production Trucks and Vehicles	Yes	
Location Vehicles	Yes	
Cranes	Yes	

Description	Qualified	Comments
Insert Car	Yes	
Camera Cars	Yes	
Fringes	Yes *	SUI does not qualify
Production Film and Lab		
Raw Stock	Yes	
Steadicam	Yes	
Negative Develop	Yes	
Sound Transfers	Yes	
Video Cassette Dailies	Yes	
Telecine Transfers	Yes	
Tests		
Talent	Yes	
Labor	Yes	
Film	Yes	
Facility Expenses		
Postage and Messengers	Yes	
Studio Shipping/Messengers	Yes	
Outside Facility	Yes	
Stage Use	Yes	
Prep/Strike	Yes	
Shoot	Yes	
Power	Yes	
Backlot Rental	Yes	
Dressing Room Rental	Yes	
Parking Space Rental	Yes	
Other Studio Facilities	Yes	
Studio Personnel Charges	Yes	
Dumpsters, Cleaning	Yes	
Second Unit		
Second Unit Director	Yes	
Cast Talent	Yes	
Production Staff	Yes	
Camera	Yes	
Art Department	Yes	
Construction	Yes	
Special Effects	Yes	
Set Operations	Yes	
Electrical	Yes	
Set Dressing	Yes	
Props	Yes	
Pic Vehicles and Animals	Yes	
Extras	Yes	
Wardrobe	Yes	
Makeup and Hair	Yes	
Sound	Yes	
Locations	Yes	
Transportation	Yes	
Special Unit		
Talent	Yes	
Staff	Yes	
Labor	Yes	
Transportation	Yes	
Contract	Yes	
Locations	Yes	
Below the Line (BTL) Travel and Living		
Travel and Living	Yes	
BTL Airfare	Yes *	Only for travel containing a Louisiana departure or arrival city, if purchased directly from a Louisiana company primarily engaged in such business, e.g. a Travel Agent.
Fringes-Shooting Period		
Pension Plan and Health and Welfare	Yes	
Employer Taxes	Yes *	SUI does not qualify
Local Hire Fringes	Yes *	SUI does not qualify

Description	Qualified	Comments
Editing and Projection		
Film Editor	Yes	
Assistant Film Editors	Yes	
Post Prod Supervisor	Yes	
Coding and Misc Editorial	Yes	
Coding Equipment	Yes	
Sound Effects Editing	Yes	
ADR Editing	Yes	
Production Assistant	Yes	
Negative Cutting	Yes	
Music Editors	Yes	
Meals	Yes	
Continuity Expenses	Yes	
Expendables	Yes	
Editorial Room Rentals	Yes	
Lightworks System	Yes	
Equip, Deliver/Pickup	Yes	
Sound Editors' Room	Yes	
Music Editors' Room	Yes	
Music		
Clearances	Yes	
Writers	Yes	
Composers	Yes	
Supervisor	Yes	
Arrangers	Yes	
Copyists	Yes	
Pre-Score Musicians	Yes	
Underscore Musicians	Yes	
Star Vocalist	Yes	
Vocalists	Yes	
Music Editing	Yes	
Meals	Yes	
Sound (Post Production)		
Dubbing Stage	Yes	
Dubbing	Yes	
Post Preview/Session	Yes	
DTS	Yes	
ADR Stage	Yes	
Foley Efx Recording	Yes	
Transfers	Yes	
Close Captioning	Yes	
Film and Stock Shots		
Film Leader	Yes	
Stock Shot Purchase	Yes	
Reprints	Yes	
Visual Effects		
Visual Effects Supervisor	Yes	
Miniatures	Yes	
Mattes	Yes	
Titles, Opticals, Inserts		
Main and End Titles	Yes	
Title Designer	Yes	
Inserts	Yes	
Optical Development	Yes	
Fringes-Post Production		
Pension Plan and Health and Welfare	Yes	
Employer Taxes	Yes *	SUI does not qualify
Local Hire Fringes	Yes *	SUI does not qualify
Post Travel and Living		
Post Travel and Living	Yes	
Post Airfare	Yes *	Only for travel containing a Louisiana departure or arrival city, if purchased directly from a Louisiana company primarily engaged in such business, e.g. a Travel Agent.

Description	Qualified	Comments
Insurance		
Insurance Package	Yes *	Only if purchased directly from a Louisiana company primarily engaged in such business, e.g. an Insurance Broker. Estimated costs must be included in the Total Production Budget submitted at time of application and the audit of actual expenses must be allocated for the prorata portions of production/ post production which occur both within and outside of Louisiana.
Unit Publicity		
Unit Publicist	Yes *	Only if paid from production budget.
Publicity Contract	Yes *	Only if paid from production budget.
Outside Photographer	Yes *	Only if paid from production budget.
Stills Film and Processing for Shoot	Yes *	Only if paid from production budget.
Product Placement		
Product Placement Credits	Yes	
General Expenses		
Motion Picture Association of America (MPAA) Seal	No	
Legal Fees	Yes	
Bank/Exchange Costs	Yes	
Previews	Yes	
Office Purchases	Yes	
Computers and Software	Yes	
Office Space Rental	Yes	
Office Equipment Rental	Yes	
Post Office Equipment	Yes	
Miscellaneous	Yes	
OSHA Safety	Yes	
Wrap Party	Yes	
Independent Audit	No	
Fringes—Other		
Pension Plan and Health and Welfare	Yes	
Employer Taxes	Yes *	SUI does not qualify
Local Hire Fringes	Yes *	SUI does not qualify
Public Relations (PR) Handling	Yes *	Only if purchased directly from a Louisiana company primarily engaged in such business, e.g. a PR Company.
Completion Bond	Yes *	Only if purchased directly from a Louisiana company primarily engaged in such business, e.g. a Bond Company. Estimated costs must be included in the Total Production Budget submitted at time of application and the audit of actual expenses must be allocated for the prorata portions of production/ post production which occur both within and outside of Louisiana
Contingency	No	

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 40:

§1608. Audit Provisions

A. Qualified Accountant

1 Independent. To ensure independence (and avoid even the perception of any threat thereto) LED requires that a CPA, CPA firm or an affiliate of the CPA or CPA firm shall not provide the final audit for any state-certified production within the motion picture incentive program if the CPA, CPA firm or affiliate of the CPA or CPA firm performed any other services relating to the state-certified production. These activities would include all attest and non-attestation services; including, but not limited to identification and quantification analysis, quantified benefits projection or application preparation.

2. Authorized to practice in LA shall mean a CPA with a Louisiana license, or a non-resident CPA with practice privileges, as approved by the state Board of Certified Public Accountants of Louisiana.

B. Production Audit Report

1. The production audit report shall contain an opinion from the qualified accountant stating that the production's cost report of production expenditures presents fairly, in all material aspects, the production expenditures expended in Louisiana pursuant to the provisions of this Section. The production audit shall require:

a. the production audit report to be performed in accordance with generally accepted auditing standards in the United States, see AU-C Sec. 200;

b. the production audit report to be addressed to the party which has engaged the qualified accountant;

c. the production audit report to contain the qualified accountant's name, address, and telephone number;

d. the production audit report to contain a certification that the qualified accountant is unrelated to the motion picture production company;

e. the production audit report to be dated as of the date of completion of the qualified accountant's field work;

f. the production audit report to contain a statement of acknowledgment by the qualified accountant that the state is relying on the qualified cost report in the issuance of the tax credits under the provisions of this Section.

2. The production audit report shall comply with the auditing guidelines issued with the initial certification letter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 40:

§1612. Related Party Transactions

A. It is recognized that while legitimate related party transactions often occur as production expenditures, some related party transactions may be conducted in such a manner as to abuse the purpose and intent of the program. LED therefore establishes the following rules regarding such transactions.

1. Disclosure and Identification

a. The audit notes must provide a breakdown of all related party transactions (as defined GAAS and GAAP), and include the following:

i. the name of the related party;

ii. the nature of the relationship between the related party and the motion picture production company;

iii. the nature of the transaction; and

iv. the amount of the transaction.

b. For further guidance on defining related parties and applicable procedures that should be considered by the auditor, see SAS No. 45, AU Sec. 334 as superseded by AU-C Sec. 550 and interpreted by 9550 on related parties. If there are no related party transactions, the audit must include a note to that effect.

2. Verification of Economic Substance over Form. GAAS and GAAP require the reporting of the economic substance of transactions regardless of their legal form. The auditor must satisfy himself or herself that any related party relationships and material transactions are properly accounted for and adequately disclosed in the notes. Mere disclosure of RPT's without further analysis and explanation will be considered insufficient by LED.

3. Project Cost Accounting and Reporting

a. Motion picture production companies that enter into transactions with related parties shall report project costs as detailed below, unless LED approves in writing an exception for reporting at market rates.

b. The Motion Picture Incentive Program is "project" based; therefore, to the extent that related party motion picture production companies are seeking tax credits for qualifying expenditures, they must capture and report "project" costs and revenues, not just functional expense classifications.

c. Full project costing requires the creation and reporting of labor and facility/equipment "charge rates" to properly account for production company personnel and facility/equipment resources used to create the state certified production, i.e. the "project."

4. Limitations on Certain Types of Expenditures

a. Services:

i. above the line (ATL) services provided by related parties—12 percent limit (LA spend $25,000,000 and lower); 8 percent limit (LA spend higher than $25,000,000);

(a). for productions where the Louisiana expenditures are $25 million or lower and where above the line services (such as producer, executive producer, actor, director and other ATL services) are provided by a related party, qualifying expenditures for these services are limited to 12 percent of the total Louisiana production expenditures;

(b). for productions where the Louisiana expenditures are higher than $25 million and where above the line services (such as producer, executive producer, actor, director and other ATL services) are provided by a related party, qualifying expenditures for these services are limited to 8 percent of the total Louisiana production expenditures;

ii. below the line (BTL); actual compensation. Where below the line services (such as production services) are provided by a related party, qualifying expenditures are limited to the actual compensation paid by the related party to its employee(s) actually performing the service (including employer-paid benefits), allocated to the production on an hourly basis.

b. Goods (equipment/supplies/studio rental/visual effects packages)

i. Fair Market Value (FMV). Where goods are provided by a related party, qualifying expenditures are limited to fair market value, as established through the related party's historic dealings with unrelated parties, or actual transactions between other unrelated parties, for substantially similar goods. The comparable transactions must be substantially similar, considering the type of goods, the geographic market, and other pertinent variables.

(a). For example: the production company has recently acquired the same type of goods in Louisiana at the same price from an unrelated third party. The studio-parent of the production company operates an equipment rental house that provided goods to the production company, and also recently provided the same type of goods at the same price to unrelated parties in Louisiana.

ii. Internal Cost Recovery Rate. If FMV cannot be established, qualifying expenditures will be limited to the internal cost recovery rate, consisting of actual acquisition cost, plus ongoing maintenance and upgrade cost, divided by anticipated utilization over the real useful life.

c. Visual Effects Packages; ICRR or Actual Compensation. If FMV cannot be established for visual effects packages, qualifying expenditures will be limited to either ICRR and/or actual compensation paid by the related party employer to its employee(s) actually performing the service (including employer-paid benefits), allocated to the production on an hourly basis. LED will select the methodology it deems most appropriate under the circumstances.

d. Finance Fees/Interest. No tax credits shall be earned for finance fees, interest, or payments of a similar nature paid to related parties and/or investors in the production (i.e., entities or parties that reap increased financial rewards based on sales, exploitation of the product, or the success in lining up distribution agreements).

B. Documentation

1. Related party transactions must be supported by an audit and documentation as requested by LED, which may include (but is not limited to) third-party contracts, notarized affidavits, tax records, W-2's, 1099's and cancelled checks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and the Office of Entertainment Industry Development, LR 40:

§1613. Application of the Tax Credit

A. - A.1.a. …

2. Transfer. Any motion picture investor tax credits not previously claimed by any taxpayer against its income tax may be transferred or sold to another Louisiana taxpayer or to the office, pursuant to R.S. 47:6007(C)(4).

a. A single transfer or sale may involve one or more transferees. Transferors and transferees shall submit to the Department of Revenue in writing, a notification of any transfer or sale of tax credits within 10 days after the transfer or sale of such credits and shall include a processing fee of $200 per transferee.

b. If the investor tax credits (evidenced by a certification letter) are transferred to the office:

i. on and after January 1, 2007, and prior to December 31, 2008 the state shall make payment to the investor at a value of 72 percent of the face-value of the credits;

ii. on January 1, 2009, and every second year thereafter, the percent of the value of the tax credits paid by the state shall increase 2 percent until the percentage reaches 80 percent;

iii. for state certified productions which receive initial certification on or after July 1, 2009, the state shall make payment to the investor at a value of 85 percent of the face-value of the credits.

3. - 4.d.i.(b). …

B. - B.6.c. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development and the Office of the Governor, Division of Administration, LR 36:57 (January 2010), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and the Louisiana Economic Development Corporation, LR 37:515 (February 2011), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 40:

§1614. Confidential Information

A. All records in the possession of LED, irrespective of form or content, are considered public records and subject to disclosure under Louisiana Public Records Law (R.S. 44:1 et seq.), unless an exception, exemption or limitation applies.

1. Applicants should avoid the inclusion of unnecessary personally identifiable information or other confidential information within submitted records.

2. Unless otherwise instructed by LED staff, applicants shall limit submitted taxpayer identification numbers, financial account numbers and bank routing numbers to the last four digits thereof.

B. An applicant asserting that submitted records are confidential proprietary or trade secret information within the scope of R.S.44:3.2, or subject to any other applicable exception, exemption or limitation, shall:

1. submit a cover sheet stating in bold type, as applicable, "DOCUMENT CONTAINS CONFIDENTIAL PROPRIETARY OR TRADE SECRET INFORMATION", or "DOCUMENT CONTAINS CONFIDENTIAL INFORMATION"; and

2. clearly mark each page containing information asserted to be confidential, specifically marking each instance of such information.

C. LED will treat as confidential:

1. all but the last four digits of taxpayer identification numbers, financial account numbers and ABA routing numbers; and

2. scripts for motion picture production projects prior to their commercial release.

D. If in the course of responding to a public records request, LED finds responsive records marked confidential as provided in Subsection B above, but which LED determines to be subject to disclosure, LED will make reasonable efforts to notify the applicant to afford the applicant an opportunity to seek a protective order from the 19th Judicial District Court, while complying with the time delays provided by Louisiana Public Record Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 40:

Family Impact Statement

It is anticipated that the proposed Rule amendment will have no significant effect on the: stability of the family, authority and rights of parents regarding the education and supervision of their children, functioning of the family, family earnings and family budget, behavior and personal responsibility of children, ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

It is anticipated that the proposed Rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed Rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed rulemaking will have no provider impact as described in HCR 170 of 2014.

Public Comments

Interested persons should submit written comments on the proposed Rules to Stephen Hamner through the close of business on October 28, 2014 at P.O. Box 94185, Baton Rouge, LA 70804-9185 or via email to Stephen.Hamner@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 10 a.m. on October 29, 2014 at the Department of Economic Development, 1301 North Third St., Baton Rouge, LA.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Entertainment Industry Tax Credit Programs—Motion Picture Investor Tax Credit Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no explicit incremental costs or savings to state or local governmental units due to the implementation of this rule because the proposed rule sets forth LED's current procedures regarding related party transactions as required by Act 178 of 2013 Regular Session and better aligns the rules with current statutory provisions and administrative practices. As such, any other administrative duties brought about by the proposed rule will be handled by existing departmental staff funded by the existing LED budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The current version of the statute was established in 2009, to date approximately 600 applications have been received, and

$854 million issued in total credits certified as follows: $49 million in FY 2010, $186 million in FY 2011, $138 million in FY 2012, $348 million in FY 2013, $133 million in FY 2014, and $47 million certified to date in FY 2015. The motion picture production tax credit program does not have an annual program or per project cap.

Overall, the proposed rule revisions provide further guidance on project expenditure eligibility to program applicants, through the addition of various definitions and illustrative examples of qualifying and non-qualifying expenditures. To the extent that these changes more clearly establish parameters of the program and preclude eligibility that would otherwise occur, state general fund revenue may increase. It is anticipated that the more precise definitions of related party transactions may lead to the largest increase in state general fund revenue as they are expected to restrict the program in ways it has not been limited in the past. For example, based upon 2014 data, (with only two productions exceeding the benchmarks) LED estimates that establishing benchmarks for Above the Line (ATL) services provided by related parties - 12% limit (LA spend $25,000,000 and lower); 8% limit (LA spend higher than $25,000,000), may result in a program cost saving of approximately $1million dollars per year. The requirements for participating firms to withhold employee state income tax does not change the ultimate liability of tax. However, withholding is likely to increase more complete compliance and increase state income tax collections somewhat.

There is no impact to local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Should the content of the proposed rule allow for decreased eligibility, fewer credits may be obtained by applicants.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

While companies that submit related party transaction expenditures in excess of LED benchmarks and lacking economic substance may receive fewer credits than companies transacting business with third parties in arms length transactions, there is no anticipated impact on competition and employment due specifically to this rule as all program participants are under the same guidelines and can structure their business affairs accordingly.

Anne G. Willa	Gregory V. Albrecht
Undersecretary	Chief Economist
1409#048	Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development
Office of the Secretary

Ports of Louisiana Tax Credits: Import-Export Tax Credit Program (LAC 13:I.Chapter 39)

Editor's Note: This Notice of Intent is being repromulgated due to an error upon submission. The original Notice of Intent can be viewed in the July 20, 2014 edition of the *Louisiana Register* on pages 1393-1396.

The Department of Economic Development, Office of the Secretary, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in accordance with R.S. 36:104, hereby gives notice of its intent to adopt the following rules of the Ports of Louisiana Tax Credits: Import-Export Credit Program as LAC 13:I.Chapter 39, Subchapter B.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 39. Ports of Louisiana Tax Credits
Subchapter B. Import-Export Tax Credit
§3921. Purpose and Definitions

A. Purpose

1. The primary purpose of this Subchapter is to encourage the use of state port facilities in Louisiana. The utilization of public port facilities for the import and export of cargo to or from distribution, manufacturing, fabrication, assembly, processing, or warehousing sites in Louisiana is essential to Louisiana's economic health and the ability of business and industry associated with the maritime industry to compete cost effectively on a regional, national and global scale.

B. Definitions

Applicant—the international business entity submitting application for certification of tax credits.

Application—information provided by the applicant that is required to participate in the import-export tax credit program that has been verified by an independent certified public accountant or other third party approved by Louisiana Economic Development, which shall be filed annually for the prior calendar year's qualified cargo.

Application Date—the date an application for preliminary certification of a project is received by LED.

Baseline Tonnage—any breakbulk or containerized machinery, equipment, materials, products, or commodities owned by an international business entity receiving the credit, which are imported or exported to or from a Louisiana facility and which are so moved by way of an oceangoing vessel berthed at a Louisiana public port facility during the 2013 calendar year.

Breakbulk Cargo—machinery, equipment, materials, products, or commodities, including but not limited to palletized or unpalletized bagged, packaged, wrapped, drummed, baled, or crated goods and commodities, or offshore drilling platforms and equipment, and shall not include bulk cargo.

Bulk Cargo—loose, unpackaged, non-containerized cargo or any liquid or dry commodities that are handled in bulk.

Certified Tonnage—the number of tons of qualified cargo in a calendar year minus the number of tons of baseline tonnage.

COA—the commissioner of administration of the state of Louisiana.

Containerized Cargo—any machinery, equipment, materials, products, or commodities shipped in containers which are rigid, sealed, reusable metal boxes in which merchandise is shipped by vessel, truck, or rail.

DOTD—the Louisiana Department of Transportation and Development.

Export Cargo—any breakbulk or containerized cargo brought from the state of Louisiana to a foreign country, excluding bulk cargo.

Import Cargo—any breakbulk or containerized cargo brought to the state of Louisiana from a foreign country, excluding bulk cargo.

International Business Entity—a taxpayer corporation, partnership, limited liability company, or other commercial entity, all or a portion of whose activities involve the import or export of breakbulk or containerized cargo to or from a Louisiana facility.

JLCB—the Joint Legislative Committee on the Budget.

LED—the Louisiana Department of Economic Development.

LDR—the Louisiana Department of Revenue.

Louisiana Expenditures—shipping costs incurred in the transporting, warehousing, storing, and blast freezing of qualified cargo between the Louisiana facility and the cargo's point of entry to or exit from the state.

Louisiana Facility—manufacturing, fabrication, assembly, distribution, processing, or warehousing facilities located within Louisiana.

Oceangoing Vessel—any vessel, ship, barge, or watercraft that floats, including offshore oil exploration platforms.

Public Port—any deep-water port commission or port, harbor and terminal district as defined in article VI, section 44 of the Constitution of Louisiana, and any other port, harbor, and terminal district established under title 34 of the *Louisiana Revised Statutes* of 1950.

