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Executive Orders

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Emergency Suspension of Deadlines in Legal,
Administrative, and Regulatory Proceedings
Amending Executive Orders JBE 2016-53 and JBE 2016-57

WHEREAS, pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721, et seq., a state of emergency was declared in Proclamation No. 111 JBE 2016, which is currently in effect;

WHEREAS, Article I, Section 22 of the Louisiana Constitution provides that all courts shall be open, and every person shall have an adequate remedy by due process of law and justice, administered without denial, partiality, or unreasonable delay, for injury to him in his person, property, reputation, or other rights;

WHEREAS, because of the flooding disaster declared in Proclamation No. 111 JBE 2016, Executive Order Number JBE 2016-53 suspended deadlines in legal, administrative, and regulatory proceedings, and this Order was amended on August 17, 2016, with Executive Order JBE 16-57; and

WHEREAS, due to the continuing challenges faced by litigants, interested parties, and attorneys in the areas of the state affected by the disaster in Proclamation 111 JBE 2016, it is necessary to amend and extend Executive Orders JBE 2016-53 and JBE 2016-57.

NOW THEREFORE, I, JOHN BEL EDWARDS, 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: Executive Orders JBE 2016-53 and 2016-57 are hereby amended as follows:

A. Liberative prescription and preemptive periods continue to be and shall be suspended throughout the state until and through Friday, September 30, 2016.

B. Deadlines in legal proceedings in courts, administrative agencies and boards affected by the flooding event, defined as the following parishes: Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge and West Feliciana, shall be suspended upon certification by any litigant, interested party, or attorney that they are unable to meet a legal deadline due to the declared disaster. Once the inability to meet a legal deadline is certified, the applicable legal deadline shall be suspended until and through Friday, September 30, 2016. Any such suspension shall apply to legal deadlines, including but not limited to, non-constitutionally mandated deadlines in criminal proceedings and any such deadlines as follows:

- i. Louisiana Civil Code;
- ii. Louisiana Code of Civil Procedure;
- iii. Title 9 of Louisiana Revised Statutes, Civil Code Ancillaries;
- iv. Title 13 of Louisiana Revised Statutes, Courts and Judicial Procedure;
- v. Chapter 11 of Title 18 of Louisiana Revised Statutes, Election Campaign Financing;
- vi. Chapter 10 of Title 23 of Louisiana Revised Statutes, Worker's Compensation;
- vii. Chapter 5, Part XXI-A, of Title 40 of Louisiana Revised Statutes, Malpractice Liability for State Services;
- viii. Chapter 5, Part XXIII, of Title 40 of Louisiana Revised Statutes, Medical Malpractice;
- ix. Chapter 15 of Title 42 of Louisiana Revised Statutes;
- x. Title 47 of Louisiana Revised Statutes, Revenue and Taxation; and
- xi. Title 49, Chapter 13, Administrative Procedure.

C. Further, courts, administrative agencies, and boards throughout the state should use due diligence in accommodating requests for delays or continuances from any litigant, interested party, or attorney who may have been impacted by the declared disaster.

D. Paragraph B of this Section shall not be interpreted so as to prohibit an owner of immovable property from reclaiming leased property if abandoned as provided by law, or entering leased property to make necessary repairs as provided by law.

SECTION 2: This order is effective upon signature and shall be effective upon signature until Friday, September 30, 2016, unless amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law prior to such time.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 9th day of September, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1610#004

EXECUTIVE ORDER JBE 16-67

Emergency Suspension of Certain
Insurance Code Provisions—Amended

WHEREAS, the Louisiana Homeland Security and Emergency Assistance and Disaster Act, La. R.S. 29:721 et seq., confers upon the Governor of the State of Louisiana emergency powers to deal with emergencies and disasters, including those caused by fire, flood, earthquake or other natural or manmade causes, in order to ensure that

preparations of this State will be adequate to deal with such emergencies or disasters and to preserve the lives and property of the people of the State of Louisiana;

WHEREAS, Proclamation No. 111 JBE 2016, issued on August 12, 2016, and continued by Proclamation No. 127 JBE 2016, declared a state of emergency for the State of Louisiana due to the heavy rain and flooding, which continues to threaten the safety and security of the citizens of Louisiana;