Qualified Cargo—any breakbulk or containerized machinery, equipment, materials, products, or commodities owned by an international business entity, that are imported or exported to or from a Louisiana facility by means of an oceangoing vessel berthed at a public port facility.

Significant Positive Economic Benefit—net positive tax revenue that shall be determined by taking into account direct, indirect, and induced impacts of the project based on a standard economic impact methodology utilized by the COA, and the value of the credit, and any other state tax and financial incentives that are used by LED to secure the project or activity.

State—the *state* of Louisiana.

SBC—the Louisiana State Bond Commission.

Ton—a net *ton* of 2000 pounds and in the case of containerized cargo it shall exclude the weight of the container.

Verified Statement—information required by Section 3923(D), verified by the applicant's chief executive officer or most senior officer responsible for shipping and distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 40:

§3923. Application

A. An international business entity submitting an application is eligible to receive tax credits for certified tonnage following preliminary certification by LED, certification of significant positive economic benefit by the COA, approval of JLCB, approval by SBC and final certification by LED.

B. No applications will be received for import-export tax credits prior to July 1, 2014.

C. Applications may be filed after January 1 of each year for qualified cargo shipped during the immediately preceding calendar year.

D. No more than one application may be filed by an applicant for a calendar year, and shall include all qualified cargo for that calendar year.

E. The application shall include the following information:

1. a verified statement of baseline tonnage;

2. a verified statement of qualified cargo specifically including:

a. total annual volume and tons of breakbulk or containerized cargo exported from or imported to a Louisiana facility;

b. all shipping Louisiana expenditures directly associated with imports or exports through Louisiana public ports, and general freight charges, or a distribution of those expenditures that can be identified as Louisiana expenditures across the following six key shipping-related categories:

i. international shipping, which are those Louisiana expenditures for shipping between the Louisiana port and international locations such as pilotage, tugs, harbor fees, linement and dockage;

ii. water transportation, which are those Louisiana expenditures for intrastate shipping by barge or other vessel;

iii. truck transportation, which are those Louisiana expenditures for intrastate transportation by road;

iv. rail transportation, which are those Louisiana expenditures for intrastate transportation by rail;

v. warehousing and storage, which are those Louisiana expenditures for wharfage, stevedoring, drayage, warehousing, storage, and other loading and unloading charges;

vi. blast freezing, which are those specific Louisiana expenditures for freezing or other cold storage.

c. any additional information required by LED.

3. The applicant must retain documentation supporting the information in the verified statement for a three-year period. Upon good cause, all books and records of the applicant relating to the application shall be subject to audit by LED, at applicant's expense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 40:

§3925. Preliminary Certification

A. LED shall review the application and determine:

1. eligibility of the applicant;

2. certified tonnage; and

3. the estimated significant positive economic benefit of the cargo shipment, taking into consideration:

a. the nature of the cargo as either containerized or breakbulk;

b. transit of the cargo across the docks of a Louisiana public port;

c. the origination and terminus of the cargo from or to a Louisiana or international location;

d. the impact of the cargo shipment in promoting port and harbor activity;

e. the impact of the cargo shipment on the employment of Louisiana residents;

f. the impact of the cargo shipment on the overall economy of the state.

B. If LED determines that the applicant is eligible, LED shall issue a preliminary certification of the certified

tonnage, the maximum amount of tax credits that could be issued (no more than $5.00 per ton of certified tonnage), a recommended finding as to significant positive economic benefit and, if less than the maximum, the recommended amount of tax credits warranted by the estimated significant positive economic benefit.

C. LED shall send the preliminary certification and economic analysis to the COA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 40:

§3927. Certification of Significant Positive Economic Benefit

A. The COA shall review the application, LED preliminary certification and economic analysis, and determine whether a certification of significant positive economic benefit may be issued.

1. COA may issue a certification if he finds that there will be significant positive economic benefit received by the state to offset the effect to the state of the tax credits as a result of either:

a. increased port activity because of grant; or

b. otherwise.

2. The COA's certification shall state the amount of tax credits for which significant positive economic benefit is determined.

3. The COA's certification shall be submitted to the JLCB and the SBC for approval.

4. If the COA's certification is approved by both the JLCB and the SBC, it shall be delivered to the Secretary of LED for final certification.

a. Approval by the JLCB shall not be granted earlier than July 1, 2014.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 40:

§3929. Final Certification

A. The secretary of LED (or his designated program administrator) shall issue a final certification of tax credits in the amount certified by the COA and approved by JLCB and SBC, and deliver copies to the applicant and LDR.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 40:

§3931. Tax Credit Limitations

A. Tax credits shall be issued on a first come, first served basis, based upon the date of final certification.

B. No applicant shall receive a final certification of tax credits under this program in an amount greater than two million five hundred thousand dollars for certified cargo in any calendar year.

C. LED shall not issue final certification of tax credits under this program in a total amount for all applicants greater than $6,250,000 in any single fiscal year.

D. Applications exceeding the limitations provided in this section will be deemed reduced to the applicable limits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 40:

§3933. Claiming Tax Credits

A. There shall be allowed a credit against the individual income, corporate income, and corporation franchise tax liability of a taxpayer who has received a final certification from LED, provided that the credit shall be allowed only against the tax liability of the international business entity which receives the certification.

B. Tax credits are earned in the tax year in which LED issues final certification.

C. The first year in which tax credits may be claimed against taxes is the tax year in which the tax credits are earned.

D. If the tax credit allowed exceeds the amount of taxes due for the tax period, then any unused credit may be carried forward as a credit against subsequent tax liability for a period not to exceed five years.

E. The applicant shall attach the final certification to its return when claiming the credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 40:

§3935. Audit, Recapture and Recovery of Tax Credits

A. Recapture. If LED finds that tax credits have been improperly issued, LED shall issue a revised final certification disallowing the improperly issued tax credits and send copies thereof to the applicant and LDR. The applicant's state income tax liability for such taxable period shall be increased by an amount necessary for the recapture of the tax credits allowed.

B. Recovery. Credits previously granted to an applicant, but later disallowed, may be recovered by LDR through any collection remedy authorized by R.S. 47:1561 and initiated within three years from December 31 of the year in which the credits were earned.

C. Interest. Interest may be assessed and collected, at a rate of three percentage points above the rate provided in R.S. 39:3500(B)(1), which shall be computed from the original due date of the return on which the credit was taken.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 40:

§3937 Termination of Program

A. No import-export credits shall be granted after January 1, 2020. Applications for certification of tax credits for all certified tonnage through December 31, 2018 must be submitted no later than July 1, 2019 to allow sufficient time for final certification of the tax credits by December 31, 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6036.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 40:

Family Impact Statement

It is anticipated that the proposed Rule amendment will have no significant effect on the: stability of the family, authority and rights of parents regarding the education and supervision of their children, functioning of the family, family earnings and family budget, behavior and personal responsibility of children, ability of the family or a local

government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Statement

It is anticipated that the proposed Rule will not have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic factors has considered and, where possible, utilized regulatory methods in drafting the proposed rule to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed rulemaking will have no provider impact as described in HCR 170 of 2014.

Public Comments

Interested persons should submit written comments on the proposed Rule to Paul Sawyer, Louisiana Department of Economic Development, P.O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to the Capitol Annex Building, Second Floor, 1051 North Third Street, Baton Rouge, LA 70802. Comments may also be sent by fax to (225) 342-9448 or by email to paul.sawyer@la.gov. All comments must be submitted (mailed and received) no later than 5 p.m. on October 9, 2014.

Anne G. Villa
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Ports of Louisiana Tax Credits: Import-Export Tax Credit Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no explicit incremental costs or savings to state or local governmental units due to the implementation of this rule because the underlying statute (Act 474 of the 2009 Regular Session) expressly prohibits LED from hiring personnel to administer the program. As such, the Louisiana Department of Economic Development will implement and administer the program with existing staff and resources resulting in implicit administrative costs of resources diverted to this program from other activities. The proposed rule has no measurable cost (savings) impact on local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule provides for the administration of the Ports of Louisiana Import-Export Tax Credit program pursuant to R.S. 47:6036. The statute allows the granting of nonrefundable tax credits against the Louisiana corporate franchise and individual income tax of a maximum amount of $6.25 million per year. This is the amount described in Section 3931 (C) in the proposed rule that states that LED shall not issue final certification of tax credits under this program in a total amount for all applicants greater than six million two hundred fifty thousand dollars in any single fiscal year. Actual annual realizations against those taxes will depend upon the available tax liabilities of the specific program participants, and can be greater than $6.25 million in a particular year if credits are unrealized in some years then accumulated and carried forward to a subsequent year. The statute includes eligibility criteria that require any loss of state revenue resulting from the program to be offset by significant positive economic benefit created by incremental new cargo activity. Incremental new cargo activity is the difference between qualified cargo tons in a year and the tons in the 2013 calendar year. Thus, the referenced positive economic benefits are associated with any growth in cargo tons.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will benefit eligible applicants by providing a tax credit equal to no more than $5 per ton of qualified cargo, and will not exceed a total benefit of $2.5 million in tax credits per fiscal year.

Application fee, which is calculated by multiplying total transportation costs by 0.002. The fee will be no less than $200 and no more than $5,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will gain competitively over companies that do not receive the program's benefits. While employment may increase in participating businesses, employment may be reduced in other competing businesses that do not participate in the program.

Steven Grissom
Deputy Secretary
1409#079

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.301, 515, 519, 703, 705, 707, 3901, 3903, 3905, and 4310)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 111—The Louisiana School, District and State Accountability System*: §301, School Performance Score Goal; §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:

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:

§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:

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:

§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:

§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:

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:

§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:

§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:

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:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

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., October 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 111—The Louisiana School, District, and State Accountability System

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policies will have no effect on costs or savings to state or local governmental units. The proposed revisions remove the use of the Louisiana Alternate Assessment 2 (LAA 2) results in the district and school accountability formula. Due to a change in federal regulations, the LAA 2 is no longer administered in grades 4-8 and is being phased out in high schools.

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
Deputy Superintendent

Evan Brasseaux
Staff Director
Legislative Fiscal Office

1409#027

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement 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:

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:

§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:

§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:

§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:

§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:

§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:

§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:

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)
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)

Name of Assessment Program	Assessment Population	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:

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:

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:

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:

§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:

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:

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:

§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:

§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:

§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:

§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:

§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:

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:

§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:

§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:

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:

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:

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:

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:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been

considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

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., October 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 118—Statewide Assessment Standards and Practices

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policies will have no effect on costs or savings to state or local governmental units. The proposed revisions update security and other testing policies. The proposed revisions also sunset the administration of the Louisiana Alternate Assessment 2 (LAA 2) assessment in grades 4 – 8 and phase out the LAA 2 assessment in high school.

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
Deputy Superintendent
1409#028

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 119—Louisiana School Transportation Specifications and Procedures
(LAC 28:CXIII.301, 303, 2303, and Chapter 25)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 119—Louisiana School Transportation Specifications and Procedures*: §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:

§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:

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:

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:

§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:

§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:

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., October 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 119—Louisiana School Transportation Specifications and Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policies will have no effect on costs or savings to state or local governmental units. These revisions align policy with requirements of Act 257 of the 2014 Regular Legislative Session. The revisions also include technical edits, clarify policy, and align policy with federal regulations.

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
1409#067	Legislative Fiscal Office

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement 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:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

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., October 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 126—Charter Schools

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policies will have minimal effect on state or local governmental units. These revisions align policy with the provisions of Act 729 of the 2014 Regular Legislative Session which requires all types of charter school authorizers to provide notification to district legislators where the schools will be located. The proposed revisions establish notification requirements regarding when authorizers receive charter applications and proposals, and when those applications and proposals are either approved or denied. Act 729 requires that notification be delivered both by certified and electronic mail. The total cost of the notifications will depend on the number of charter applications received across the state but is not anticipated to be material. For applications received by the Department, costs will be funded from the charter administration fee collected from all Type 2, 4, and 5 schools. For applications received by local districts, costs will be funded through district funds.

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
Deputy Superintendent
1409#068

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement 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), LR 40:

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), LR 40:

§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), LR 40:

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), LR 40:

§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), LR 40:

§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), LR 40:

§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), LR 40:

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:

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 forty 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), LR 40:

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), LR 40:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

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., October 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 132—Louisiana Course Choice Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policies will have no effect on state or local governmental units. Act 482 stipulates that all funds for the Course Choice program in the MFP go directly to the local school districts.

The proposed policy revisions align policy with requirements of Act 482 of the 2014 Regular Legislative Session. The legislation and policy redefine the criteria for eligible funded students and eligible participating students, and provide for disbursement and reallocation of Course Choice Program funds to public school systems. The policy revisions also add the policy related to requirements for potential employees found in R.S. 15:587.1 and R.S. 17:15.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

To the extent to which the legislature appropriates funds to support these courses, there will be an increase in funds for public school systems. Act 482 of the 2014 Regular Legislative Session stipulates that all funds for this program in the MFP go directly to the local school districts. . Course Choice funds were previously paid directly to course providers.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

School districts will be more involved in determining that courses are appropriate prior to enrollment. This could reduce the number of students enrolling in courses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1409#069

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement 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:

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:

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:

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:

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., October 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 133—Scholarship Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policies will have no effect on costs or savings to state or local governmental units. The proposed revisions 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 Department of Education reporting requirements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux	Evan Brasseaux
Deputy Superintendent	Staff Director
1409#029	Legislative Fiscal Office

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement 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:

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:

§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:

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., October 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Career Diploma and Promotion of Students with Exceptionalities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy will have no effect on costs or savings to state or local governmental units. The proposed 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 of the 2014 Regular Legislative Session, which relate 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) as required by federal regulations.

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
Deputy Superintendent
1409#030

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction
(LAC 28:CXV.Chapter 23)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §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:

§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:

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:

§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:

§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:

§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:

§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:

§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

Course Title(s)	Units
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:

§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:

§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:

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., October 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed 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 LAA 2 assessment as required by federal regulations.

The proposed policy will have no effect on costs or savings to state or local governmental units. The proposed policy will not have a significant impact on TOPS expenditures.

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
1409#031	Legislative Fiscal Office

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement 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:

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:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

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., October 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Dating Violence and Student Code of Conduct

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

School systems' expenditures may increase to ensure that staff is provided professional development opportunities and parents are provided information regarding dating violence as required by Act 506 of the 2014 Regular Legislative Session.

Any increase is indeterminable and depends on the methods the school districts choose to provide these professional development opportunities. These methods may result in a range of costs from nominal to more significant if workshops are offered. Schools may also incur costs if new data collection methods must be established and implemented. Finally, systems will also realize an increased workload to update their code of conduct to incorporate the policies required in the legislation. Any expenditures will be funded with a mix of state MFP and local dollars.

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
1409#071	Legislative Fiscal Office

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2317. High Schools. 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:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? Yes.

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., October 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—High Schools

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revisions are required by Act 99 of the 2014 Regular Legislative Session, which provides for the optional Biliteracy Seal for graduating seniors. The policy revisions outline the requirements for achieving the Biliteracy Seal.

The LDE will incur indeterminate but nominal costs to design and purchase seals for diplomas. There will be no costs for local schools or districts.

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
Deputy Superintendent
1409#072

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement 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:

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:

§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:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

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., October 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Instruction in Cardiopulmonary Resuscitation and Automated External Defibrillators

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy will have an indeterminable impact on costs for local school systems. The proposed 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. Currently students are required to take Health Education to earn a diploma and schools may adopt existing free instructional programs or use certified professionals to provide classroom instruction. Therefore, implementation costs are expected to be minimal.

Act 525 requires LEAs to provide grade-appropriate and age-appropriate instruction to all students regarding child assault awareness and prevention. Some LEAs may have resources to develop their own instructional materials while others may incur expenses to purchase instructional materials. Therefore, implementation may result in an indeterminable increase for some school systems.

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
1409#070	Legislative Fiscal Office

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 119—Louisiana School Transportation Specifications and Procedures*: §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 proposed policies provide for alternate pathways for certain students with disabilities to be promoted and to graduate with a diploma. The proposed 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:

§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:

§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:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the

objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

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., October 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be an indeterminable increase in costs for the LDE and local school systems as a result of these policy revisions.

These revisions align policy with requirements of Act 833 of the 2014 Regular Legislative Session which amended state requirements around promotion and graduation for certain students with disabilities and increased the responsibility of the Individualized Education Program (IEP) team in making academic decisions. The proposed policies provide for alternate pathways for certain students with disabilities to be promoted and to graduate with a diploma. The proposed policies also expand the role of the IEP team in promotion and graduation decisions.

The LDE will incur indeterminable but likely nominal costs associated with stakeholder meetings to develop guidance for IEP teams, webinars and communications to special education directors, and updating information systems to reflect new IEP responsibilities and promotion/graduation options for students.

Local Education Agencies (LEAs) will incur indeterminable cost increases associated with convening more frequent IEP meetings, training special education administrators and IEP team participants, and administering alternate performance requirements for graduation purposes. Costs will vary across school systems and will depend upon available resources; costs will be funded with a mix of state MFP, federal, and local funding.

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
1402#074	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression Policies and Procedures
(LAC 28:XXXIX.503, 703, and 705)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1566—Pupil Progression Policies and Procedures*: §503, Regular Placement; §703, Promotion of LAA 2 Eligible Students; and §705, Supports for Students. The proposed 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:

Chapter 7. High Stakes Testing Policy

§703. Promotion of LAA 2 Eligible Students

Repealed.

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 40:

§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:

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 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., October 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1566—Pupil Progression Policies and Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policies will have no effect on costs or savings to state or local governmental units. The proposed 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 LAA 2 eligible students. The revisions include the elimination of the Louisiana Alternate Assessment, Level 2 (LAA 2).

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
Deputy Superintendent
1409#075

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*, §133, Expenditures. The proposed 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

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*—

i. a plan that provides the basis for services programming for students with exceptionalities as specified in Bulletin 1530; or

j. *Nonpublic School Created Plan*—

i. 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 one hundred ninety thousand 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:

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., October 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policies will have no effect on costs or savings to state or local governmental units. The proposed 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.

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
Deputy Superintendent
1409#032

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement 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. - 9. …

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. - 7. …

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.

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 and physical education—2 units;
f. at least nine credits in an approved Jump Start course sequence, workplace experience or credentials;
g. 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:

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:

§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:

§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:

§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:

§2323. Mathematics

A. The mathematics course offerings shall be as follows.

Course Title	Unit(s)
Advanced Mathematics I	1
Advanced Mathematics II	1
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:

§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:

§2329. Science

A. The science course offerings shall be as follows.

Course Title	Unit(s)
Aerospace Science	1

Course Title	Unit(s)
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:

§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:

§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:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? Yes.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

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., October 9, 2014, to Heather Cope, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Heather Cope
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

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.

There will be an indeterminable but nominal increase for the LDE related only to the design and purchase of seals for diplomas.

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)

The proposed policy will have no effect on costs or savings to nonpublic schools.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1409#073

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

Scholarship/Grant Programs
TOPS Tech Early Start Award
(LAC 28:IV.1001, 1003, 1005, 1007, 1009, 1011, 1013, 1015, 1017, and 1901)

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 737 of the 2014 Regular Session of the Louisiana Legislature by amending the TOPS Tech Early Start Award rules to provide payment to public and nonpublic postsecondary institutions and approved training providers that provide dual enrollment courses to eligible public high school students in occupational and vocational training programs leading to a credential approved by the Louisiana Investment Council in a top demand occupation. (SG15154NI)

Title 28
EDUCATION
Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 10. TOPS-Tech Early Start Award
§1001. General Provisions

A. Legislative Authority. The TOPS-Tech Early Start Award was created by Act 348 of the 2005 Regular Session of the Louisiana Legislature and amended by Act 737 of the 2014 Regular Session of the Legislature.

B. Description, History and Purpose. The TOPS-Tech Early Start Award is established as part of the Taylor Opportunity Program for Students (TOPS) to provide grants for Louisiana residents taking a technical or applied course in pursuit of occupational or vocational training while being dually enrolled in a state public high school at the 11th and 12th grade levels and at a Louisiana public or nonpublic postsecondary institution or in an approved training program that offers an occupational or vocational education credential in a top demand occupation. The purpose of TOPS-Tech Early Start is to provide an incentive for qualified Louisiana public high school students to prepare for and pursue an industry-based occupational or vocational education credential in a top demand occupation while still in high school.

C. Effective Date. The TOPS-Tech Early Start Award shall be first awarded beginning with the 2005-2006 award

year to 11th and 12th grade students meeting the eligibility criteria set forth in this Chapter.

D. Eligible Terms. The TOPS-Tech Early Start Award is limited to six credit hours per semester and 12 credit hours each academic year (college). TOPS-Tech Early Start is not payable for summer semesters or sessions.

E. Award Amount. The TOPS-Tech Early Start Award provides a payment not to exceed $300 for up to six credit hours each semester or $600 each academic year (college) at a rate of $50 per credit hour.

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 31:3109 (December 2005), amended LR 35:231 (February 2009), LR 40:

§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.

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 40:

§1005. Establishing Eligibility

A. To establish eligibility for the TOPS-Tech Early Start Award, the student applicant must meet all of the following criteria:

1. be in the 11th or 12th grade in a Louisiana public high school;

2. have prepared a five-year education and career plan, including a sequence of related courses with a career focus as provided by the high school career option subchapter in R.S. 17:183.2 et seq.;

3. have a cumulative high school grade point average on all courses attempted of not less than 2.0 when calculated on a 4.0 scale;

4. score at least 15 on the English subsection and 15 on the mathematics subsection of the ACT PLAN assessment administered as part of Louisiana's educational planning and assessment system;

5. enroll in a course in an industry-based occupational or vocational education credential program in a top demand occupation.

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 40:

§1007. Maintaining Eligibility

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

1. be a student in good standing in a Louisiana public high school; and

2. maintain a cumulative high school grade point average on all courses attempted of not less than 2.0 when calculated on a 4.0 scale; and

3. continue to pursue one or more courses leading to a credential in a top demand occupation; and

4. be a student in good standing while enrolled in a Louisiana public or nonpublic postsecondary education institution or an approved training program; and

5. maintain *steady academic progress* as defined in §301.

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 40:

§1009. Responsibilities of LOSFA

A. Upon receipt of bills from institutions submitted in accordance with §1903.B, LOSFA will reimburse the institution for each eligible student in accordance with §1903.

B. LOSFA shall conduct audits of participating Louisiana public and nonpublic postsecondary institutions, approved training providers, and high schools to ensure compliance with program requirements.

C. LOSFA shall provide the information necessary to fully inform Louisiana public high school students and their parents on the requirements of and procedures for applying for and maintaining the award.

D. In the event that the funds appropriated for the TOPS-Tech Early Start Award are insufficient to pay all awards for all eligible students, LOSFA shall develop and submit to LASFAC a plan to limit the awards to the amount appropriated.

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 36:2029 (September 2010), LR 40:

§1011. Responsibilities of High Schools

A. The high school shall comply with the reporting requirements of §1703 for all students enrolled in high school.

B. The high school shall determine whether the student is eligible to participate in the TOPS-Tech Early Start program and approve or disapprove the student's participation in the program.

C. The high school's approval of a student's participation in the program by signing the student's application certifies that the student meets the eligibility criteria provided in §1005.A.1-5, and, if applicable, §1007.A.1 and 2.

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 36:2029 (September 2010), LR 40:

§1013. Responsibilities of Louisiana Public and Nonpublic Postsecondary Institutions and Approved Training Providers

A. Each Louisiana public and nonpublic postsecondary institution and each approved training provider that offers an industry based occupational or vocational education credential in a top demand occupation shall:

1. determine whether an eligible student has applied for enrollment in a course at that institution or provider to pursue an industry based occupational or vocational education credential in a top demand occupation in accordance with §1903.D;

2. determine whether the student has met the requirements to maintain an award as required by §1007.A.3-5;

3. submit bills to LOSFA in accordance with §1903.B for each eligible student so enrolled; and

4. comply with the reporting and records retention requirements of §1903.A and F.

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 31:3111 (December 2005), amended LR 36:2030 (September 2010), LR 40:

§1015. Responsibilities of the Workforce Investment Council

A. The Workforce Investment Council shall define, maintain, and make available to LOSFA and to public and nonpublic postsecondary institutions and to Louisiana training providers a list of industry based occupational or vocational education credentials.

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 31:3111 (December 2005), amended LR 36:2030 (September 2010), LR 40:

§1017. Responsibilities of the State Board of Elementary and Secondary Education (BESE)

A. BESE shall determine which training providers are approved to provide courses each academic year for the TOPS-Tech Early Start Award in accordance with R.S. 17:3048.5.B.(4).

B. BESE shall notify LOSFA of the names and addresses for the approved training providers no later than March 1 for the fall of that year.

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 40:

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions

§1901. Eligibility of Post-Secondary Institutions to Participate

A. Undergraduate degree granting schools which are components of Louisiana public university medical centers and two- and four-year public colleges and universities are authorized to participate in the Taylor Opportunity Program for Students (TOPS), TOPS-Tech, TOPS-Tech Early Start, Rockefeller State Wildlife Scholarship, and the GO-Youth ChalleNGe Program.

B. Regionally accredited private colleges and universities which are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in TOPS (for both academic programs and programs for a vocational or technical education certificate or diploma or a non-academic undergraduate degree), TOPS-Tech, TOPS Tech Early Start Award, and the GO-Youth ChalleNGe Program. As of April 2000, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, New Orleans Theological Seminary, Our Lady of the Lake College, Our Lady of Holy Cross College, St. Joseph Seminary College, Tulane Medical Center, Tulane University and Xavier University.

C. Campuses of Louisiana Technical College are authorized to participate in TOPS, TOPS-Tech, TOPS-Tech Early Start, and the GO-Youth ChalleNGe Program.

D. Eligible Louisiana proprietary and cosmetology schools are authorized to participate in TOPS for all awards and TOPS Tech Early Start Awards.

E. Out-of-state colleges and universities may participate in TOPS if all the conditions of §703.I are met.

F. Approved training providers may participate in the TOPS Tech Early Start Award Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and 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 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 30:784 (April 2004), LR 31:3111, 3114 (December 2005), LR 35:235 (February 2009), LR 35:1490 (August 2009), LR 36:2857 (December 2010), LR 40:

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 (SG15154NI) until 4:30 p.m., October 10, 2014, 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)

Implementation of the proposed rules required by Act 737 of the 2014 Regular Session will increase state general fund expenditures for TOPS-Tech Early Start (TTES) awards by indeterminable amounts in Fiscal Year 2014-15 and thereafter. Current rules require LOSFA to pay TTES training providers $150 per three credit-hour course or equivalent time course, not to exceed two such courses per semester for 11th and 12th grade students. Participation by a small percentage of public high school students (less than 5 percent) will increase state costs by an estimated $1.5 million per year. However, there is no way to estimate how many additional students might take TTES courses from the new training providers and the percentage taking courses could be much less than 5 percent. The proposed rules limit the number of training providers recognized by the Louisiana Workforce Commission and approved by the BESE to five in Fiscal Year 2014-15 and may limit potential cost increases in the first year. However, the limit on training providers in the first year does not limit the number of students that might be trained, and individual training providers may have large training capacities and have multiple geographical training locations. 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)

Students will gain postsecondary education training while still in high school, eliminating or reducing the need for this training after high school and making students job ready faster thus benefitting the state's businesses and industry.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition and employment will be improved due to the presence of a more work-ready workforce.

George Badge Eldredge	Evan Brasseaux
General Counsel	Staff Director
1409#003	Legislative Fiscal Office

NOTICE OF INTENT

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 gives notice that rulemaking procedures have been initiated to amend 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 will be 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:

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 AQ350ft. Such comments must be received no later than October 29, 2014, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ350ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Public Hearing

A public hearing will be held on October 29, 2014, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Herman Robinson, CPM
Executive Counsel

1409#060

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Division

Minor Source Permit Requirements
(LAC 33:III.503 and 519)(AQ266)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.503 and 519 (AQ266).

This Rule will establish a regulatory framework setting forth maximum terms and renewal procedures for minor source permits. Per R.S. 30:2023(A), permits "shall have, as a matter of law, a term of not more than ten years"; however, Louisiana's air quality regulations (LAC 33:III) are currently silent with respect to the term of minor source permits. The basis and rationale for this Rule are to establish a regulatory framework setting forth maximum terms and renewal procedures for minor source permits. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§503. Minor Source Permit Requirements

A. …

B. The following provisions may be utilized to meet the permitting requirements for minor sources.

1. Exemption. The owner or operator of a stationary source which is not a *Part 70 source* as defined in LAC 33:III.502 may apply for an exemption provided the criteria in LAC 33:III.501.B.4 are met.

2. Small Source Permit. The owner or operator of a stationary source which is not a *Part 70 source* may apply for a small source permit provided the source emits and has the potential to emit less than 25 tons per year of any criteria pollutant and 10 tons per year of any toxic air pollutant.

3. …

C. Permit Duration, Expiration, and Renewal

1. Permit Duration

a. Permits issued to a minor source shall have an effective term of ten years from the effective date of the permit, unless a shorter period is provided in the permit. Permits are effective on the date of issuance unless a later date is specified therein.

b. Any revision or reopening of the permit shall establish the start of a new permit term. An administrative amendment or approval to relocate a portable facility shall not establish the start of a new permit term.

2. Permit Expiration

a. Unless renewed in accordance with Paragraph C.3 of this Section, a minor source permit shall expire at the end of its effective term.

b. Permit expiration terminates the owner's or operator's right to operate the source.

3. Permit Renewal

a. Any permit application that renews an existing permit shall be submitted at least 6 months prior to the date of permit expiration. In no event shall the application for permit renewal be submitted more than 18 months before the date of permit expiration.

b. Notwithstanding Subparagraph C.3.a of this Section, the permit application to renew an existing permit that expires on or before December 31, 2014, shall be submitted in accordance with the schedule specified by the department and published in the *Louisiana Register* unless the existing permit provides that a renewal application shall

be submitted by an earlier date. In no event shall an owner or operator be provided less than 3 months to prepare a renewal application.

c. Provided a timely and complete renewal application has been submitted, the terms and conditions of the existing permit shall remain in effect until such time as the department takes final action on the application for renewal.

d. Any permit being renewed shall be subject to the same procedural requirements that apply to initial permit issuance as found in LAC 33:III.519.

D. No permit shall be rendered invalid by Subsection C of this Section unless the owner or operator fails to submit a timely and complete renewal application in accordance with LAC 33:III.503.C.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of the Secretary, Legal Affairs Division, LR 37:1146 (April 2011), amended by the Office of the Secretary, Legal Division, LR 40:

§519. Permit Issuance Procedures for New Facilities, Initial Permits, Renewals and Significant Modifications

A. - C.3. …

4. Notwithstanding the 18-month allowance in Paragraph C.3 of this Section, final action shall be taken on any application relating to a *new facility* or to a *substantial permit modification*, as defined in LAC 33:I.Chapter 15, in accordance with the time frames specified in LAC 33:I.1505.

5. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2022 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of Environmental Assessment, LR 30:2021 (September 2004), amended by the Office of the Secretary, Legal Division, LR 40:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

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 AQ266. Such comments must be received no later than November 5, 2014, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to deidra.johnson@la.gov. 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 AQ266. 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 October 29, 2014, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Minor Source Permit Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed action will result in the submittal of additional air permit applications that must be processed by LDEQ's Air Permits Division. However, it will not necessitate the hiring of new personnel, as the additional applications can be processed by existing staff. In order to manage the increased workload LDEQ intends to stagger the due dates for these applications such that they can be processed efficiently, without unduly hindering the processing of applications for new sources and modifications.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Each owner or operator required to renew a minor source permit will have to submit a permit application and appropriate permit fee to LDEQ. As such, there will be an increase in revenues associated with the proposed action. The appropriate permit fee is determined in accordance with LAC 33:III.Chapter 2 and is dependent on the nature of the modifications requested by the applicant (if any) and the standard industrial classification code (SICC) of the facility in question. LDEQ estimates that the proposed Rules will affect 1,314 minor source permits and increase revenues by the following amounts: $215,300 in FY 14-15; $226,200 in FY 15-16; and $153,900 in FY 16-17.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Owners or operators of facilities that are operating under minor source air permits that were issued or last modified more than 10 years ago will be affected by the proposed action. Each affected owner or operator will have to prepare an application requesting that LDEQ renew its facility's air permit. Some owners or operators may choose to prepare the requisite application themselves, and others may hire an environmental engineering firm. LDEQ estimates the cost to hire a consulting

firm to be between $4,375 and $9,250. A permit application fee must accompany the renewal application and is described in Section II above.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment in the public or private sector.

Herman Robinson, CPM	Evan Brasseaux
Executive Counsel	Staff Director
1409#061	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Auctioneers Licensing Board

License—Apprentice Auctioneer (LAC 46:III.Chapter 11)

Notice is hereby given 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, that the Auctioneers Licensing Board proposes to amend 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:

§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:

§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:

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 Rule 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.

Public Hearing

Interested persons may submit written comments until 3:30 p.m., October 13, 2014, to Sandy Edmonds, Auctioneers Licensing Board, 11736 Newcastle Avenue, Bldg. 2, Suite C, Baton Rouge, LA 70816.

Sandy Edmonds
Executive Assistant

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: License—Apprentice Auctioneer

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local government expenditures. The proposed rule change only clarifies existing rules for apprentice auctioneers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact on state or local government revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no cost or economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and/or employment.

Sandy Edmonds	Evan Brasseaux
Executive Assistant	Staff Director
1409#041	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Board of Examiners of Interior Designers

Examination and Registration (LAC 46:XLIII.Chapter 9)

Notice is hereby given 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 that the Board of Examiners of Interior Designers proposes to amend 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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

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 Rule 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.

Public Comments

Interested persons may submit written comments until 3:30 p.m., October 13, 2014, to Sandy Edmonds, Board of Examiners of Interior Designers, 11736 Newcastle Avenue, Bldg. 2, Suite C, Baton Rouge, LA 70816

Sandy Edmonds
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Examination and Registration

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 clarifies the definition of a registered interior designer and restates the definition of the practice of interior design.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have a minimal effect on revenue collections of the LA State Board of Examiners of Interior Designers. The Board proposes an annual $5 fee to

register emeritus status for retired designers. With few designers eligible to apply for emeritus status, the impact will likely be negligible.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have minimal costs, as those applying for emeritus status will pay a $5 annual fee to register and maintain emeritus status. There are a very small number of interior designers who are eligible to apply for emeritus status.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Sandy Edmonds	Evan Brasseaux
Executive Director	Staff Director
1409#040	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Board of Home Inspectors

Home Inspectors (LAC 46:XL.Chapter 1-7)

The Board of Home Inspectors proposes to amend LAC 46:XL.107, 109, 115, 117, 119, 120, 123, 125, 127, 133, 135, 137, 139, 141, 303, 305, 307, 309, 311, 313, 315, 317, 319, 321, 323, 325, 329, 501, 701, 705, 711 and 713 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and the Louisiana Home Inspector Licensing Law, R.S. 37:1471 et seq. The text is being amended primarily as an overhaul of the rules to correct any typographical errors, render rules consistent with each other and phrase the rules more properly. Other rules are being amended non-substantively to provide consistency with other rules. In addition, Section 309, 325 and 501 are being revised to comport with Acts 2014 no. 572, revising R.S. 37:1478.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XL. Home Inspectors

Chapter 1. General Rules

§107. Meetings

A. All meetings shall be held in accordance with the Louisiana Open Meetings Law. Unless otherwise designated~~,~~ by the board, all meetings shall be held at the board's domicile in Baton Rouge.

B. ...

C. Special meetings shall be held at least two weeks after notification is given to each board member, unless a decision or action is required by the board within two weeks of the scheduling of a special meeting. In that case, each board member shall receive at least 24 hour's notice. The public shall be provided notice of all special meetings as soon as practicable, but no less than 24 hour's notice. Special meeting agendas are to be posted at the meeting site at least 24 hours prior to the meeting.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1474-1475 and R.S. 42:7.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2739 (December 2000), LR 40:

§109. Definitions

Code—the Professional and Occupational Standards of Home Inspectors promulgated in LAC 46:XL.

AUTHORITY NOTE: Promulgated in accordance with R.S.37:1473 and R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2739 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1686 (August 2004), LR 36:2858 (December 2010), LR 40:

§115. Licensing Applications; Forms; Terms; Renewals; Inactive Status

A. Initial home inspector license applications are to be made on approved forms supplied by the board. Each applicant shall complete all chapters of the application. The application shall also be notarized and accompanied by two current passport sized photographs of the applicant. The application shall contain the applicant's Social Security number, however, the number shall be deleted or blackened out from any public record.

B - C. ...

D. Any licensee who fails to timely renew his license may thereafter obtain renewal upon filing a renewal application and upon paying the appropriate renewal and delinquent fees. The period for delinquent renewal of an expired license shall be limited to the 12 month period immediately following the expiration date of the active license. Failure to renew an expired license during such 12 month period shall require the former licensee to pass the board approved licensing examination, pay the appropriate renewal and delinquent fees, file a renewal application, and complete all continuing education requirements accruing during the period of delinquency. Failure to renew an expired license within the 36 month period immediately following the expiration date of the active license shall, in addition to the above requirements, require the licensee to retake and pass 90 hours of classroom education as set forth in the board rules and take the standards of practice and *Code of Ethics* report writing seminar offered by the board or other board approved education provider. Any home inspection performed during an expiration period is considered a violation and shall subject the licensee to disciplinary action by the board.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477 and R.S. 37:1479.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2740 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1687 (August 2004), LR 36:2858 (December 2010), LR 37:2405 (August 2011), LR 40:

§117. Fees; Submission of Report Fees; Timeliness of Filings

A. …

B. Each home inspection performed by an inspector under these rules shall be subject to a $5 state inspection fee per home inspection. This fee is to be made payable to the Louisiana State Board of Home Inspectors and is to be remitted monthly in the following manner.

1. - 3. …

4. The board may inspect any licensee's records to insure compliance with the licensee's obligation to submit reports and remit fees. The failure of a licensee to cooperate with the board's reasonable request for said inspection shall constitute a violation of these rules.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477 and R.S. 37:1479.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2740 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 34:1926 (September 2008), LR 36:2858 (December 2010), LR 40:

§119. Education/Training and Testing; Initial Licensure

A. Initial applicants for licensure must pass a board approved licensing examination covering home inspection methods and techniques, the standards of practice set forth in §301 et seq., and code of ethics set forth in §501.

B. …

C. The 130 hours of home inspection instruction and training shall consist of the following:

1. 90 hours of home inspection course work approved by the board and taught by a certified pre-licensing education provider as set forth in §120;

2. …

3. 10 hours of instruction and training from a certified in-field trainer, which shall consist of attending 10 live home inspections at a residential structure where a fee is paid and a report is provided to a client.

C.4. - K. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2741 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1687 (August 2004), LR 35:1519 (August 2009), LR 36:2858 (December 2010), LR 38:2529 (October 2012), LR 40:

§120. Education Providers; Qualifications

A. - A.5. …

6. A *guest lecturer* is defined as an individual licensed and/or certified in a construction related field, who provides pre-license and/or continuing education instruction for an education provider.

B. - G.3. …

4. All other educational providers shall provide the student with documentation, either electronically or otherwise, which clearly sets forth the title, date, location and cost of the course and the number of continuing education or field training hours that are approved by the board for the course.

H. - J. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 30:1687 (August 2004), amended by the Office of the Governor, Board of Home Inspectors, LR 31:2011 (August 2005), LR 35:1520 (August 2009), LR 36:2859 (December 2010), LR 38:2530 (October 2012), LR 40:

§123. Home Inspection Reports; Consumer Protection

A. All home inspection reports shall comply with all requirements as set forth in the standards of practice, these rules and the home inspector licensing law.

B. - C. …

D. Refusal to comply with this Section shall constitute cause for disciplinary action resulting in license revocation, suspension, and/or fine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475-1477 and R.S. 37:1479-1480.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 40:

§125. Home Inspectors Record Keeping; Inspection; Production Retention

A. …

B. Records shall be made available, upon reasonable request, to the board's representatives during normal business hours. Such request shall be made in writing on board stationery. The failure of a licensee to maintain adequate records or the failure to furnish copies of such records within 72 hours receipt of a written request by the board shall constitute a violation of this rule.

C. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2742 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 36:2860 (December 2010), LR 40:

§127. Insurance

A. All active, licensed home inspectors shall carry errors and omissions insurance as well as general liability insurance.

1. …

2. Each licensee shall be notified of the required terms and conditions of coverage for the annual policy at least 30 days prior to the annual renewal date. If the required terms and conditions have not been modified from the previous year's policy, the terms and conditions for the previous year shall apply and the licensee shall not be so notified.

B. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475, R.S. 37:1477 and R.S. 37:1485.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2743 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1688 (August 2004), LR 40:

§133. Report of Address Changes

A. Every licensee shall report any change in office address, residence address, office phone, and residence phone to the board, in writing, within 15 days of such change. The board shall acknowledge any change, in writing, and shall update all records accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2744 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 40:

§135. Display of License

A. - B. …

C. A license certificate shall be displayed at the licensee's place of business. If the licensee operates from home, it is to be readily accessible.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2744 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 40:

§137. LSBHI Funds; Deposits and Disbursements; Board Members; Reimbursement

A. All board funds received shall be paid to the Louisiana State Board of Home Inspectors through its secretary-treasurer and deposited to the board's operating account established for that purpose. Disbursements made by board shall be signed by the chairman and the secretary-treasurer. In absence of the chairman or the secretary-treasurer, the vice chairman may sign all documents with the remaining authorized signatory.