WHEREAS, Executive Order No. JBE 16-58, signed August 17, 2016, transferred to the Commissioner of Insurance limited authority to suspend provisions of any regulatory statute of Title 22 of the Louisiana Revised Statutes of 1950 concerning the cancellation, termination, nonrenewal and/or reinstatement provisions of Title 22;

WHEREAS, thousands of Louisiana citizens have suffered damage to their residential, commercial residential or commercial property due to the historic flooding, and many such properties have been severely damaged or destroyed;

WHEREAS, insurers have been working diligently to adjust and pay claims, however, due to a shortage in building materials, contractors, construction workers or delays in claim payments, many policyholders will be unable to repair and/or reconstruct their residential, commercial residential or commercial property within typical time frames;

WHEREAS, the extended time period to repair and/or reconstruct residential, commercial residential or commercial property continues to affect the ability of Louisiana insureds to maintain or obtain personal residential, commercial residential or commercial property insurance for residential property or commercial property and has created an immediate threat to the public health, safety and welfare of Louisiana citizens; and

WHEREAS, the Commissioner has requested and deemed it necessary to extend the time period for which he is extended the authority to suspend provisions of any regulatory statute of Title 22 of the Louisiana Revised Statutes of 1950 concerning the cancellation, termination, nonrenewal and/or reinstatement provisions of Title 22 due to the continued impact of the flooding.

NOW THEREFORE, I, JOHN BEL EDWARDS, 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: Section 3 of Executive Order JBE 2016-58, signed August 17, 2016, shall be amended as follows:

This Order shall apply retroactively from Friday, August 12, 2016, and shall continue through Wednesday, October 12, 2016, unless amended, terminated, or rescinded by the Governor prior thereto.

SECTION 2: All other paragraphs, subsections, and sections of Executive Order JBE 2016-58 shall remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall continue in effect through Wednesday, October 12, 2016, unless amended, terminated, or rescinded by the Governor prior thereto.

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 12th day of September, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1610#006

EXECUTIVE ORDER JBE 16-68

Flags at Half-Staff
Representative Reed Stephen Henderson

WHEREAS, former State Representative Reed Stephen Henderson died on September 20, 2016, at the age of 63;

WHEREAS, known for commitment to community service and devotion to his church, he was elected to the House of Representatives in 2008, where he represented citizens in Orleans and St. Bernard parishes in District 103 until 2012;

WHEREAS, a graduate of the University of Louisiana at Lafayette and a commodity trader, Representative Henderson served as a member of the Democratic Caucus, the Louisiana Rural Caucus, and the Orleans Delegation;

WHEREAS, his committee service included serving as a member of the House Committee on Commerce, the House Committee on Natural Resources and Environment, the House Committee on Retirement, and the Select Committee on Hurricane Recovery;

WHEREAS, during his time in the House of Representatives, Representative Henderson advocated for citizens in Orleans and St. Bernard parishes, working on and supporting many important pieces of legislation; and

WHEREAS, Representative Henderson will be missed and remembered for serving the citizens of the State and his district with dignity and honor.

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

SECTION 1: As an expression of respect and to honor Representative Reed Stephen Henderson, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol on Monday, September 26, 2016.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset, Monday, September 26, 2016.

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 26th day of September, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1610#013

EXECUTIVE ORDER JBE 16-69

Emergency Suspension of Fees
Office of Motor Vehicles and Department of Health

WHEREAS, Proclamation No. 111 JBE 2016, issued on August 12, 2016, and continued by Proclamation No. 127 JBE 2016, declared a state of emergency for the State of Louisiana due to the heavy rain and flooding, which continues to threaten the safety and security of the citizens of Louisiana;

WHEREAS, the federal government has issued an Emergency Declaration and Major Disaster Declaration pursuant to the Stafford Act due to the widespread damage caused by the flooding;

WHEREAS, more than 150,000 households in Louisiana have been affected by this flooding event, some citizens still displaced and many beginning to rebuild and recover from the loss caused by the event;

WHEREAS, the flooding damaged or destroyed documents important to many Louisiana citizens, including titles, registrations, identification and related documents necessary for the lawful operation of motor vehicles in the State of Louisiana, as well as birth and death certificates;

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

WHEREAS, in response to the damage done to records due to the flooding resulting from the emergency conditions, the Commissioner of the Office of Motor Vehicles and the Secretary of the Department of Health have requested suspension of certain provisions of law related to fees and charges which would be incurred by those individuals who have been required to replace damaged or destroyed documents.