B. All fees and moneys received by the board shall be used solely to effectuate the provisions of the law and these rules. Such use may include, but is not limited to expenditures necessary for office fixtures, equipment and supplies and all other charges necessary to conduct the business of the board.

C. No board member shall receive a per diem but shall be reimbursed for actual expenses incurred when attending a meeting of the board or any of its committees and for the time spent on behalf of the board on official business not to exceed 10 days in any one month. Each board member shall be reimbursed upon approval of the board as evidenced by voucher for all necessary travel and incidental expenses incurred in carrying out the provisions of the rules of the board. No reimbursement, other than for lawful travel and mileage shall be allowed for attending any regular or special board meetings or for board related activities outside Louisiana. Reimbursement for time spent may be allowed if the board member is engaged in board business in Louisiana for the following, non-exclusive activities: participation as an appointed member of a special investigating entity; inspecting records of persons subject to the law and these rules; and reviewing and processing applications for licensure unconnected with preparation for a board meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1474-1475, and R.S. 37:1489.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2744 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 40:

§139. Prohibited Acts: Penalties and Costs

A. The board may suspend or revoke any license, or censure, fine, or impose probationary or other restrictions on any licensee for good cause shown which shall include but not be limited to the following:

1. being convicted of a felony or the entering of a plea of guilty or nolo contendere to a felony charge under the laws of the United States or any other state;

2. - 3. …

4. attempting to deceive or defraud the public;

5. - 11. …

B. The board may fine any applicant or any member of the public for good cause shown, for activities which include, but are not limited to, the following:

1. aiding or abetting a person to evade the provisions of this Chapter or knowingly conspiring with any licensed or unlicensed person with the intent to evade the provisions of this Chapter;

2. - 3. …

C. Violators of any of the provisions of these rules or the law may be fined by the board in an amount not to exceed $1,000 per each separate violation.

D. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1486-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2744 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1688 (August 2004), LR 40:

§141. Cease and Desist Orders; Injunctive Relief

A. In addition to or in lieu of the criminal penalties and administrative sanctions provided for in the law and these rules, the board may issue an order to any person engaged in any activity, conduct or practice constituting a violation of any provision of these rules to cease and desist from such activity, conduct or practice. Such order shall be issued in the name of the state and under the official seal of the board.

B. If the person directed by cease and desist order does not cease and desist the prohibited activity, conduct, or practice within two days of service of such order by certified mail, the board may seek a writ of injunction in any court of competent jurisdiction and proper venue enjoining such person from engaging in the activity, conduct or practice, and recovery of all related costs of the type described in §139.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1488.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2745 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1689 (August 2004), LR 40:

Chapter 3. Standards of Practice

§303. Definitions

A. The definitions in §109 of this Part are incorporated into this Chapter by reference. The following definitions apply to this Chapter.

* * *

Cooling System—a central system that uses ducts to distribute cooled air to more than one room or uses pipes to distribute chilled water to heat exchangers in more than one room, which system is not plugged into an electrical convenience outlet.

* * *

Component—a readily accessible and observable aspect of a system, such as a floor or wall, but not individual pieces such as boards or nails or where many similar pieces make up a *component*.

* * *

Deficient—Repealed.

* * *

Dismantle—to take apart or remove any component, device or piece of equipment that is bolted, screwed, or

fastened by other means that would not be taken apart by a homeowner in the course of normal household maintenance.

* * *

Functional Drainage—a drain which empties in a reasonable amount of time and does not overflow when another fixture is drained simultaneously.

* * *

Further Evaluation—examination and analysis by a qualified professional or service technician whose services and qualifications exceed those possessed by a home inspector.

Heating System—a central system that uses ducts to distribute heated air to more than one room which system is not plugged into an electrical convenience outlet.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2745 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1689 (August 2004), LR 36:2861 (December 2010), LR 38:2532 (October 2012), LR 40:

§307. General Limitations

A. …

B. This Chapter applies only to residential resale buildings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2746 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 40:

§309. General Exclusions

A. Home inspectors are not required to inspect or report on:

1. - 5. …

6. solicit to perform repair services on any system or component of the home which the inspector noted as significantly deficient, non-functioning or unsafe in his home inspection report for a period of one year from the date of the inspection;

7. the presence or absence of any suspected or actual adverse environmental condition or hazardous substance, including but not limited to asbestos, radon lead, mold, contaminated drywall or building components, carcinogens, noise, or contaminants, whether in the building or in soil, water, or air; however, if during the course of inspecting the systems and components of the building in accordance with the law and these rules, the home inspector discovers visually observable evidence of suspected mold or microbial growth, he shall report it;

8. - 11. …

B. Home inspectors are not required to:

1. - 5. …

6. disturb or move insulation, personal items, panels, furniture, equipment, soil, snow, ice, plant life, debris or other items that may obstruct access or visibility;

7. - 13. …

14. dismantle any system or component, except as specifically required by these standards of practice; or

15. perform air or water intrusion tests or other tests upon roofs, windows, doors or other components of the structure to determine its resistance to air or water penetration.

C. Home inspectors shall not:

1. - 4. …

5. report on the presence or absence of pests such as wood damaging organisms, rodents or insects; however the home inspector may advise the client of damages to the building and recommend further inspection by a licensed wood destroying insect inspector;

6. advertise or solicit to perform repair services on any system or component of the home which the inspector noted as deficient, significantly deficient or unsafe in his home inspection report from the time of the inspection until the date of the act of sale on the home inspected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1478.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2746 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1690 (August 2004), LR 36:2862 (December 2010), LR 38:2532 (October 2012), LR 40:

§311. Structural Systems

A. The home inspector shall inspect structural components including:

1. …

2. framing;

3. columns; and

4. piers.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2747 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1690 (August 2004), LR 40:

§313. Exterior System

A. - B. …

C. The home inspector is not required to inspect:

1. - 8. …

9. the presence or condition of buried fuel storage tanks;

10. - 12. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2747 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1691 (August 2004), LR 36:2862 (December 2010), LR 38:2532 (October 2012), LR 40:

§315. Roofing System

A. The home inspector shall inspect:

1. …

2. roof drainage components;

A.3. - B. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2747 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1691 (August 2004), LR 36:2862 (December 2010), LR 38:2532 (October 2012), LR 40:

§317. Plumbing System

A. …

B. The home inspector shall describe:

1. - 2. …

3. water heating equipment;

4. location of main water supply shutoff device; and

B.5. - D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2747 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1691 (August 2004), LR 40:

§319. Electrical System

A. - D. …

E. The home inspector is not required to:

1. - 3. …

4. inspect:

a. …

b. security system devices, heat detectors, carbon monoxide detectors or smoke detectors that are not part of a central system;

c. - d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2748 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1691 (August 2004), LR 36:2863 (December 2010), LR 38:2533 (October 2012), LR 40:

§321. Air Conditioning and Heating System

A. - D. …

E. The home inspector is not required to:

1. - 3. …

4. inspect:

a. - c. …

d. electronic air filters;

e. - h. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2748 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1692 (August 2004), LR 36:2863 (December 2010), repromulgated LR 38:2533 (October 2012), amended LR 40:

§325. Interior System

A. The home inspector shall inspect:

1. - 2. …

3. countertops and a representative number of cabinets and drawers;

4. - 5. …

B. The home inspector shall:

1. operate a representative number of windows and interior doors;

2. report signs of abnormal or harmful water penetration into the building or signs of abnormal or harmful condensation on building components;

3. report the presence of suspected mold or microbial growth if, during the course of inspecting the systems and components of the structure in accordance with the Home Inspector Licensing Law and these rules, the licensed home inspector discovers visually observable evidence of suspected mold or microbial growth.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1692 (August 2004), LR 37:2406 (August 2011), LR 38:2533 (October 2012), LR 40:

§329. Built-In Kitchen Appliances

A. The home inspector shall inspect and operate the basic functions of the following appliances:

1. - 4. …

5. ventilation equipment or range hood;

6. permanently installed microwave oven; and

7. …

B. The home inspector is not required to inspect:

1. …

2. non built-in appliances such as clothes washers and dryers;

3. refrigeration units such as freezers, refrigerators and ice makers; or

4. central vacuum system.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1692 (August 2004), LR 40:

Chapter 5. Code of Ethics

§501. Code of Ethics

A. …

B. Ethical Obligations

1. - 5. …

6. The LHI shall not accept compensation, directly or indirectly, for referring or recommending contractors or other service providers or products to inspection clients or other parties having an interest in inspected properties, unless disclosed and scheduled prior to the home inspection.

7. The LHI shall not advertise or solicit to repair, replace or upgrade for compensation, any system or component of the home which the inspector noted as significantly deficient or unsafe in his home inspection report, or any other type of service on the home upon which he has performed a home inspection, from the time of the inspection until the date of the act of sale on the home inspected.

8. - 10. …

11. The LHI shall not disclose inspection results or a client's personal information without approval of the client or the clients designated representative. At his discretion, the LHI may immediately disclose to occupants or interested parties safety hazards observed to which they may be exposed.

12. The LHI shall avoid activities that may harm the public, discredit him or reduce public confidence in the profession.

13. - 15. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2749 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1693 (August 2004), LR 36:2863 (December 2010), LR 37:2406 (August 2011), LR 40:

Chapter 7. Disciplinary Actions

§701. Definitions

A. The following definitions are used in this Chapter. The definitions in the law and these rules are incorporated into Chapter 1, Chapter 3, and Chapter 5 by reference.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2750 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1693 (August 2004), LR 40:

§705. Special Investigating Entity

A. For all complaints filed pursuant to §703.A, the board shall appoint a committee, board member, employee, or other qualified licensee to verify whether the allegations listed in the complaint may indicate violations of these rules, the standards of practice, *Code of Ethics* or the law. This committee, board member, employee or licensee shall be referred to as the "special investigating entity." The chairman may appoint a special investigating entity at any time to commence review of a complaint. This appointment shall be ratified by the board in executive session at its next meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2750 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1694 (August 2004), LR 40:

§711. Pre-Hearing Resolution

A. …

B. The proposed consent agreement shall then be presented to the board at its next meeting. The board may accept the consent agreement as written, modify the agreement and send it back to the licensee for acceptance, or reject the consent agreement. Accepted agreements shall be filed in the record of the docket.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home Inspectors, LR 26:2751 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1694 (August 2004), LR 40:

§713. Hearing Procedure; Decision; Notice; Effective Date; Rehearing

A. - B. …

C. The board shall render any final decision or order by majority vote of the board in open session. The date of the decision or order shall be indicated on the decision or order.

1. - 2. Repealed.

D. ...

E. A board decision or order may be reconsidered by the board at the next board meeting on its own motion, or on motion by a party of record, for good cause shown pursuant to a written request filed at the board's office within 10 days following the decision date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1475 and R.S. 37:1485-1487.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Home inspectors, LR 26:2751 (December 2000), amended by the Office of the Governor, Board of Home Inspectors, LR 30:1695 (August 2004), LR 38:2533 (October 2012), LR 40:

Family Impact Statement

The proposed Rule amendments have no know impact on family formation, 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.

Public Comments

Interested parties may submit written comments to Morgan Dampier, Chief Operating Officer, Louisiana State Board of Home Inspectors, 4664 Jamestown, Baton Rouge, LA, 70898-4868 or by facsimile to (225) 248-1335. Comments will be accepted through the close of business October 10, 2014.

Public Hearing

If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedures Act, the hearing will be held on October 26, 2014 at 9 a.m. at the office of the State Board of Home Inspectors, 4664 Jamestown, Suite 220, Baton Rouge, LA.

Albert J. Nicaud
Board Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Home Inspectors

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Board expects minimal costs associated with the publication of the Amendments and adopted rules. Licensees and the interested public will be informed of these rule changes via the Board's regular newsletter, direct mailings, website postings or other means of communication at a minimal cost.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as no increase in fees will result from the amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There may be a substantial increase in costs to licensed home inspectors as a result of the proposed administrative rules. The proposed administrative rules provide for all licensed home inspectors to report visual evidence of suspected mold growth, in accordance to LSA R. S. 37:1478, as amended by Acts 2014 no. 547. This will require additional, costly training and result in substantial liability exposure to the home inspector. There will also be a substantial cost to the consumer because virtually any evidence of moisture intrusion into the building, including something as simple as a small water stain on a ceiling, will require the home inspector to report evidence of suspected mold growth. This will either prompt the purchaser to expend thousands of dollars for comprehensive mold testing or kill the real estate transaction.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed administrative rule will increase competition among home inspectors. Some home inspectors will turn in their licenses to avoid the increased cost of errors and omissions insurance and the increased liability.

Albert Nicaud	Evan Brasseaux
Board Attorney	Staff Director
1409#004	Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Office of State Purchasing

Procurement (LAC 34:V.103, 106, 121, 134, 145-149, 187-201, 901, 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, proposes to amend 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 1. Procurement of Professional, Personal, Consulting, ~~and~~ Social Services, and Energy Efficiency Contracts
Subchapter A. General Provisions
§103. Definitions and Classes of Contractual Services

A. ...

1. *Personal Services*—Repealed.

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.- 3.a. Repealed.

4. ...

5.- 5.e. Repealed

6.a. - 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:

§106. Contracts for $10,000 or Less

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:

§121. Contractual Review Process

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:

§134. Cost Reimbursement Contracts

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:

Subchapter B. Contracts Let Via a Request for Proposals Process

§145. Request for Proposals

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:

Subchapter B. Contracts Let Via a Request for Proposals Process

§147. Contracts for Data Processing Consulting Services

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:

Subchapter C. Contracts for Data Processing Consulting Services in an Amount Greater than $100,000

§149. Procurement Support Team

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:

Subchapter D. Revised Statutes

§187. Revised Statutes

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:

Subchapter E. Appendices

§189. Appendix A—Sample Contract

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:

§191. Appendix B—Sample Certification

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:

§193. Appendix C—Suggested Checklist for Review of Personal, Professional, Consulting and Social Services Contracts

Repealed.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 7:184 (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:

§195. Appendix D—Agency Transmittal Letter

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:

§197. Appendix E—Quarterly Report on Small Purchase Contracts

Repealed.

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 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:

§199. Appendix F—Performance Evaluation

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:

§201. Appendix G—Sample Auditor's Opinion for Contract Compliance Audits

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:

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:

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:

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 Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

It is anticipated that the proposed action will have no significant impact 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.

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 to George Grazioso, Office of State Purchasing, P.O. Box 94095, Baton Rouge, LA 70804-9095. He is responsible for responding to inquiries regarding this proposed Rule. All comments must be received by October 10, 2014, by close of business.

Jan B. Cassidy
Assistant Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Procurement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed Rule changes are anticipated to result in no significant cost or savings for either state or local governmental entities at the present time. Pursuant to Act 864 of 2014, these Rules changes merge the LA Procurement Code and the LA Code for Procurement of Professional, Personal, Consulting and Social Services and places all authority, duties and responsibilities under a newly created central purchasing agency identified as the Office of State Procurement and the newly created State Chief Procurement Office position. In future fiscal years, due to Act 864 consolidating the procedures and processes for procurements regardless of type, a potential reduction in state expenditures impact may occur at various state agencies who are currently interacting with two Division of Administration (DOA) sections who will now only have to interact with one. This modification will likely result in time savings for various state employees handling contracts and procurement in the various state agencies.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementing the Rule will have no effect on revenue collections of state or local governmental entities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs to directly affected persons or non-governmental groups as a result of the proposed Rule. However, there will likely be a non-quantifiable economic benefit to those businesses participating in state RFPs and state contracts in that these organizations will now only have to communicate with one state agency (Office of State Procurement) as opposed to two different state agencies (Office of Contractual Review and Office of State Purchasing).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as a result of implementing this Rule.

Jan B. Cassidy
Assistant Commissioner
1409#035

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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 is proposing to adopt 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:

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

Interested persons may submit written comments to Andrea P. Hubbard, Director of the Office of State Uniform Payroll, P.O. Box 94095, Baton Rouge, LA 70804-9095. All comments must be received no later than 5 p.m., October 18, 2014.

Ruth Johnson
Deputy Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Charitable Organization Requirements and Responsibilities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated implementation cost as a result of the proposed rule change. The proposed rule change expands the requirements of non-profits participating in the State Combined Charitable Campaign (SCCC) adopted by Act 501 of 2012. The additional requirements include: applicants must submit an affidavit stating they do not owe money to the state, applicants must not be included on the Legislative Auditor's noncompliance list, beginning in 2015 all funds distributed from the SCCC to participating non-profit charities must be used in the community and not for administrative costs or fundraising expenses, and applicants that possess a congressional charter must submit documentation of such charter in lieu of proof of registration with the Secretary of State.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no effects on revenue collections of state or local governmental units as a result of this proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Due to the proposed requirement that all funds distributed to participating non-profit charities from the 2015 campaign and beyond must go back to the community, this proposed rule change will likely result in a non-quantifiable positive impact

to the communities and groups these participating non profits represent.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated impact on competition and employment as a result of this proposed action.

Ruth Johnson	Evan Brasseaux
Deputy Commissioner	Staff Director
1409#080	Legislative Fiscal Office

NOTICE OF INTENT

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 gives notice of its intent to update 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:

§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:

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:

§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:

§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:

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:

§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:

§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:

§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:

§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:

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:

§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:

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:

§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:

§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:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that these 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

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of these proposed rules has been considered. It is anticipated that this proposed Rule will have no known impact on providers of services for individuals with developmental disabilities.

Public Comments

Interested persons may submit written comments on the proposed regulations to the Licensing Board for Contractors, attention Judy Dupuy, Board Administrator, 2525 Quail Drive, Baton Rouge, LA 70808, fax 225-765-2431, or jdupuy@lslbc.louisiana.gov through October 15, 2014.

Public Hearing

If it becomes necessary to convene a public hearing to receive comments, in accordance with the Administrative Procedures Act, a hearing will be held October 28, 2014 at 9:30 a.m. at the Louisiana State Licensing Board for Contractors at 2525 Quail Drive, Baton Rouge, LA 70808.

Michael McDuff
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Contractors

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on state or local governmental expenditures. Implementation of the proposed rule changes will be carried out using existing staff and funding levels. The proposed rule change provides technical changes and clarifies existing practices. Section 1115 codifies existing interpretations of Act 862, Solar Energy Equipment and Systems.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule changes will not impact revenue collections of state or local governmental units. The proposed rule changes do not include any fee increases by the Louisiana State Licensing Board for Contractors.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Contractors will benefit from clarification of Board procedures and requirements, which may result in increased efficiency, faster licensing approval and renewal, and satisfactory resolution of issues regarding regulatory requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Judy Dupuy	Evan Brasseaux
Board Administrator	Staff Director
1409#042	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Pharmacy Compounding
(LAC 46:LIII.Chapter 25)

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 25, Prescriptions, Drugs and Devices, and more specifically, Subchapter C, Compounding of Drugs, of its rules. The proposed Rule changes are intended to harmonize the board's rules on this topic with recently enacted federal legislation, the Drug Quality and Security Act of 2013.

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, amended LR 40:

§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, amended LR 40:

§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, amended LR 40:

§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 40:

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 on 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.

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. There are no reporting requirements in the proposed rule changes. The minimum quality standards for the compounding of drugs are now set by federal law.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no schedules or deadlines or reporting requirements in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. There are no design standards in the proposed Rule. The pharmacy owner has flexibility on how to achieve the operational standards as long as they comply with the minimum quality standards set by federal law.

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 because the proposed Rule mirrors the minimum quality standards set by federal law.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate no effect on the cost to the provider to provide the same level of service.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, October 30, 2014 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: Pharmacy Compounding

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will result in a cost to the Board of Pharmacy of approximately $2,000 for printing of the proposed and final rules in FY 15. The proposed changes seek to amend the section of Chapter 25 that addresses general standards and practices relevant to the compounding of drugs in order to reflect recently enacted federal legislation, the Drug Quality and Security Act of 2013 (DQSA).

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 changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes directly affect those pharmacies engaged in the compounding of drugs. Since the Board had already adopted the minimum quality standards now set by federal law, the primary change for the compounding pharmacies is the removal of their authority to prepare medications for 'office use' in response to purchase orders instead of patient-specific prescriptions. The new federal definition of 'compounding' no longer permits pharmacies to perform that type of activity. To the extent a pharmacy has been compounding medications for 'office use', this proposed rule change will result in the loss of any receipts and/or revenue resulting from that activity as required under federal law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not have any effect on competition or employment.

Malcolm J. Broussard	John D. Carpenter
Executive Director	Legislative Fiscal Officer
1409#043	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Pharmacy

Special Event Pharmacy Permit
(LAC 46:LIII.Chapter 24)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend Chapter 24, Limited Service Providers, of its rules by adding Subchapter B, Special Event Pharmacy Permit. The proposed Rule is intended to authorize the issuance of a pharmacy permit to the sponsor of a special event, e.g., medical missions, to facilitate the dispensing of prescription medications to patients at the special event. The proposed Rule establishes the general requirements and standards of practice for pharmacies operating with a special event pharmacy permit.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 24. Limited Service Providers
Subchapter A. Durable Medical Equipment
§2409. (Reserved)
Subchapter B. Special Event Pharmacy Permit
§2411. Special Event Pharmacy Permit

A. For good cause shown, the board may issue a special event pharmacy permit when the scope, degree, or type of pharmacy practice or service to be provided is of a special, limited, or unusual nature as compared to a regular pharmacy service. The permit to be issued shall be based on special conditions as requested by the applicant and imposed by the board in cases where certain requirements or standards of practice may be waived.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1223.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 40:

§2413. General Requirements

A. Authority and Limitation

1. A special event pharmacy permit shall authorize the permit holder to procure and possess prescription and non-prescription drugs and devices, and hold such items for immediate administration directly to a patient and/or dispense such items to a patient for later use upon the order of a practitioner with prescriptive authority.

2. In the absence of a Louisiana controlled dangerous substance (CDS) license, the holder of a special event pharmacy permit shall not procure or possess any controlled dangerous substances.

B. Licensing Procedure

1. A person or other entity desiring to obtain a special event pharmacy permit shall complete the application form supplied by the board and submit it with any required attachments and the application fee to the board.

2. The applicant shall provide a complete physical address reflecting the location where the applicant will hold the drugs and devices and engage in the activity for which the permit is acquired. The board shall not issue more than one permit for the same physical space.

3. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fee.

4. A person or other entity who knowingly or intentionally submits a false or fraudulent application shall be deemed to have violated R.S. 37:1241(A)(2).

5. Once issued, the special event permit shall expire thirty days thereafter. No person or other entity shall operate a special event pharmacy with an expired permit; the continued operation of a special event pharmacy with an expired permit shall constitute a violation of R.S. 37:1241(A)(12). Upon written request to the board, and with the concurrence of the board's president and executive director, the expiration date of the special event pharmacy permit may be extended up to an additional thirty days. No special event pharmacy permit shall be valid for more than sixty days.

C. Maintenance of Permit

1. A special event pharmacy permit shall be valid only for the person or other entity to whom it is issued and shall not be subject to sale, assignment or other transfer, voluntary or involuntary, nor shall a special event pharmacy permit be valid for any premises other than the physical location for which it is issued.

2. A duplicate or replacement permit shall be issued upon the written request of the permit holder and payment of the required fee. A duplicate or replacement permit shall not serve or be used as an additional or second permit.

D. Closure of Permit

1. At the conclusion of the special event, the permit holder shall terminate the dispensing and/or distribution of drugs and/or devices from the pharmacy.

2. Disposition of Inventory

a. Controlled Dangerous Substances Listed in Schedule II. These drugs shall be either returned to the supplier or transferred to an authorized registrant, accompanied by an executed DEA Form 222, or its successor. Alternatively, these drugs shall be inventoried on the DEA Form 41 (registrant's inventory of drugs surrendered), or its successor, and then either returned to the regional DEA office or destroyed, but only pursuant to permission from the DEA or agent of the board. The permit holder shall retain triplicate copies of returns, transfers, and/or destructions.

b. Controlled Dangerous Substances Listed in Schedules III, IV, or V. These drugs shall be either returned to the supplier or transferred to an authorized registrant, accompanied by appropriate inventory records. Alternatively, these drugs shall be inventoried on the DEA Form 41, or its successor, and then either returned to the regional DEA office, or destroyed pursuant to permission from the DEA or agent of the board.

c. All Other Prescription and Non-prescription Drugs and/or Devices. These items shall be returned to the supplier, transferred to an authorized registrant, or destroyed.

3. Surrender of Credentials and Board Notice

a. All drugs, devices, prescription records and other pharmacy records have been removed from the premises, the permit holder shall prepare and render a final closure notice to the Board. The notice shall contain the following:

i. disposition and destination of all drugs and/or devices held by the pharmacy;

ii. disposition and destination of all prescriptions and medical orders dispensed or administered to patients;

iii. disposition and destination of all other pharmacy records, including acquisition, inventory, and disposition records for all drugs and/or devices;

iv. the commitment to store such records for no less than two years following the closure of the pharmacy, and further, to make any and all such records available for inspection by the board no later than 72 hours following a request from the board;

v. the certification that all signage indicating the presence of a pharmacy has been removed from the premises;

vi. the confirmation of the surrender of any federal DEA registration held by the pharmacy to the regional DEA office; and

vii. the original and all duplicate copies of the special event pharmacy, and if applicable, Louisiana CDS license.

b. The pharmacist-in-charge of the special event pharmacy permit has the primary responsibility for the proper closure of the pharmacy permit. However, in the event the pharmacist-in-charge fails to complete the task, then the permit holder shall be responsible for the proper closure of the pharmacy permit.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 40:

§2415. Standards of Practice

A. General Requirements

1. The special event pharmacy shall be of sufficient size and shall contain sufficient fixtures, equipment, and supplies commensurate with the scope of practice for that pharmacy, provided:

a. the pharmacy shall be of sufficient size to allow for the safe and proper storage of prescription drugs and, if applicable, controlled dangerous substances;

b. all areas where drugs and devices are stored shall be dry, well-lighted, well ventilated, and maintained at temperatures which will ensure the integrity of drugs prior to their dispensing as stipulated by the United States Pharmacopeia (USP) and/or manufacturer's or distributor's product labeling unless otherwise indicated by the board;

c. the pharmacy shall be secured by either a physical barrier with suitable locks and/or an electronic barrier to detect entry at a time when the pharmacist is not present; and

d. prescription and other patient healthcare information shall be maintained in a manner that protects the integrity and confidentiality of such information.

2. The pharmacist-in-charge of the special event pharmacy shall be responsible for all pharmacy operations including supervision of all pharmacy personnel.

3. The pharmacy shall have at least one licensed pharmacist on duty and physically present in the pharmacy at all times the pharmacy is open for the transaction of business.

4. The pharmacy shall have a sufficient number of pharmacists and/or other pharmacy personnel on duty to operate the pharmacy competently, safely, and adequately to meet the needs of the patients of the pharmacy.

5. When the pharmacy is closed or there is no pharmacist on duty, other individuals shall not have access to the pharmacy except for temporary absences as provided for in Chapter 11 of these rules.

6. The special event pharmacy shall comply with the recordkeeping requirements identified in Chapter 11 of these rules.

7. The compounding of preparations in a special event pharmacy shall be accomplished in compliance with the current federal standards applicable to such practices: USP chapter 795, or its successor, for the compounding of non-sterile preparations and USP chapter 797, or its successor, for the compounding of sterile preparations.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 40:

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. To the extent a medical mission operates a pharmacy as part of their mission, it is possible they may receive needed prescription medication at the mission instead of taking those prescriptions to an existing commercial pharmacy.

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 proposed rules are flexible for the establishment of a pharmacy for a limited period of time. As long as the standards for security, environmental integrity, and confidentiality are maintained, the permit owner has flexibility on how to achieve those requirements.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no schedules or deadlines or reporting requirements in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed rule. There are no design standards in the proposed Rule. The permit owner has flexibility on how to achieve the operational standards.

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 because the proposed Rule provides flexibility in how the pharmacy achieves the operational standards.

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. To the extent the sponsor of a medical mission operates a pharmacy as part of their special event, that pharmacy could be operated for a lower cost than a routine commercial pharmacy.

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 Hearing

A public hearing on this proposed Rule is scheduled for Thursday, October 30, 2014 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:

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will result in a cost to the Board of Pharmacy of approximately $2,000 for printing costs of the proposed and final rules in FY 15. The proposed rule establishes a new type of pharmacy permit for special events of a temporary nature.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no material impact on revenue collections of state or local governmental units from the proposed rule. The proposed rule change addresses special event permits that are requested on an infrequent basis.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule directly affects those organizations sponsoring medical missions or other similar types of special events. The proposed rule establishes a new type of pharmacy permit that can be operated for a limited period of time. The proposed rule provides operational standards for the security and environmental integrity of the medications as well as for the integrity and confidentiality of prescriptions and other healthcare information, but provides flexibility to the permit holder in how those standards are to be achieved. That flexibility can reduce the start-up and operating costs of 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	John D. Carpenter
Executive Director	Legislative Fiscal Officer
1409#044	Legislative Fiscal Office

NOTICE OF INTENT

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 propose to repeal 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 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, Office of the Secretary, Bureau of Health Services Financing promulgated standards for payment for adult day health care (ADHC) services (*Louisiana Register*, Volume 23, Number 9). The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services (OAAS) subsequently adopted provisions in the ADHC Waiver and ADHC licensing Rules which contained the information covered by this Rule (*Louisiana Register*, Volume 34, Number 12; Volume 37, Number 11; Volume 38, Number 9; Volume 39, Number 9). Therefore, the department now proposes to repeal the provisions in LAC 50:II.Chapter 109 in its entirety, as these provisions were revised and repromulgated in Part XXI, of Title 50 and in Part I of Title 48 of the *Louisiana Administrative Code*.

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:

§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:

§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:

§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:

§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:

§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:

§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:

§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).

§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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

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 Wednesday, October 29, 2014 at 9:30 a.m. in Room 173, 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: Adult Day Health Care Standards for Payment

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 $1,148 ($574 SGF and $574 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 $574 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 repeals the provisions in LAC 50:II.Chapter 109 in its entirety, as these provisions were revised and repromulgated in Part XXI, of Title 50 and in Part I of Title 48 of the Louisiana Administrative Code. It is anticipated that implementation of this proposed Rule will not have economic costs or benefits for adult day health care providers 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	Evan Brasseaux
Medicaid Director	Staff Director
1409#097	Legislative Fiscal Office

NOTICE OF INTENT

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 propose to amend LAC

50:XXI.5301, §5501, §§5701-5719, §5901 and §6101, repeal LAC 50:XXI.5711 and adopt 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 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 and the Office for Citizens with Development Disabilities amended the provisions governing the supports waiver in order to include housing stabilization transition services and housing stabilization services as covered services under the waiver program (*Louisiana Register*, Volume 40, Number 1). The department now proposes to amend the provisions governing the supports waiver in order to revise the: 1) covered services; 2) allocation of waiver opportunities; 3) target population; and 4) reimbursement methodology.

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:

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:

§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:

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:

§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:

§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:

§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:

§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 Support 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:

§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:

§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:

§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:

§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:

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:

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 Support Waiver participants:

a. habilitation,

b. supported employment,

c. day habilitation,

d. center-based respite, and

d. 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:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 as it allows more flexibility in receiving the supports waiver 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 a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it increases access and allows more flexibility in receiving the supports waiver services.

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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, October 29, 2014 at 9:30 a.m. in Room 173, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community-Based Services Waivers—Supports Waiver

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 $2,460 ($1,230 SGF and $1,230 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 $1,230 will be expended in FY 14-15 for the federal administrative expenses for promulgation of this proposed Rule and the final Rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing the Supports Waiver in order to revise the: 1) covered services; 2) allocation of waiver opportunities; 3) target population; and 4) reimbursement methodology. The two new categories of opportunities established are from existing waiver opportunities already funded; therefore, no additional funding is required. The changes to the reimbursement methodology for Supports Waiver services are not expected to affect existing expenditures in the Medicaid Program. It is anticipated that implementation of this proposed Rule will not have economic cost or benefits to Supports Waiver providers for FY 14-15, FY 15-16, and 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
1409#098	Legislative Fiscal Office

NOTICE OF INTENT

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 proposes to amend 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 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 reimbursement methodology for public intermediate care facilities for persons with developmental disabilities (ICFs/DD) to establish a transitional Medicaid reimbursement rate for community homes that are being privatized (*Louisiana Register*, Volume 39, Number 2). This Rule also adopted all of the provisions governing reimbursements to state-owned and operated facilities and quasi-public facilities in a codified format for inclusion in the *Louisiana Administrative Code*.

The department promulgated an Emergency Rule which amended the provisions governing the transitional rates for public facilities in order to redefine the period of transition (*Louisiana Register*, Volume 39, Number 10). The department subsequently promulgated an Emergency Rule to assure compliance with the technical requirements of R.S. 49:953, and to continue the provisions of the October 1, 2013 Emergency Rule governing transitional rates for public facilities (*Louisiana Register*, Volume 40, Number 3). This proposed Rule is being promulgated to continue the provisions of the February 22, 2014 Emergency Rule.

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:

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 Wednesday, October 29, 2014 at 9:30 a.m. in Room 173, 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 Developmental Disabilities
Public Facilities—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 $328($164 SGF and $164 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 $164 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 February 22, 2014 Emergency Rule which assured compliance with the technical requirements of R.S. 49:953, and continued the provisions of the October 1, 2013 Emergency Rule which amended the provisions governing the transitional rates for public facilities in order to redefine the period of transition. The change to the period of transition is not expected to affect existing expenditures in the Medicaid Program. 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
1409#099

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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 proposes to adopt 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 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 administers the Medicaid Program which provides health care coverage to eligible recipients through Medicaid contracted managed care entities and/or through Medicaid fee-for-service.

The department promulgated an Emergency Rule which adopted provisions prohibiting Medicaid providers and contracted managed care entities from engaging in provider steering in order to ensure the integrity of Medicaid recipients' freedom of choice in choosing a particular health plan in which to enroll and, when eligible, the freedom of choice in deciding whether or not to receive care through Medicaid fee-for-service. (*Louisiana Register*, Volume 39, Number 12). This Emergency Rule also established criteria for the sanctioning of providers and managed care entities who engage in provider steering of Medicaid recipients.

The department subsequently promulgated an Emergency Rule which amended the December 1, 2013 Emergency Rule in order to clarify these provisions and to incorporate provisions governing provider appeals (*Louisiana Register*, Volume 40, Number 3). This proposed Rule is being promulgated to continue the provisions of the March 20, 2014 Emergency Rule.

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:

§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:

§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:

§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:

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 or autonomy as described in R.S. 49:972 as it ensures freedom of choice for Medicaid recipients when enrolling in a particular help plan and, when eligible, freedom of choice in deciding whether or not to receive health care via Medicaid fee-for-service.

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, and will have no direct or indirect cost to the provider to provide the same level of service. However, the proposed Rule may have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if sanctions are imposed as a result of participation in provider steering and the recoupment of payments may adversely impacts the provider's financial standing.

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.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, October 29, 2014 at 9:30 a.m. in Room 173, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Prohibition of Provider Steering of Medicaid Recipients

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 $656 ($328 SGF and $328 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 $328 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 March 20, 2014 Emergency Rule which adopted provisions that prohibit Medicaid providers and contracted managed care entities from engaging in provider steering, established criteria for the sanctioning of providers who engage in provider steering of Medicaid recipients, and incorporated provisions governing provider appeals. Sanctions imposed as a result of participation in provider steering and the recoupment of payments may adversely impact the provider's financial standing. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to Medicaid providers and contracted managed care entities 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	Evan Brasseaux
Medicaid Director	Staff Director
1409#100	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Reclassification of Failure to Obtain a Food Safety Certification as a Class A Violation (LAC 51:I.113)

Under the authority of R.S. 40:4, R.S. 40:5 et seq., R.S. 40:6, and in accordance with R.S. 49:950 et seq. of the Louisiana Administrative Procedures Act, the State Health Officer, acting through Department of Health and Hospitals Office of Public Health, intends to amend Title 51, Part I, §113 (Suspension/Revocation/Civil Fines or Penalties [formerly paragraph 1:007-21]) of the *Public Health—Sanitary Code*. This Rule is being proposed to reclassify failure to have a food safety certificate from a class B violation to a class A.

The Department of Health and Hospitals (DHH), Office of Public Health (OPH) proposes two amendments to Title 51, Part I, Section 113 (Suspension/Revocation/Civil Fines or Penalties [formerly paragraph 1:007-21]) of the *Public Health—Sanitary Code*. This proposed Rule reclassifies failure to have a food safety certificate from a class B violation to a class A violation. In Section 113(i) class A, the first proposed amendment adds the following language, "failure to obtain a food safety certification in accordance with §305 of Part XXIII", as a new violation that creates a condition or occurrence, which may result in death or serious harm to the public. In Section 113(ii) class B, the second proposed amendment deletes the following language, "a food safety certificate", relating to permitting, submitting of plans, or training requirements.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part I. General Provisions
§113. Suspension/Revocation/Civil Fines or Penalties [Formerly Paragraph 1:007-21]

A. Pursuant to the provisions of R.S. 40:4, R.S. 40:5 and R.S. 40:6, the state health officer acting through the Office of Public Health, for violation(s) of a compliance order may:

1. suspend or revoke an existing license or permit;
2. seek injunctive relief as provided for in R.S. 40:4 and in 40:6; and/or
3. impose a civil fine:

a. these civil fines shall not exceed $10,000 per violator per calendar year applicable to each specific establishment, facility, or property that the violator owns, manages, operates or leases. The schedule of civil fines by class of violations shall be as follows:

i. class A. Violations that create a condition or occurrence, which may result in death or serious harm to the public. These violations include, but are not limited to: cooking, holding or storing potentially hazardous food at improper temperatures; failure to follow schedule process in low acid canned foods or acidified food production; poor personal hygienic practices; failure to sanitize or sterilize equipment, utensils or returnable, multi-use containers; no water; unapproved water source; cross contamination of water; inadequate disinfection of water before bottling; sewage back up; sewage discharge on to the ground; sewage contamination of drinking water; failure to comply with human drug current good manufacturing practices (CGMP); inadequate labeling of foods or drugs regarding life threatening ingredients or information; failure to provide consumer advisories; non-compliant UV lamps or termination control switch on tanning equipment; the inadequate handling and disposal of potentially infectious biomedical wastes; failure to obtain food safety certification in accordance with §305 of Part XXIII; etc. Class A civil fines shall be $100 per day per violation;

ii. class B. Violations related to permitting, submitting of plans, or training requirements. These violations include, but are not limited to: failure to submit plans or to obtain or hold: a permit to operate; a commercial body art certification; tanning equipment operator training; day care training; a license to install, maintain, or pump out sewage systems; etc. Class B civil fines shall be $75 per day per violation;

iii. class C. Violations that create a condition or occurrence, which creates a potential for harm by indirectly threatening the health and/or safety of the public or creates a nuisance to the public. These violations include, but are not

limited to, failure to: properly label food; properly protect food; properly store clean equipment; provide self-closing restroom doors; provide adequate lighting; provide hair restraints; provide soap and towels at hand-washing lavatories; clean floors, walls, ceilings and non-food contact surfaces; properly dispose of garbage; maintain onsite sewage systems; provide electrical power to onsite sewage systems; etc. Class C civil fines shall be $50 per day per violation;

iv. class D. Violations related to administrative, ministerial, and other reporting requirements that do not directly threaten the health or safety of the public. These violations include, but are not limited to, failure to: retain oyster tags; provide Hazard Analysis Critical Control Plans (HACCP); maintain HACCP records; provide consumer information; provide written recall procedures; maintain lot tracking records; turn in onsite sewage system maintenance records or certification of installation; register product labels; etc. Class D civil fines shall be $25 per day per violation;

b. the duration of noncompliance with a provision of the compliance order shall be determined as follows:

i. an investigation shall be conducted by staff for the purpose of determining compliance/noncompliance within five working days after the deadline date(s) specified in the compliance order. If non-compliance still exists, staff will provide a copy of the post-order investigation report to the person in charge and daily penalty assessments shall begin to accrue immediately from the date that non-compliance was determined in the post-order investigation report;

ii. the daily penalties shall accrue until such time as the agency has been notified in writing by the person in charge that compliance has been achieved and such compliance verified by agency staff, or upon reaching the maximum penalty cap of $10,000 per violator per calendar year. Upon written notification by the person in charge of compliance, an investigation to verify compliance shall be made within five working days of receipt of such notification;

iii. upon verification by investigation that compliance has been achieved, the penalties will cease to accrue on the date of receipt of notification by the person in charge;

c. the secretary of the Department of Health and Hospitals, upon the recommendation of the state health officer, may exercise his discretion and mitigate these civil fines or in lieu of a civil fine, require the violator or an employee designee to attend training seminars in the area of the violator's operations in cases where he is satisfied the violator has abated the violation and demonstrated a sincere intent to prevent future violations;

d. at the discretion of the state health officer, notice(s) imposing penalty assessments may be issued subsequent to either initial or continued noncompliance with any provision of the compliance order. Notice(s) imposing penalty assessments shall be served by United States Postal Service, via certified mail-return receipt requested, registered mail-return receipt requested, or express mail-return receipt requested, or hand delivered. Within the notice imposing penalty assessment, the state health officer will inform the person in charge of the ability to apply for mitigation of penalties imposed and of the opportunity to petition for administrative appeal within 20 days after said notice is served, according to the provisions of R.S. 49:992 of the Administrative Procedure Act;

e. once a penalty assessment is imposed, it shall become due and payable 20 calendar days after receipt of notice imposing the penalty unless a written application for mitigation is received by the state health officer within 20 calendar days after said notice is served or a petition for administrative appeal relative to contesting the imposition of the penalty assessment is filed with the Division of Administrative Law, P.O. Box 44033, Baton Rouge, LA 70804-4033 within 20 calendar days after said notice is served;

f. the department may institute all necessary civil action to collect fines imposed;

g. this Section shall not be construed to limit in any way the state health officer's authority to issue emergency orders pursuant to the authority granted in R.S. 40:4 and §115 of this Part;

h. the provisions of Paragraph 3 and Subparagraph a shall not apply to floating camps, including but not limited to houseboats which are classified as vessels by the United States Coast Guard in accordance with R.S. 40:6 as amended by Act 516 of the 2001 Regular Legislative Session;

4. may (in cases involving pollution of streams, rivers, lakes, bayous, or ditches which are located in public rights of way outside Lake Pontchartrain, Toledo Bend Reservoir or the Sabine River, their drainage basins or associated waterways):

a. suspend or revoke the existing license or permit; and/or

b. issue a civil compliance order and impose a fine of $100 per day up to a maximum of $10,000 in cases where establishments operate without a license or permit or continue to operate after revocation or suspension of their license or permit;

5. may (in cases involving pollution of Lake Pontchartrain, Toledo Bend Reservoir, the Sabine River, their drainage basins, or associated waterways and pursuant to the provisions of R.S. 40:1152 and 40:1153):

a. issue a civil compliance order and/or suspend or revoke the existing license or permit; and/or

b. impose a fine of $100 per day up to a maximum of $10,000 in cases where establishments operate without a license or permit, or continue to operate after revocation or suspension of their license or permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 27:1694 (October 2001), repromulgated LR 28:1210 (June 2002), amended LR 28:2529 (December 2002), LR 40:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule will not have an adverse impact on the family.