NOW THEREFORE, I, JOHN BEL EDWARDS, 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: The following specific provisions of the Louisiana Revised Statutes of 1950 related to the imposition of fees or charges related to transactions with the Office of Motor Vehicles, or their authorized agent, as qualified by this Order, are hereby suspended for transactions with an associated address located in the parishes of Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge and West Feliciana when, as determined by any guidelines or directions issued by the Commissioner, the request is a result of the emergency conditions:

- La. R.S. 32:728, to the extent that it requires payment of a fee for production of a duplicate title;
- La. R.S. 47:472(A), to the extent that it requires payment of a fee for production of a duplicate number plate or a duplicate certification of registration;
- La. R.S. 32:412(D)(2), to the extent that it requires payment of late fees for renewal of a driver's license that expired on or after August 3, 2016;
- La. R.S. 32:413(B), to the extent that it requires payment of a fee for the issuance of a duplicate driver's license;
- La. R.S. 40:1321, to the extent that it requires payment of a fee for the issuance of a duplicate special identification card;
- La. R.S. 47:463.4(C)(1)(c), to the extent that it requires payment of a fee for the issuance of a duplicate mobility impairment hang tag when the originally issued hang tag is lost, destroyed, or mutilated; and
- La. R.S. 32:412.1, to the extent that it requires payment of handling charges for lost plates and stickers and transactions associated with the issuance of a duplicate: identification card, title, registration, and/or driver's license.

SECTION 2: The following specific provisions of the Louisiana Revised Statutes of 1950 related to the imposition of fees or charges related to transactions with the Department of Health, or their authorized agent, as qualified by this Order, are hereby suspended for transactions by individuals affected by flooding with an associated address located in the parishes of Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St.

James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge and West Feliciana when, as determined by any guidelines or directions issued by the Secretary, the request is a result of the emergency conditions:

- La. R.S. 40:40(2), to the extent that it requires payment of a fee for production of a duplicate birth record; and
- La. R.S. 40:40(3), to the extent that it requires payment of a fee for production of a duplicate death certificate.

SECTION 3: This order shall be effective upon signature and shall apply retroactively from August 12, 2016, until September 30, 2016, unless amended, modified, or terminated prior to such time.

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 27th day of September, 2016.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
Tom Schedler
Secretary of State
1610#017

Emergency Rules

DECLARATION OF EMERGENCY

Department of Children and Family Services Economic Stability Section

Community Supervision Program (LAC 67:III.5573)

The Department of Children and Family Services (DCFS), Economic Stability Section, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to amend LAC 67:III, Subpart 15, Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55, TANF Initiatives, Section 5573, Community Supervision Program. This declaration is necessary to extend the original Emergency Rule since it is effective for a maximum of 120 days and will expire before the Final Rule takes effect. This Emergency Rule extension is effective on October 28, 2016 and will remain in effect until the Final Rule becomes effective.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) block grant, amendment of Section 5573 is necessary to clarify the program's service period and financial eligibility criteria, which must mirror eligibility rules in effect as of August 21, 1996 under the Louisiana Aid to Families with Dependent Children (AFDC) Emergency Assistance Program.

The department considers emergency action necessary to facilitate the expenditure of TANF funds. The authorization to promulgate Emergency Rules to facilitate the expenditure of TANF funds is contained in Act 16 of the 2015 Regular Session of the Louisiana Legislature.

Title 67

SOCIAL SERVICES

Part III. Economic Stability

Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5573. Community Supervision Program

A. The department has an agreement with the Department of Public Safety and Corrections, Office of Juvenile Justice (DPSC-OJJ), to provide services to youth and their families as a result of an adjudication and disposition by a court that orders (DPSC-OJJ) to supervise youth in their communities in an effort to prevent removal from the home.

B. OJJ will complete an intake/assessment and develop a case plan for addressing the needs of the youth. The case plan will contain goals for all need areas and when indicated, include referrals to community programs for both youth and parents. These referrals may include but are not limited to:

1. case management, counseling, and in-home services;
2. parenting education and training, either in-home or out-of-home;

3. diagnostic and evaluation services provided in an attempt to make the most appropriate out-of-home placement;

4. supervision or non-residential programs for youth who remain in the home.