1. The Effect on the Stability of the Family. There will be 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. There will be 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. There will be no effect on the functioning of the family.

4. The Effect on the Family Earnings and Family Budget. There will be no effect on the family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. There will be no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. There will be no effect on the ability of the family or a 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. 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;
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on the:

1. staffing level requirements or qualifications required to provide the same level of service;
2. total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Chief Sanitarian Tenney Sibley, Department of Health and Hospitals Office of Public Health Sanitarian Services, Bin 10, Post Office 4489, Baton Rouge, LA 70821. She is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is 4:30 p.m. on Monday, October 28, 2014 following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Monday, October 27, 2014, at 10 a.m. in room 173, 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: Reclassification of Failure of Obtain a Food Safety Certification as a Class A Violation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Health and Hospitals (DHH), Office of Public Health (OPH) proposes two amendments to Title 51, Part I, Section 113 (Suspension/Revocation/Civil Fines or Penalties [formerly paragraph 1:007-21]) of the Public Health Sanitary Code. This proposed rule reclassifies failure to have a food safety certificate from a Class B violation to a Class A violation.

In Section 113(i) Class A, the first proposed amendment adds the following language "failure to obtain a food safety certification in accordance with §305 of Part XXIII" as a new violation that creates a condition or occurrence, which may result in death or serious harm to the public. In Section 113(ii) Class B, the second proposed amendment deletes the following language "a food safety certificate" relating to permitting, submitting of plans, or training requirements.

The proposed rule change will result in an estimated cost of $491 to publish a notice of intent and final rule in the *Louisiana Register*. OPH has sufficient funds in its annual operating budget to publish the proposed rule. It is not anticipated that the proposed action will result in any significant implementation costs to local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Although failure to obtain a food safety certification is being reclassified from a Class B to Class A violation and would generate additional revenue as a result of penalty fees increasing from $75 to $100, OPH does not anticipate any effects on revenue collections of state or local governmental units as a result of promulgating the proposed rule changes. Presently, OPH offers establishments that are issued violations several opportunities to come into compliance before assessing civil fines. The majority of violators become compliant and fines are not issued. Therefore, OPH does not anticipate any effects on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is not anticipated to have an impact on retail food establishments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment anticipated as a result of these proposed rule changes.

J.T. Lane
Assistant Secretary
1409#049

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Registration of Foods, Drugs, Cosmetics, and Prophylactic Devices (LAC 51:VI.101 and 105)

Editor's Note: The following Notice of Intent is being repromulgated to correct a codification error. The original Notice of Intent can be viewed in its entirety in the July 20, 2014 edition of the *Louisiana Register* on pages 1417-1419.

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), intends to reenact and amend parts of Sections 101 and 105 of Part VI (Manufacturing, Processing, Packing, and Holding of Food, Drugs, and Cosmetics) of the Louisiana state *Sanitary Code* (LAC 51). This Rule is being proposed to increase the fees assessed for product registration from their current levels to the maximum allowed by statute (R.S. 40:628). The Legislature last granted a fee increase during the 1st Extraordinary Session but fees were not subsequently raised by Rule.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part VI. Manufacturing, Processing, Packing, and Holding of Food, Drugs, and Cosmetics

Chapter 1. General Regulations, Definitions, Permits, Registration, Machinery, Equipment and Utensils, Premises and Buildings, Temperature Control

§101. Definitions [formerly paragraph 6:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the *Sanitary Code*, and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows.

* * *

Dba—the actual or juridical person whose name and address appear on the label of a product as the responsible party for said product.

* * *

Out-of-State Soft Drink—those items meeting the definition of *soft drink* in §1101.A of this Part and bearing a dba statement whose address is outside of the state of Louisiana.

* * *

Product Category—classification of products subject to registration into one of five groups: milk and dairy products (M), seafood products (S), other foods and beverages (F), drugs (D), cosmetics (C), or prophylactics (P). These categories are exclusive of items defined as *out-of-state soft drinks*.

* * *

AUTHORITY NOTE: The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 40:4(A)(1)(a) and R.S. 40:5(2)(3)(5)(8)(15)(17)(19)(21). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1230 (June 2002), amended LR 40:

§105. Registration of Foods, Drugs, Cosmetics, and Prophylactic Devices [formerly paragraph 6:008-1]

A. Registration Provisions. In accordance with the provisions of R.S. 40:627, all processed foods, proprietary or patent medicines, prophylactic devices and cosmetics, in package form, must be registered annually with the Louisiana Food and Drug Unit of the OPH/DHH. Application for registration may be accomplished by using the appropriate form supplied by the Food and Drug Unit.

B. - D. ...

E. [formerly paragraph 6:008-5] Penalty. All firms shall apply for annual registration of their products. These certificates of registration expire 12 months from the date of issuance. Any applications received in the Food and Drug Control Unit Office more than 45 days after expiration of the previous certificate shall be assessed a late registration fee as stipulated in R.S. 40:627(D).

F. Product registration fees shall be assessed according to the following schedule:

1. for out-of-state soft drinks, according to the provisions of R.S. 40:716;

2. for all other products subject to registration requirements, a per product per dba per product category fee, up to the maximum allowed for under R.S. 40: 628(B) per dba per product category.

G. For registration renewals, the provisions of Subsection F will be effective beginning with registrations having an expiration date of June 30, 2016.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(1)(a), R.S. 40:5(2)(3)(5)(8)(15)(17)(19)(21), R.S. 40:628 and R.S. 40:716.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28: 1232 (June 2002), amended LR 40:

Family Impact Statement

1. The effect on the stability of the family. The goal of this Rule is to prevent disease and illnesses; therefore, a lower disease and illness rate of family members because of this Rule should help the family to remain stable.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. No effect on the authority and rights of parents regarding the education and supervision of their children is anticipated as a result of this proposed rulemaking.

3. The effect on the functioning of the family. The goal of this Rule is to prevent disease and illnesses; therefore, a lower disease and illness rate of family members because of this Rule should help the family to function better than it may should a family member become ill if such Rule did not exist.

4. The effect on the family earnings and family budget. It is expected that family members would remain more healthy with the adoption of this rule than if such Rule did not exist; therefore, the family earnings and budget may be protected from additional costs should a family member become ill if such Rule did not exist.

5. The effect on the behavior and personal responsibility of children. No effect on the behavior and personal responsibility of children is anticipated as a result of this proposed rulemaking.

6. The ability of the family or local government to perform the function as contained in the proposed Rule. The family or local governments have no function to perform under this Rule; therefore, the family or local government's ability to perform the function under this Rule is a non-issue.

Poverty Impact Statement

1. The effect on household income, assets, and financial security. There will be no effect on household income, assets and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. There will be no effect on childhood development and preschool through postsecondary education development.

3. The effect on employment and workforce development. There will be no effect on employment and workforce development.

4. The effect on taxes and tax credits. There will be no effect on taxes and tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. There will be no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Per HCR 170, "provider" means an organization that provides services for individuals with developmental disabilities. In particular, there should be no known or foreseeable effect on the:

1. effect on the staffing level requirements or qualifications required to provide the same level of service;

2. total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. overall effect on the ability of the provider to provide the same level of service.

Public Comments

In addition, all interested persons are invited to submit written comments on the proposed Rule. Such comments must be received no later than Friday, August 29, 2014 by close of business or by 4:30 p.m., and should be addressed to Brian R. Warren, Food and Drug Unit, Center for Environmental Health Services, Office of Public Health, CEHS Mail Bin #10, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7672. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 North 4th Street, Room 166, Baton Rouge, LA 70802.

Public Hearing

DHH-OPH will conduct a public hearing at 9 a.m. on August 29, 2014 in Room 173 of the Bienville Building, Baton Rouge, LA. Persons attending the hearing may have their parking ticket validated when one parks in the 7-story Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Sts. (catercorner and across the street from the Bienville Building). All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

Kathy H. Kliebert
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Registration of Foods, Drugs, Cosmetics, and Prophylactic Devices

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Department of Health and Hospitals (DHH), Office of Public Health (OPH) proposes to amend Title 51, Part VI, Chapter 1, Sections 101 and 105 of the Public Health Sanitary Code related to Manufacturing, Processing, Packing, and Holding of Food, Drugs, and Cosmetics.

In Section 101, the proposed rule adds three new definitions relative to product registration. In Section 105, the proposed rule corrects some obsolete program and department references as well as corrects a typographical reference to a nonexistent "Section 1" of R.S. 40:628. Also, the proposed rule codifies the revised fee schedule that indicates OPH shall charge an additional $7 fee for product registrations in accordance with R.S. 40:628 and R.S. 40:716. The increase changed the current fee from $20 to $27 which is the maximum authorized fee.

It is not anticipated that the proposed action will result in any significant implementation costs to local governmental units. The proposed rule changes will result in an estimated cost of $1,148 to publish the notice of intent and final fule in the *Louisiana Register*. OPH has sufficient funds in its annual operating budget to implement the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated effects on revenue collections of local governmental units anticipated as a result of promulgating the proposed rule change. However, the proposed rule gives OPH the authority to increase registration fees for most products from the current level of $20 capped at $200 to a higher level of $27 capped at $270, thereby increasing OPH's projected self-generated revenues by approximately $165,200 per year (4720 companies X 5 products each avg = 23,600 products X increase of $7 = $165,200). Under Act 125 of the 2000 1st Extraordinary Session, the Louisiana Legislature established a maximum fee of $27. With implementation of this proposed rule, OPH is proposing to increase the fee to the maximum amount of $27 previously approved by the legislature.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will result in an economic cost to those entities in the United States that currently hold or in the future will hold Certificates of Registration issued by the Louisiana DHH OPH. There are 4,720 manufacturing, processing, packing, and holding of food, drugs, and cosmetics establishments that are Louisiana Food and Drug registrants throughout the United States. OPH estimates that each registrant will pay an additional $7 per registration.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition and employment anticipated as a result of these proposed rule changes.

J.T. Lance	John D. Carpenter
Assistant Secretary	Legislative Fiscal Officer
1409#016	Legislative Fiscal Office

NOTICE OF INTENT

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., notice is hereby given that the Department of Insurance proposes to promulgate 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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

§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:

Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The proposed regulation should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children. The proposed regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed regulation should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed regulation should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the effect on household income, assets, and financial security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Statement

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the

adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed regulation will have no effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed regulation will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed regulation will have no effect.

Public Comments

Interested persons may submit written comments on the proposed Regulation 102 until 5:00 p.m., Wednesday October 29, 2014, to Walter Corey, Division of Legal Services, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804.

Public Hearing

A public hearing on the proposed Regulation 102 will be held Wednesday October 29, 2014, at 10 a.m., in the Poydras Hearing Room at the Louisiana Department of Insurance, 1702 N. Third 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.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Approved Assurance Organizations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed regulation will not result in implementation costs or savings to state or local governmental units. The proposed regulation codifies requirements of Act 387 of the 2012 Regular Session of the Louisiana Legislature. The proposed regulation authorizes the commissioner to delineate the qualifications, duties and responsibilities of approved assurance organizations, which may file electronic submissions on behalf of a Professional Employer Organization (PEO) with the department. Use of such an approved assurance organization shall be optional and not mandatory for any PEO.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed regulation will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed regulation will have no impact on economic costs or benefits to directly affected persons or non-governmental groups. Assurance organizations are currently required to apply for and obtain approval of the Commissioner of Insurance in order to transact business on behalf of a PEO within the state of Louisiana as per Act 387 of the 2012 Regular Legislative Session.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed regulation will have no impact upon competition and employment in the state.

Noble Ellington	Evan Brasseaux
Chief Deputy Commissioner	Staff Director
1409#047	Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources
Office of Coastal Management

Coastal Mitigation (LAC 43:I.724)

Under the authority of La. 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 proposes to amend LAC 43:724 relative to the rules and procedures for mitigation.

This proposed 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 State 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:

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

In accordance with R.S. 49:965.6, the Department of Natural Resources Office of Coastal Management has conducted a Regulatory Flexibility Analysis and found that the proposed amendment of this Rule will have negligible impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The Proposed Rule has no 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 provider to provide the same level of service. The Proposed Rule has no total direct and no total 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. The Proposed Rule has no overall effect on the ability of the provider to provide the same level of service.

Public Comment

All interested persons are invited to submit written comments on the proposed regulation amendment. Persons commenting should reference this proposed regulation by *Rules and Procedures for Mitigation*. Such comments must be received no later than October 10, 2014, at 4:30 p.m., and should be sent to Kelley Templet, Manager, Office of Coastal Management P.O. Box 44487, Baton Rouge, LA 70804-4487 or by email to kelley.templet@la.gov. Copies of this proposed regulation can be purchased by contacting OCM at (225) 342-7360, and is available for viewing and copying on the internet at: http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=85&ngid=5

Public Hearing

Requests for a public hearing must be received by 4:30 p.m. October 10, 2014. If determined a public hearing is warranted, the public hearing will be held on October 27, 2014 from 8 a.m. to 11 a.m. in the Griffon Room of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802, so that interested persons may submit oral comments on the proposed amendments.

Keith Lovell
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Coastal Mitigation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule change. The proposed rule change codifies the current practice of determining the Coastal Mitigation Account contribution amounts and how those amounts are derived. The monetary contributions are deposited into the Louisiana Wetlands Conservation and Restoration Fund.

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 as a result of the proposed rule change. Implementation of the proposed rule provides clarification as to how the Coastal Mitigation Account contribution amounts are derived, which will have no impact on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no anticipated 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)

There will be no effect on competition and employment as a result of the proposed rule change.

Keith Lowell	Evan Brasseaux
Assistant Secretary	Staff Director
1409#038	Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources
Office of Coastal Management

Coastal Use Permits
(LAC 43:I.723)

Under the authority of La. 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 proposes to amend LAC 43:723 relative to applications for coastal use permits, and related matters.

The proposed 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

§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 Paragraph 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), amended LR 40:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Statement

In accordance with R.S. 49:965.6, the Department of Natural Resources Office of Coastal Management has conducted a Regulatory Flexibility Analysis and found that the proposed amendment of this Rule will have negligible impact on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed Rule has no 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 provider to provide the same level of service. The proposed Rule has no total direct and no total 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. The proposed Rule has no

overall effect on 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 amendment. Persons commenting should reference this proposed regulation by *Application Process—Coastal Use*. Such comments must be received no later than October 10, 2014, at 4:30 p.m., and should be sent to O.C. Smith, III Office of Coastal Management P.O. Box 44487, Baton Rouge, LA 70804-4487 or by e-mail to oc.smith@la.gov. Copies of this proposed regulation can be purchased by contacting OCM at (225) 342-7360, and is available for viewing and copying on the internet at http://dnr.louisiana.gov/index.cfm?md=pagebuilder&tmp=home&pid=85&ngid=5

Public Hearing

Requests for a public hearing must be received by 4:30 p.m. October 10, 2014. If determined a public hearing is warranted, the public hearing will be held on October 27, 2014 from 8 a.m. to 11 a.m. in the Griffon Room of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802, so that interested persons may submit oral comments on the proposed amendments.

Keith Lovell
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Coastal Use Permits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule change. The proposed rule change codifies the current practice of notifying local and state coastal management programs electronically when an application is submitted. The proposed rule change is designed to better reflect the simplified joint application process for Coastal Use Permits and for Department of the Army-Army Corps of Engineers permits for uses of state or local concern in the Coastal Zone.

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 as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no anticipated 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)

There will be no effect on competition and employment as a result of the proposed rule change.

Keith Lowell	Evan Brasseaux
Assistant Secretary	Staff Director
1409#037	Legislative Fiscal Office

NOTICE OF INTENT

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 proposes to amend 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 will remove the Haynesville Shale restriction and allow 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:

§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:

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., November 3, 2014, 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. CON ENG 2014-10 on all correspondence. All inquiries should be directed to Daniel Henry at the above addresses or by phone to (225) 342-5570. No preamble was prepared.

Public Hearing

The commissioner of conservation will conduct a public hearing at on Monday, October 27, 2014 at 1 p.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: E and P Waste for Hydraulic Fracture Stimulation—Statewide Order No. 29-B

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental expenditures as a result of the proposed rule change. The current rule provides for the conservation of freshwater aquifer resources by allowing the limited use of exploration and production waste (E&P waste) as a substitute for the fluids required to perform fracture stimulation operations on the Haynesville Shale only. This proposed rule change will remove the Haynesville Shale restriction and allow for the use of E&P waste on any fracture stimulation operation performed in the state.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will affect Exploration and Production (E&P) companies. There are no anticipated cost increases associated with the proposed amendment and all required documentation will be provided on existing paperwork.

Companies may realize a potential cost savings in their fracture stimulation operations, since the E&P waste generated that eventually requires disposal will be reduced and the need to purchase and prepare fresh water and manufactured brine would be reduced or eliminated. Due to the limited amount of data on fracture stimulation operations in zones other than the Haynesville Shale, the department is unable to estimate those potential cost savings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

James H. Welsh	Evan Brasseaux
Commissioner	Staff Director
1409#109	Legislative Fiscal Office

NOTICE OF INTENT

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 gives notice of its intent to promulgate 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

Citation	Description
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:

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 Rule will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P. O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on October 10, 2014.

James M. LeBlanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Ameliorative Penalty Consideration

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This proposed rule change may result in an indeterminable decrease in expenditures of state governmental units for each offender being released from custody. The proposed rule change adds Section 321 Ameliorative Penalty Consideration, which provides relative to the procedure by which an authorized reduction in sentence may be granted to offenders by the Department of Public Safety and Corrections, in accordance with Act 340 of the 2014 Regular Legislative Session. This Act also requires that the committee on parole evaluate the applications filed pursuant to R.S. 15:308 and take into consideration the risk of danger that the offender could pose to society if the offender were released early from confinement. There could potentially be a cost savings to the state if offenders were paroled earlier due to this revision. For those offenders affected by this proposed rule change, the state would realize a total cost savings of $7,975 per offender annually ($24.39 per day less $2.54 per day, per offender x 365 days). The $2.54 offset is the projected cost per offender per day for parole supervision. In addition, any possible savings due to this revision would be contingent on not back filling any of the beds displaced by the offenders at the local level.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule change may result in an increase in self-generated revenue as a result of offenders being released into parole supervision. For each offender that is released to parole at an earlier date, the Department of Corrections could collect up to $63 per month from each offender under parole supervision. The Board of Parole determines the amount paid by the offender based on the offender's ability to pay.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

For every offender released, there would be costs to affected persons for parole fees. However, there would be economic benefits to the affected person provided he is employed upon release.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is anticipated to have a positive impact on employment when affected persons are employed upon release.

Thomas C. Bickham, III
Undersecretary
1409#115

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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 gives notice of its intent to amend 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:

Family Impact Statement

Amendment to the current Rule has no known impact on family formation, stability or autonomy, as described in R. S. 49:972.

Poverty Impact Statement

The proposed Rule will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Written comments may be addressed to Melissa Callahan, Deputy Assistant Secretary, Department of Public Safety and Corrections, P.O. Box 94304, Baton Rouge, LA 70804 until 4:30 p.m. on October 10, 2014.

James M. LeBlanc
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Offender Incentive Pay and Other Wage Compensation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is a technical revision to the existing offender incentive pay and other wage compensation regulations and adds mentor/tutor and minister/tutor that earn incentive wages at established pay rates. Currently, there are 2 offenders that serve as mentor/tutors. The proposed rule change adds to the regulations what is currently being done and will not have any fiscal impact on state or local government expenditures.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Offenders enrolled as mentor/tutor or minister/tutor will receive an economic benefit of an hourly wage depending on their classification. Currently, there are 2 offenders that serve as mentor/tutors. The amount earned by offenders is indeterminable since it is unknown how much each offender would be receiving and how many offenders will be assigned to these job titles in the future.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the proposed rule change.

Thomas C. Bickham, III
Undersecretary
1409#052

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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 hereby publishes, and proposes to adopt 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:

§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:

§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:

§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:

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;
6. 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:III.325. 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 rules do 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 regards 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 October 15, 2014, at 4:30 p.m. to: Stephen A. Quidd, P.O. Box 66614, Baton Rouge, LA 70896; (225) 925-6103; fax: (225) 925-3974; or stephen.quidd@la.gov.

Public Hearing

A public hearing is scheduled for October 23, 2014 at 10 a.m. at 7979 Independence Blvd. Suite 301, Baton Rouge, LA 70806. Please call or e-mail in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments is not received.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Dealer, Educator, and Retired Law Officer Plates

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule change. The proposed rule change sets criteria for the issuance and/or removal of Dealer Plates to automotive dealers and the eligibility criteria for educator and retired law enforcement license plates. The rules are being implemented as a result of clarifying issuance and eligibility criteria that was omitted in law. The costs associated with the issuance of these plates are covered by the existing fees.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may impact persons who received license plates before the eligibility criteria was established and are no longer eligible to receive the plates.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Jill P. Boudreaux	Evan Brasseaux
Undersecretary	Staff Director
1409#063	Legislative Fiscal Office

NOTICE OF INTENT

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 hereby proposes to amend 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 Notice of Intent can be found in the Emergency Rule section of this *Louisiana Register*.

Family Impact Statement

The proposed rules 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;
6. local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23

Poverty Impact Statement

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in R.S. 49:973. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business 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 any 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 rules do 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 regards 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 or requests for public hearing on these proposed rule changes to Laura Hopes, Department of Public Safety and Corrections, Public Safety Services, Office of Legal Affairs, at 7979 Independence Blvd., Suite 307, P.O. Box 66614, Baton Rouge, LA 70896; (225) 925-6103 (phone); (225) 925-3974 (facsimile); laura.hopes@la.gov (email). Comments will be accepted through close of business October 10, 2014.

Public Hearing

A public hearing will be held on Wednesday, October, 29, 2014 at 10 a.m. at 7979 Independence Boulevard, Suite 301, Baton Rouge, LA 70806. If the requisite number of comments are not received, the hearing will be cancelled. Please call and confirm the hearing will be conducted before attending.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Driving Schools
Class E and D Licenses

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule change. The purpose of the proposed rule is to implement Act 307 of 2011 pertaining to driver education and the requirements for private training and driving instructor schools relative to the administration of the knowledge exams required for the issuance of a Class "D" or "E" license. The knowledge exams will no longer be administered at Office of Motor Vehicles (OMV) district offices and will only be provided by third party testers/examiners. In addition, Act 307 allows third party testers/examiners to offer the driving skills test that OMV offices offer. This allows the driver's license applicant to choose to take the driving skills test with the driving school or at the OMV district office. It should be noted that as a result of Act 307, OMV reduced positions by 20 and associated funding of $817,000 in FY 12. However, this reduction was done prior to implementation of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on revenue collections of state or local governmental units as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Third party testers/examiners may increase revenue as a result of offering the road skills test and retesting of the knowledge test. Third party testers/examiners may charge up to $40 for the driving skills test and re-test of the knowledge exam. Currently, there is no charge for driving skills tests or re-test of the knowledge exam that are offered at OMV district offices.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Jill P. Boudreaux
Undersecretary
1409#053

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety
Office of Motor Vehciles

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 proposes to amend 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.

The full text of this Notice of Intent can be found in the Emergency Rule section of this *Louisiana Register*.

Family Impact Statement

The proposed rules 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;
6. local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23

Poverty Impact Statement

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in R.S. 49:973. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business 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 any 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 rules do 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 regards 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 or requests for public hearing on these proposed rule changes to Laura Hopes, Department of Public Safety and Corrections, Public Safety Services, Office of Legal Affairs, at 7979 Independence Blvd., Suite 307, P.O. Box 66614, Baton Rouge, LA 70896; (225) 925-6103 (phone); (225) 925-3974 (facsimile); laura.hopes@la.gov (email). Comments will be accepted through close of business October 10, 2014.

Public Hearing

A public hearing will be held on Wednesday, October, 29, 2014 at 10 a.m. at 7979 Independence Boulevard, Suite 301, Baton Rouge, LA 70806. If the requisite number of comments are not received, the hearing will be cancelled. Please call and confirm the hearing will be conducted before attended.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Driving Schools—Surety Bonds

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to result in state or local governmental expenditures. Pursuant to Act 307 of 2014 private driving schools are required to execute a good and sufficient surety bond in the amount of forty thousand dollars and provide a written statement between the student and the school.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material 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)

The private training and driving instructor schools will be affected by the proposed rule change. The estimated cost of the bond is dependent on the applicant's personal credit, business and personal financial information and experience in the industry. The bond requirement will be submitted as part of the application or renewal process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Jill P. Boudreaux
Undersecretary
1409#062

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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 hereby publishes, and proposes to adopt 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 20114 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:

§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 & 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:

§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:

§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:

§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:

§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:

§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:

§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:

§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, Louisiana 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, Louisiana 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:

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;
6. 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:III.325. 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 rules do 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 regards 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 October 15, 2014, at 4:30 p.m. to Stephen A. Quidd, P.O. Box 66614, Baton Rouge, LA 70896; (225) 925-6103; fax: (225) 925-3974; or stephen.quidd@la.gov.

Public Hearing

A public hearing is scheduled for October 23, 2014 at 10 a.m. at 7979 Independence Blvd., Suite 301, Baton Rouge, LA 70806. Please call or e-mail in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments is not received.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Electronic Reporting of Interlock Installation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule change. The proposed rule change requires authorized manufacturers of ignition interlock devices to submit driver reports electronically to the Department of Public Safety (DPS). Currently, reports are received on paper by the department and information is manually entered into the database. The rule change will allow DPS to enter the electronic reports received from the device manufacturers directly into the database.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections for the state as no revenue is generated from the submission of ignition interlock device reports. There will be no effect on revenue collections of local governmental units as only the state conducts this program.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may result in costs to companies that sell and install ignition interlock devices. The companies may incur programming costs related to sending records electronically, but the exact cost for each company cannot be determined.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Jill P. Boudreaux	Evan Brasseaux
Undersecretary	Staff Director
1409#066	Legislative Fiscal Office

NOTICE OF INTENT

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 hereby publishes, and proposes to adopt 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 3 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:

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;
6. 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:III.325. 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 rules do 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 regards 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 October 15, 2014, at 4:30 p.m. to Stephen A. Quidd, P.O. Box 66614, Baton Rouge, LA 70896; (225) 925-6103; fax: (225) 925-3974; or stephen.quidd@la.gov.

Public Hearing

A public hearing is scheduled for October 23, 2014 at 10 a.m. at 7979 Independence Blvd. Suite 301, Baton Rouge, LA 70806. Please call or e-mail in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments is not received.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Removal of License Plate when Owner/Operator is Suspended

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in an increase in self-generated revenue (SGR) expenditures in the amount of $261,310 and an increase of five positions as a result of Act 802 of 2014. Act 802 provides for the removal of license plates on vehicles owned and driven by persons with suspended or revoked driver's licenses. As a result of removing license plates, law enforcement submits the plates to the local OMV office to be processed. After the plate is removed and submitted to OMV, the person whose plate was removed must go to the local OMV to pay a reinstatement fee of $10 to receive that plate. To handle the increased processing, five additional Motor Vehicle Compliance Analysts will be needed. There will be no costs or savings to local governmental units as only the Office of Motor Vehicles will administer this plan.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will result in an increase in SGR revenues as a result of Act 802 of 2014. Act 802 provides for a $10 reinstatement fee to be charged for removing a license plate due to a revoked or suspended driver's license. The exact increase in revenue is unknown. There were approximately 307,000 persons with suspended or revoked licenses in FY 13. To the extent 10% of those drivers would be issued a violation, 30,700 violations may be issued annually and drivers that pay the $10 reinstatement fee would generate $307,000 (307,000 suspended or revoked drivers x 10% violation issuance x $10) in reinstatement fees. The revenue generated by fee collections would be used to offset expenditures for OMV. There will be no effect on revenue collections to local governmental units as only the Office of Motor Vehicles will administer this plan.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will affect persons who have a license plate removed due to a revoked or suspended driver's license. These persons would have to pay a ten dollar reinstatement fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Pursuant to Act 802, the proposed rule change will result in OMV hiring an additional five analysts to handle the anticipated workload.

Jill P. Boudreaux	Evan Brasseaux
Undersecretary	Staff Director
1409#065	Legislative Fiscal Office

NOTICE OF INTENT

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 hereby publishes, and proposes to adopt 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 to adopt 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:

§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:

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;
6. 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:III.325. 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 rules do 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 regards 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 October 15, 2014, at 4:30 p.m. to Stephen A. Quidd, P.O. Box 66614, Baton Rouge, LA 70896; (225) 925-6103; fax: (225) 925-3974; or stephen.quidd@la.gov .

Public Hearing

A public hearing is scheduled for October 23, 2014 at 10 a.m. at 7979 Independence Blvd., Suite 301, Baton Rouge, LA 70806. Please call or e-mail in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments is not received.

Jill P. Bourdreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Title Transactions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule change. The rule change is a result of two bills enacted during the 2014 Regular Legislative Session. Pursuant to Act 464 of 2014, the proposed rule provides for water damaged vehicles that do not meet the threshold requirement for a salvage title. In addition, pursuant to Act 660 of 2014, the proposed rule provides for donated motor vehicles that are used as a trade-in at a new car dealer. The changes are necessary to implement the provisions of law and are procedural in nature. Due to the issuance of motor vehicle titles not being performed by local governmental units, there is no anticipated costs to local governmental units.

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 as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may benefit consumers and new car dealers as a result of the proposed rules. Under prior law, water damaged vehicles that did not reach the threshold for a salvage title could not be branded as water damaged. The implementation of the rule on water damaged vehicles that do not meet the threshold for a salvage title will provide notice to buyers of used motor vehicles that the vehicle suffered water damage, but was not a total loss (Act 464). The implementation of Act 660 for manual gifts will allow new car dealers to take a vehicle in trade via a donation without requiring the customer(s) to leave the dealership in search of a notary to do an act of donation in authentic form.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment as a result of the proposed rule change.

Jill P. Boudreaux	John D. Carpenter
Undersecretary	Legislative Fiscal Officer
1409#064	Legislative Fiscal Office

NOTICE OF INTENT

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., gives notice of its intent to amend 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:

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:

Family Impact Statement

1. The effect of these rules on the stability of the family. This Rule should not have any effect on the stability of the family.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these rules on the functioning of the family. This Rule should not have any effect on the functioning of the family.

4. The effect of these rules on family earnings and family budget. This Rule should not have any effect on family earnings and family budget.

5. The effect of these rules on the behavior and personal responsibility of children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Poverty Impact Statement

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business Statement

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

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 to Paul Schexnayder, Post Office Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through October 15, 2014.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Explosives—Inventory Reporting and Recordkeeping

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule change. The proposed rule change adds a five year retention period for explosives records and specifies inventory reporting requirements for explosives magazines.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will have no effect on the 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 specifying a five year retention period will have no estimated effect on directly affected persons or groups. The inventory reporting requirement may result in an indeterminate number of explosives companies having to revise their inventory reports in the future, the cost of which is estimated to be negligible.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment.

Jill P. Boudreaux	John D. Carpenter
Undersecretary	Legislative Fiscal Officer
1409#114	Legislative Fiscal Office

NOTICE OF INTENT

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:

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:

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;
6. local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23.

Poverty Impact Statement

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business 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 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

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than October 6 at 4:30 p.m. to Mark Joiner, 8181 Independence Blvd., Baton Rouge, LA 70806.

Public Hearing

A public hearing is scheduled for October 28 at 1 p.m. at 8181 Independence Blvd., Baton Rouge, LA 70806. Please call in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments is not received.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Uniform Construction Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule change. The rule change provides for replacing and amending the current Chapter 11 Energy Efficiency in the 2006 International Residential Code (IRC) edition with the more recent Chapter 11 Energy Efficiency in the 2009 IRC edition in the adopted construction codes and to amend and adopt Appendix G Swimming Pools, Spas and Hot Tubs of the 2012 IRC. This rule change also provides for an amendment to allow current Building Code Enforcement Officers employed by local governmental units to have provisional certifications if promoted to a position.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact 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 construction industry and prospective owners of residential buildings will be affected by the proposed rule change. The proposed 2009 IRC Chapter 11 adoption and amendments will provide for a more energy efficient home therefore reducing the long term costs of operation. The proposed 2012 IRC Appendix G amendment, regarding residential pools, spas, and hot tubs, will provide greater safety provisions for the home owner.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no affect on competition or employment.

Jill P. Boudreaux	John D. Carpenter
Undersecretary	Legislative Fiscal Officer
1409#116	Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Income and Franchise Tax (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, proposes to amend LAC 61.I.4907.

The primary purpose of this proposed 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:

Family Impact Statement

The proposed amendment of LAC 61:I.4907, regarding remittance of tax under protest, suits or petitions to recover, 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, the implementation of this proposed Rule will have 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;
6. the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed amendment 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

Any interested person may submit written data, views, arguments or comments regarding this proposed rule to Brad Blanchard, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4 p.m., Monday, October 27, 2014.

Public Hearing

A public hearing will be held on Tuesday, October 28, 2014, at 10 a.m. in the Magnolia 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: Income and Franchise Tax

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed amendment disallows carryforward overpayments and pending claims for refunds (presumably including tax credits) to be used as payments under protest. This change will match the accounting of moneys placed in escrow to specific payments, which is expected to reduce workload by an indeterminable immaterial amount and increase the accuracy of tracking payments under protest. No additional costs are expected to result from this proposal. Local governmental units are not affected by this proposal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule amendments will primarily codify current Department procedures regarding payments under protest, except the disallowance of carryforward overpayments as payment under protest, which was previously allowed. This proposal will not affect revenue collections since it only affects the form of payment, not the amount. It is not expected that taxpayer decisions regarding whether or not to pay a disputed amount under protest will be affected by the proposed amendments to this rule since any outstanding carryforward overpayment–will continue to be available to the taxpayer. Thus, the proposed amendment is an accounting simplification for tracking payments under protest by having the taxpayer make readily identifiable payments instead of re-designating overpayments from one or multiple sources. This proposed amendment should have no impact on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Taxpayers designating income tax overpayment carryforwards as payments under protest will be affected by this proposal. These taxpayers will incur the costs of making payment by check or electronic means, though they retain the ability to utilize the carryforward overpayment funds through those means (only the payment designation is being removed, not the funds). Taxpayers may also benefit from the ability to more readily identify and/or confirm specific payments made under protest. Any costs or economic benefits to affected persons are expected to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule should not affect competition or employment.

Tim Barfield	Gregory V. Albrecht
Secretary	Chief Economist
1409#108	Legislative Fiscal Office

NOTICE OF INTENT

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, proposes to amend LAC 61:I.1907 relative to income tax credits for solar energy systems.

The primary purpose of this proposed 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 Photovoltaic Panel—a panel consisting of a collection of solar cells capable of producing direct current (DC) electrical energy when exposed to sunlight. 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 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.

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:

Family Impact Statement

The proposed amendment of LAC 61:I.1907, regarding income tax credits for solar energy systems, 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, the implementation of this proposed Rule will have 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;
6. the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed amendment 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

Any interested person may submit written data, views, arguments or comments regarding this proposed Rule to Brad Blanchard, Attorney, Policy Services Division, Office of Legal Affairs by mail to P.O. Box 44098, Baton Rouge, LA 70804-4098. All comments must be received no later than 4 p.m., Friday, October 24, 2014.

Public Hearing

A public hearing will be held on Monday, October 27, 2014, at 10 a.m. in the LaBelle Room, on the first 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: Income Tax Credits for Solar Energy Systems

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This amendment adds documentation requirements for all systems related to the manufacture of system components (ARRA compliance as certified by manufacturers, vendors, distributors, suppliers or any other reasonable source deemed fit by the Department of Revenue), reduces the credit percentage from 50% to 38% in FY 15 for leased systems and adds credit basis (cost) restrictions for leased systems by lowering the cost per watt from $4.50 in FY 14 to $2 per watt by FY 16. The system size is also limited to 6kw, which is not expected to be a constraining factor since the $25,000 cost cap was retained. The amendment also provides for the eligibility of combined thermal and electric systems, as long as the cost cap is not breached. Combined systems are not expected to change the outcome of credit utilization materially since most systems were already receiving the maximum credit. Verification of compliance with these new requirements may require the reallocation of resources from other administrative functions to the administration of this credit. The elimination of systems installed on apartments should reduce the number of claims to be processed, potentially making resources available for verification of compliance with the new requirements. Any additional costs 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 proposed amendment addresses changes to the wind and solar energy systems tax credit due to Act 428 of the 2013 Louisiana Legislative Session, including removal of wind systems from eligibility, allowing the credit only for detached residences, allowing the combination of solar electric and solar thermal systems under the cost cap and adding credit basis (eligible cost) restrictions to leased systems, which become more restrictive over time. Also the credit is terminated after year 2017 for both purchased and leased systems. In net, these changes serve to reduce the credit, leading to an anticipated increase in general fund revenue collections of the state, though the industry appears to have expedited installations in FY 14 to take advantage of higher credits. The amount of the increase is indeterminable but is estimated to approximate tens of millions of dollars annually by FY 17. As a historical measure, credits received under the program in FY 14 totaled about $58.9M, thus the full elimination of the credit in FY 18 is expected to result in a substantial increase to the general fund. This proposal 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)

New requirements relative to the location of the manufacture of system components, including the submission of proof regarding those requirements, are expected to increase costs and workload of credit claimants by a minimal amount. Two new documentation submission requirements related to systems installed in newly constructed homes are also expected to increase costs and workload of credit claimants by a minimal amount. Business activity related to the installation of solar energy systems in non-detached dwellings will be reduced by the removal of eligibility. Lessors of solar energy systems are also expected to experience a reduction in business activity due to the tightened percentage and credit basis restrictions. Wind systems ineligibility is expected to have little or no impact since there were few claimants historically. Potential buyers and lessees of solar energy systems will also be impacted by reductions in credit availability through more restrictive eligibility requirements. These effects are indeterminable but are directly correlated with the calculations in Section II.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Leased systems, those dealers using components manufactured in non-ARRA compliant countries, and those targeting systems on structures other than detached residences will no longer be eligible for the full amount of the credit, though purchased systems will be eligible until credit expiration. This amendment is expected to directly have an indeterminable negative effect on employment by solar system installation businesses as related to fewer installations in response to more restrictive eligibility requirements over time.

Tim Barfield	Gregory V. Albrecht
Secretary	Chief Economist
1409#107	Legislative Fiscal Office

NOTICE OF INTENT

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 does hereby advertise their intent to amend 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~~s~~ 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 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 LR 40:

Family Impact Statement

In accordance with Act No. 1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B).

Provider Impact Statement

The proposed Rule change is not anticipated to have any known impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments relative to the proposed amendments until 4:30 p.m., September 30, 2014 to Melissa Collins, Wildlife Permits Coordinator, P.O. Box 98000, Baton Rouge, LA 70898, or via email to mcollins@wlf.la.gov.

Bryan McClinton
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Possession of Potentially Dangerous Wild Quadrupeds, Big Exotic Cats, and Non-Human Primates

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is expected to have no effect on implementation costs to state or local governmental units. Pursuant to Act 697 of 2014, new rules regarding the ownership of exotic big cats will be enacted to restrict ownership of exotic big cats to one per person. The proposed rule change revises language to be consistent with the Act 697 by converting plural terms to singular terms.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is expected to have no effect on costs or benefits to directly affected persons or non-governmental groups. There is only one legal, privately owned exotic big cat in Louisiana, which was grandfathered into compliance under Act 697 of 2014.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have no effect on competition or employment.