C. TANF eligibility is limited within any 12-month period to a single episode of need with a maximum duration of 12 months. TANF eligibility is also limited to families with income less than twice the state median income (SMI).

D. These services are TANF-eligible based on inclusion in the state's approved AFDC Emergency Assistance Program that was in effect as of August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474, amended Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:2511 (November 2003), amended LR 31:487 (February 2005), LR 34:697 (April 2008), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:

Marketa Garner Walters
Secretary

1610#026

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network (LAC 28:CLXVII.101, 103, 313, 503, 509, 511, 512, 513, 515, 517, 521, 703, 705, 707, 709, and 713)

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 the revisions of *Bulletin 140—Louisiana Early Childhood Care and Education Network*: §101, Purpose; §103, Definitions; §313, Academic Approval for Type III Early Learning Centers; §503, Coordinated Observation Plan and Observation Requirements; §509, Performance Rating Calculations for Publicly-Funded Sites; §511, Performance Rating Calculations for Community Networks; §512, Performance Ratings for Publicly-funded Sites; §513, Informational Metrics of Best Practices; §515, Reporting for the Accountability System; §517, Data Verification; §521, Performance Profile Appeals Procedure; §703, Coordinated Enrollment Process; §705, Implementation Timeline; §707, Demonstrated Progress Toward Implementation; §709, Community Network Request for Funding for Publicly-Funded Programs; and §713, Request for Departmental Review. This Declaration of Emergency, effective June 22, 2016, is being extended beyond the initial period of 120 days and will remain in effect until the final Rule becomes effective.

R.S. 17:407.23 requires BESE to create a uniform assessment and accountability system for publicly-funded early childhood education programs that includes a letter grade indicative of student performance. In response to this law, the board adopted *Bulletin 140—Louisiana Early Childhood Care and Education Network*, to set forth regulations focused specifically on early childhood community networks. The networks ensure that:

- one organization within each local community network coordinates across early childhood programs (child care, Head Start, school-based pre-kindergarten);
- set clear expectations for implementation of coordinated enrollment as required by Act 717 of the 2014 Regular Legislative Session and establish processes to ensure fairness and equity for providers and families;
- establish a unified quality and improvement system;
- specify how programs and community networks will be evaluated in the 2015-2016 academic learning year, as required by state law; and
- establish processes for fairness and equity for programs.

The proposed revisions update *Bulletin 140—Louisiana Early Childhood Care and Education Network*, to communicate differences in quality, honor quality and improvement, address sites rated very low quality, increase observation accuracy and credibility, increase transparency, ensure parent choice, support coordinated enrollment, and extend the academic approval process beyond the learning year. State law and *Bulletin 140—Louisiana Early Childhood Care and Education Network*, call for such a system to take full effect beginning with the 2016-2017 school year, which is why BESE has exercised the emergency provision in the adoption of these policy revisions.

Title 28

EDUCATION

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

Chapter 1. General Provisions

§101. Purpose

A. The purpose of this Bulletin is to establish the duties and responsibilities of the early childhood care and education network, local community networks, community network lead agencies, and publicly-funded early childhood care and education programs; establish performance and academic standards for kindergarten readiness; define kindergarten readiness; and create a uniform assessment and accountability system for publicly-funded early childhood care and education sites and community networks that includes a performance profile indicative of performance.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2580 (December 2015), amended LR 42:

§103. Definitions

* * *

Assurances—see *program partner assurances*.

* * *

Program Partner Assurances—assurances that early childhood care and education programs must submit to the department in order to access their public funding.

* * *

School Year—for purposes of this Bulletin, July 1-June 30.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.23 and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2580 (December 2015), amended LR 42:

Chapter 3. Early Childhood Care and Education Network

§313. Academic Approval for Type III Early Learning Centers

A. All type III early learning centers shall meet the performance and academic standards of the early childhood care and education network regarding kindergarten readiness as provided in this Bulletin.

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

D. Initial Academic Approval for an Applicant for a New Type III Early Learning Center License for Fiscal Years 2016-2017 and Beyond

1. In order to obtain the initial academic approval required to be licensed as a type III early learning center, a center applying for a new type III license must:

a. submit a signed copy of the current program partner assurances to the department, thereby agreeing to comply with the provisions of this Bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process as provided in Chapter 7.