Bryan McClinton	Evan Brasseaux
Undersecretary	Staff Director
1409#077	Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Removal of Abandoned Crab Traps (LAC 76:VII.367)

Notice is hereby given in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:322(N), that the Wildlife and Fisheries Commission proposes to amend LAC 76:VII.367 to temporarily close a portion of state inside waters to the use of crab traps in order to facilitate the removal of abandoned crab traps in these waters.

The Wildlife and Fisheries Commission has amended the provisions in LAC 76:VII.367 governing the locations of temporary crab trap closures to address problems in portions of state waters resulting from large numbers of abandoned and derelict crab traps (*Louisiana Register*, Volume 30, Number 1; Volume 31, Number 1; Volume 32, Number 2; Volume 33, Number 1; Volume 34, Number 1; Volume 36; Number 1; Volume 38, Number 1; Volume 38, Number 12; Volume 40, Number 1). The Wildlife and Fisheries Commission now proposes to amend the provisions to describe a new portion of state waters to be temporarily closed to the use of crab traps for the purpose of conducting a crab trap cleanup.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited from 6 a.m., Friday, February 20, 2015 through 6 a.m. Sunday, March 1, 2015 within that portion of Cameron Parish as described below.

1. From a point originating at the Louisiana/Texas state line at the mouth of the Sabine River; thence northward along the Louisiana/Texas state line through the Sabine River and Sabine Lake; thence northward along the Louisiana/Texas state line through the Sabine River to the intersection of the Sabine River and the northern shore of the Gulf Intracoastal Waterway (GIWW); thence eastward along the northern shore of the GIWW to 93 degrees 37 minutes 00 seconds West longitude; thence southward along 93 degrees 37 minutes 00 seconds West longitude to a point along the inside-outside shrimp line as defined in R.S. 56:495(A); thence westward along the inside-outside shrimp line and terminating at the Louisiana/Texas state line and mouth of the Sabine River.

B. All crab traps remaining in the closed area during the specified period shall be considered abandoned. These trap removal regulations do not provide authorization for access to private property; authorization to access private property can only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Anyone is authorized to remove these abandoned crab traps within the closed area. No person removing crab traps from the designated closed areas during the closure periods shall possess these traps outside of the closed area. The Wildlife and Fisheries Commission authorizes the secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006), LR 33:113 (January 2007), LR 34:97 (January 2008), LR 36:77 (January 2010), LR 38:146 (January 2012), LR 38:12 (December 2012), LR 40:96 (January, 2014), amend by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and final Rule, including but not limited to, the filing of the Fiscal and Economic Impact statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act 1183 of 1999 Regular Session of the Louisiana Legislature, the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent. This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments relative to the proposed Rule to Mr. Martin Bourgeois, Marine Fisheries Biologist DCL-B, Marine Fisheries Section, P.O. Box 189, Bourg, LA 70343, or via email to mbourgeois@wlf.la.gov prior to November 1, 2014.

Billy Broussard
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Removal of Abandoned Crab Traps

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.

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.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change would prohibit the use of crab traps within a portion of southwestern Louisiana from 6:00 a.m., February 20, 2015 through 6:00 a.m., March 1, 2015. Crab fishermen who utilize the area proposed for closure will incur lost fishing time during the designated period and be subject to additional costs from having to temporarily remove their traps. These impacted crab fishermen must either move their traps to adjacent open fishing areas or remove their traps from the water for the duration of the closure. If the traps are not removed within the allotted time, they will be destroyed, potentially creating an additional cost to replace the traps for noncompliant fishermen.

Local seafood dealers, processors and consumers may experience a slight decrease in the availability of fresh crabs during the closure, resulting in a slightly higher price for fresh crabs in the short term. However, the crab resource will not be lost or harmed in any way and will be available for harvest when the closed area is reopened.

Recreational saltwater anglers, commercial fishermen and individuals who operate vessels within the designated area may realize minimal positive benefits from the removal of abandoned crab traps, since encounters with abandoned traps often result in lost fishing time and damage to the vessel's lower unit and/or fishing gear. The removal of abandoned crab traps will reduce the mortality of and injuries to crabs and by-catch that become trapped and die in these traps. Thus, the removal of abandoned crab traps should provide improved fishing and reduced fishing costs.

The overall impact of the proposed area closure is anticipated to be minimal, since the duration of the closure is only for nine days during the lowest harvest time of the year, and adjacent waters will remain open for crab fishermen to continue to fish.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since waters adjacent to the closure area will remain open for crab harvest and fishermen who fish during this time period are expected to relocate their traps, effects on competition and employment are expected to be negligible.

Bryan McClinton	Evan Brasseaux
Undersecretary	Staff Director
1409#076	Legislative Fiscal Office

NOTICE OF INTENT

Workforce Commission
Office of Workers' Compensation

Appeals of the Decision of the Medical Director and Preliminary Determinations of the Average Weekly Wage (LAC 40:I.5507)

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 Subpart 3 of Title 40 of the Louisiana Administrative Code, otherwise known as the "Hearing Rules" for the workers' compensation administrative law courts to provide a

procedure for the orderly handling of disputes brought to the Workers' Compensation courts by the filing of Form LWC-WC-1002, as provided by R. S. 23:1201.1, both as amended by Act 337 of the 2013 Regular Session of the Legislature of the State of Louisiana. Act 337 allows for a "preliminary" determination of the correct amount of any payment made under that Chapter for the purposes of insuring the correct payment and relieving the payor of exposure for future penalties.

Title 40
LABOR AND EMPLOYMENT
Part I. Workers Compensation Administration
Subpart 3. Hearing Rules
Chapter 55. General Provisions
Subchapter C. Commencement
§5507. Commencement of a Claim

A. "Form LWC-WC-1008" shall be the form to initiate a claim or dispute arising out of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950, except that:

B. - C. …

D. Any request for a preliminary determination pursuant to Louisiana Revised Statutes Title 23, Section 1201.1 shall be made in the answer or amended answer and shall be accompanied by a copy of the LWC-WC-1002 and Notice of Disagreement, along with a Motion and Order to Set Telephone Status conference attached and shall proceed with the following steps.

1. A telephone conference shall be set within 15 days from receipt of the answer or amended answer~~,~~ with accompanying attachments. A preliminary determination hearing shall be set within 90 days from telephone status conference. The deadline for any discovery shall be 30 days before the preliminary determination hearing. The parties must exchange evidence 15 days before the hearing, with copies of the exhibits, exhibit list and memorandum sent to the presiding workers' compensation judge.

2. The workers' compensation judge or the judge's designee, shall advise all parties of the deadlines set forth hereinabove in the telephone status conference.

3. A scheduling conference order shall be forwarded to the parties within three days of the telephone status conference. The order shall include a list of issues to be determined, the date of the scheduled hearing, the deadline for discovery, the deadline for the exchange of exhibits, the deadline for the submission of exhibits and the deadline for the submission of memoranda to the court.

4. After the preliminary determination hearing, the court shall forward a written preliminary determination to the parties within 30 days of the hearing.

5. A notice shall accompany the written preliminary determination. The notice shall advise the parties of their options to accept or reject the finding and it shall advise the parties that, if the court does not receive written notification within 15 days of further action by the parties, the court will close the file or proceed to trial on the merits on all remaining issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1(C).

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation Administration, LR 25:265 (February 1999) amended LR 25:1860 (October 1999), LR 33:652 (April 2007), amended by the Workforce Commission, Office of Workers' Compensation, LR 37:1626 (June 2011), LR 40:

Family Impact Statement

This amendment to Title 40 will have no impact on families.

Poverty Impact Statement

This amendment to Title 40 will have no impact on poverty or family income.

Provider Impact Statement

1. This Rule change will 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 change will create no additional cost to providers except that in certain circumstances, it will more efficiently and quickly provide for services to injured workers, resulting in additional payments to medical providers and protecting employers from penal damages.

3. This Rule change will have no impact on ability of the provider to provide the same level of service that it currently provides.

Public Comments

Written comments may be addressed to Carey R. Holliday, Special Assistant to the Director, Office of Workers' Compensation P.O. Box 94040 Baton Rouge, LA 70804-9040 until 4:30 p.m. on October 10, 2014.

Public Hearing

A public hearing will be held on October 29, 2014, at 9:30 am at the Louisiana Workforce Commission Training Center located at the Corner of Fuqua St. and N. 22nd Street across from the main campus of the Workforce Commission, in Baton Rouge, LA. The public is invited to attend.

Wes Hataway
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Appeals of the Decision of the Medical Director and Preliminary Determinations of the Average Weekly Wage

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 3 Hearing Rules, Subchapter C, Section 5507 Commencement of a Claim to add a new procedure for the preliminary determination of the correct amount of any payments due under controversy of compensation and medical benefits claims between an employer/payor and an injured employee or his representative as set out in R. S. 23:1201.1. The proposed rule implements the requirements of Act 337 of the 2013 Regular Legislative Session that established a new procedure in Workers' Compensation Courts to arrive at "preliminary determinations" of the amounts due under the law prior to a trial on the merits.

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 merely change the procedure already utilized by existing OWCA staff in preliminary determination of payment under R.S. 23:1201.1. The Division of Administration indicates that the proposed rule will have no fiscal impact on the Office of Risk Management. The implementation of this

rule will have no anticipated effect on revenue collections of state or local governmental.

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 adds a new procedure for the preliminary determination of the correct amount of any payments due under for workers' compensation claims as set out in R.S. 23:1201.1. A direct economic benefit to an employer/payor making the application is a "safe harbor" provision, which provides the employer/payor will not be subject to any claim for potential penalties or attorney fees for failing to pay a correct amount if the employer/payor followed existing law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct effect on competition and employment.

Curt Eysink	Gregory V. Albrecht
Executive Director	Chief Economist
1409#023	Legislative Fiscal Officer

Potpourri

POTPOURRI

Department of Environmental Quality
Office of the Secretary
Legal Division

2012 Fine Particulate Matter 2.5 ($PM_{2.5}$)
National Ambient Air Quality Standards (NAAQS)
State Implementation Plan (SIP) Revisions

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2051 et seq., the secretary gives notice that the Office of Environmental Services, Air Permits Division, Manufacturing Section, will submit to the Environmental Protection Agency (EPA) a revision to the infrastructure state implementation plan as required by section 110(a)(1) and (2) of the Clean Air Act (CAA). (1409Pot1)

On December 14, 2012, EPA revised the nation's air quality standard for fine particle ($PM_{2.5}$) pollution to improve public health protection. The primary $PM_{2.5}$ annual standard was revised from 15 micrograms per cubic meter (ug/m^3) to 12 ug/m^3 and the 24-hour fine particle standard was retained at 35 ug/m^3. Pursuant to sections 110(a)(1) and (2) of the CAA, each state is required to submit a plan to provide for the implementation, maintenance, and enforcement of a newly promulgated or revised NAAQS. At this time, Louisiana is in compliance with the new standard.

If any party wishes to have a public hearing on this matter, one will be scheduled and the comments gathered at such hearing will be submitted as an addendum to the original submittal. All interested persons are invited to submit written comments concerning the revisions no later than 4:30 p.m., October 20, 2014, to Vivian H. Aucoin, Office of Environmental Services, P.O. Box 4313, Baton Rouge, LA. 70821-4313, (225) 219-3240, or by email to vivian.aucoin@la.gov.

A copy of the recommendation may be viewed at the LDEQ website or the LDEQ headquarters at 602 N. 5th Street, Room 536-03, Baton Rouge, Louisiana 70802.

Herman Robinson, CPM
Executive Counsel

1409#056

POTPOURRI

Department of Health and Hospitals
Board of Pharmacy

Substantive Change Hearing—Pharmacy Records
(LAC 46:LIII.Chapters 11, 12, and 15)

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 Board of Pharmacy published its Notice of Intent in the March 2014 edition of the Louisiana Register, specifying its proposal to amend several sections within Chapter 11, Pharmacies, as well as §1213 in Chapter 12, Automated Medication Systems, and §§1503 and 1509 in Chapter 15, Hospital Pharmacy, to update the rules relative to pharmacy records and recordkeeping requirements. As indicated in the notice, the board conducted a public hearing on April 29 to receive comments and testimony on the proposal.

During the board's consideration of those comments and testimony during its subsequent meeting on May 7, they agreed with a request to revise the original proposal by deleting the requirement for positive identification in favor of simple identification for two specific types of records maintained by pharmacies. In particular, the board has agreed to revise the original proposal by deleting the word "positive" in the following four locations in the original proposal:

§1124.B.3.c.vii;
§1124.B.3.d.iv;
§1509.A.3.c.vii; and
§1509.A.3.d.iv.

The Legislative Fiscal Office has evaluated the impact of the proposed revisions of the original proposal and has opined the suggested revisions would not adversely increase any cost to the stakeholders, and may very well lower any costs associated with implementation of positive identification.

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 as well as these proposed revisions to the original proposal. A public hearing on these proposed revisions to the original proposal is scheduled for Tuesday, September 30, 2014 at 9:00 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 12:00 noon that same day.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 11. Pharmacies
Subchapter B. Pharmacy Records
§1124. Records of Pharmacy Services for Patients in Licensed Healthcare Facilities Other than Hospitals

* * *

B. Drug Distribution and Control

* * *

3. Records. The pharmacist-in-charge shall be responsible for maintaining the following records:

* * *

c. A record of all drugs compounded or prepackaged for use only within that facility, which shall include at least the following:

* * *

vii. Identification of the licensed person responsible for the compounding or prepackaging of the drug.

d. A record of the distribution of drugs to patient care areas and other areas of the facility held for administration, which shall include at least the following:

* * *

iv. Identification of the individual receiving the drug if it is a controlled dangerous substance.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 40:

Chapter 15. Hospital Pharmacy

§1509. Drug Distribution and Control

A. The hospital pharmacist-in-charge shall be responsible for the safe and efficient procurement, receipt, distribution, control, accountability, and patient administration and management of drugs. The staff of the hospital pharmacy shall cooperate with the pharmacist-in-charge in meeting drug control requirements in ordering, administering, and accounting for pharmaceuticals.

* * *

3. Records. The pharmacist-in-charge shall be responsible for maintaining the following records:

c. A record of all drugs compounded or prepackaged for use only within that hospital, which shall include at least the following:

* * *

vii. Identification of the licensed person responsible for the compounding or prepackaging of the drug.

d. A record of the distribution of drugs to patient care areas and other areas of the hospital held for administration, which shall include at least the following:

* * *

iv. Identification of the individual receiving the drug if it is a controlled dangerous substance.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2903 (October 2003), effective January 1, 2004, amended LR 40:

Malcolm J Broussard
Executive Director

1409#045

POTPOURRI

Department of Health and Hospitals
Emergency Response Network

Public Hearing—Substantive Changes to Proposed Rule; Requirements for Louisiana Stroke Center Recognition; and Requirements for Louisiana STEMI Receiving Referral Centers (LAC 48:I.Chapters 187 and 189)

The Louisiana Emergency Response Network published a Notice of Intent to promulgate Chapter 187. Requirements For Louisiana Stroke Center Recognition, §§18701-18705; and Chapter 189.Requirements For Louisiana STEMI Receiving/Referral Centers, §§18901-18907, in the June 20, 2014 edition of the *Louisiana Register* (LR 40:1212-1214). LERN now proposes to amend a certain portion of the proposed Rule. Within Subsection A.1 of Section 18903, LERN proposes to correct an error in the existing proposed Rule. The Joint Commission is listed as a STEMI center accrediting agency. The correct accrediting agency should be listed as The American Heart Association Mission:Lifeline and the Society of Cardiovascular Patient Care (SCPC) or other LERN Board approved accrediting body.

Taken together, this proposed amendment will closely align the proposed Rule with the proposed Rule on the same topic as published by the Louisiana Emergency Response Network in the June 2014 edition of the *Louisiana Register* (LR 40:1212-1214). The alignment of these Rules will outline the requirements for Louisiana stroke center recognition and the requirement of Louisiana receiving and referral centers. No fiscal or economic impact will result from the amendment proposed in this notice.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administartion

Chapter 189. Requirements for Louisiana STEMI Receiving/Referral Centers

§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.

* * *

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, Louisiana Emergency Response Network Board, LR 40:

In accordance with the provisions of the Administrative Procedure Act, specifically at R.S. 49:968(H)(2), the board gives notice of a public hearing to receive additional comments and testimony on these substantive amendments to the proposed Rule. The hearing will be held at 10 a.m. on Tuesday, October 28, 2014 at the office of the Louisiana Emergency Response Network, which is located at 14141 Airline Highway, Suite B, Building 1, Baton Rouge, LA, 70817. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. Interested persons may submit written comments to Paige B. Hargrove, Executive Director, Louisiana Emergency Response Network, 14141 Airline Highway, Suite B, Building 1, Baton Rouge, LA, 70817. She is responsible for responding to inquiries regarding these substantive amendments to the proposed Rule. The deadline for receipt of all written comments is 10 a.m. on Monday, October 27, 2014.

Paige B. Hargrove
Executive Director

1409#015

POTPOURRI

Department of Natural Resources
Office of Conservation
Environmental Division

Nelson Energy, Inc.—Hearing Notice

Notice is hereby given that the Commissioner of Conservation will conduct a hearing at 6:00 p.m., Thursday, November 20, 2014, at the Minden Civic Center, located at 520 Broadway Street, Council Chambers Room (Court Room), Minden, Louisiana.

At such hearing, the Commissioner, or his designated representative, will hear testimony relative to the application of Nelson Energy, Inc., 401 Edwards Street, Suite 1500, Shreveport, LA 71101. The applicant requests approval from the Office of Conservation to construct and operate a commercial deep well injection waste disposal facility for disposal of exploration and production waste (E&P Waste) fluids located in Section 7, Township 18 North, Range 8 West in Webster Parish.

The application is available for inspection by contacting Mr. Stephen Olivier, Office of Conservation, Environmental Division, Eighth Floor of the LaSalle Office Building, 617 North Third Street, Baton Rouge, Louisiana. Copies of the application will be available for review at the Webster Parish Police Jury building or the Public Library in Minden, Louisiana no later than 30 days prior to the hearing date. Verbal information may be received by calling Mr. Olivier at (225) 342-7394.

All interested persons will be afforded an opportunity to present data, views or arguments, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., Monday, December 1, 2014, at the Baton Rouge Office. Comments should be directed to:

Office of Conservation
Environmental Division
P.O. Box 94275
Baton Rouge, Louisiana 70804
Re: Docket No. ENV 2014-01
Commercial Facility Well Application
Webster Parish

James H. Welsh
Commissioner

1409#034

POTPOURRI

Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

Underwater Obstruction—Latitude/Longitude Coordinates

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 2 claims in the amount of $10,000.00 were received for payment during the period August 1, 2014 - August 31, 2014

There were 0 paid and 2 denied.

Latitude/Longitude Coordinates, Degree Decimal Minutes, of reported underwater obstructions are:

29 41.493	89 46.673	Plaquemines
29 46.259	93 16.992	Cameron

A list of claimants and amounts paid can be obtained from Gwendolyn Thomas, Administrator, Fishermen's Gear Compensation Fund, P.O. Box 44277, Baton Rouge, LA 70804 or you can call (225) 342-9388.

Stephen Chustz
Secretary

1409#036

POTPOURRI

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Public Hearing—Louisiana Fisheries Forward Program (LAC 76:VII.347)

The Department of Wildlife and Fisheries published a Notice of Intent to establish the Louisiana Fisheries Forward Program in the July 20, 2014 edition of the Louisiana Register (LR Vol. 40, No. 07). After a thorough review of the proposed rules, the Department of Wildlife and Fisheries proposes the following substantive changes found in LAC 76:VII.347 G.2. A public hearing pursuant to R.S. 49:968(H)(2) will be conducted October 22, 2014, at 10:00 AM.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§347. Louisiana Fisheries Forward Program

A. - G.1. …

2. The department shall issue a special crab trap permit allowing the applicant to actively fish crabs under the sponsor's crab trap gear license and report trip ticket sales of crabs using the applicant's name and commercial fisherman's license number. This permit shall only be issued once and shall only be valid for the duration of the sponsorship. The applicant must complete a minimum of 20 crab fishing trips evidenced by trip tickets. Any trips or landings conducted prior to the date the sponsorship is initiated shall not count toward the applicant's total required crab fishing trips.

G.3. - H. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:305.6.

HISTORICAL NOTE: Notice of Intent by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 40:1428 (July 2014), LR 40:

Public Hearing

A public hearing will be held on October 22, 2014, at 10 am at the Louisiana Department of Wildlife and Fisheries, 2000 Quail Dr., Baton Rouge, LA 70808.

Billy Broussard
Chairman

1409#078

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