2. An applicant for a new type III early learning center license who has held a type III early learning center license and received a corrective action plan as provided in §313 at any time during the current or preceding fiscal year shall not be allowed to apply for academic approval for the fiscal year in which the center received a corrective action plan and the following fiscal year.

E. Renewal of Academic Approval for Type III Early Learning Centers for the Fiscal Years 2016-2017 and 2017-2018

1. Academic approval shall be renewed annually for fiscal years 2016-2017 and 2017-2018 for any type III early learning center that:

a. has current academic approval;

b. is in compliance with the provisions of this Bulletin; and

c. has submitted a signed copy of the current annual program partner assurances to the department, and is thereby agreeing to comply with the provisions of this Bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. Type III early learning centers shall annually submit a signed copy of the annual program partner assurances to the department prior to July 1, or as requested by the department, whichever occurs earlier.

F. Renewal of Academic Approval for Existing Type III Early Learning Centers for Fiscal Year 2018-2019 and Beyond

1. Academic approval shall be renewed annually for fiscal years 2018-2019 and beyond for any type III early learning center that:

- a. has current academic approval;
- b. is in compliance with the provisions of this Bulletin;
- c. has not had two unsatisfactory performance ratings within any consecutive three school years; and
- d. has submitted a signed copy of the current annual program partner assurances to the department, and is thereby agreeing to comply with the provisions of this Bulletin, which include:
 - i. membership in the corresponding community network, as provided in Chapter 3;
 - ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and
 - iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. Early learning centers shall annually submit a signed copy of annual program partner assurances to the department prior to July 1, or as requested by the department, whichever is earlier.

G. A center that has its academic approval terminated may not apply for academic approval for the fiscal year in which academic approval was terminated or the following fiscal year.

H. Academic approval shall be valid for the fiscal year, July 1-June 30, for which it is granted.

I. Academic approval is granted to a specific owner and a specific location and is not transferable. If a type III early learning center changes owners or location, it is considered a new operation, and academic approval for the new owner or location must be obtained prior to beginning operations under new ownership or at the new location.

J. Upon a change of ownership or change of location, the academic approval granted to the original owner or at the original location becomes null and void.

K. Renewal

1. Prior to July 1 of each year, the department shall send notice to each type III early learning center that has academic approval providing one of the following:

- a. renewal of academic approval for the center;
- b. notice of the center's failure to comply with specific requirements in Subsection A of this Section and specific corrective actions that must be taken by a specified date in order for academic approval to be renewed; or
- c. if an early learning center has received the notice outlined in Subparagraph L.2.a of this Section within the academic year and the center has not provided the required certifications and completed the stated corrective actions, the department may terminate the center's academic approval as

provided in Subparagraph L.2.c of this Section and send notice of termination of the center's academic approval.

L. Denial, Termination or Refusal to Renew Academic Approval

1. The department may deny terminate, or refuse to renew academic approval for:

- a. violations of any provisions of this bulletin;
- b. failure to timely comply with a corrective action plan provided by the department;
- c. any act of fraud, such as the submission of false or altered documents or information;
- d. failure to timely submit a signed copy of the annual program partner assurances; or
- e. two unsatisfactory performance ratings within any consecutive three school years.

2. Notice

a. If a type III early learning center is in violation of any provision of this bulletin, the department shall notify the center in writing and may specify any corrective actions in a corrective action plan that shall be required to retain academic approval.

b. Within 30 calendar days of receiving such notice, the center shall submit certification in writing to the department that the corrective actions specified in the corrective action plan have been taken or are in the process of being taken in compliance with the schedule provided in the corrective action plan and certification that the center will remain in compliance with the corrective action plan and all applicable regulations.

c. If the type III early learning center does not respond in a timely or satisfactory manner to the notice and corrective action plan or adhere to the implementation schedule required in the corrective actions plan, the department may terminate or refuse to renew the center's academic approval.

d. The department shall provide written notice of denial, termination or refusal to renew academic approval to the center.

e. The denial, termination or refusal to renew a center's academic approval shall be effective when notice of the denial, termination, or refusal to renew is given.

M. Appeal Procedure

1. BESE shall have the authority to grant an appeal of the denial, termination or refusal to renew academic approval for a type III early learning center.

2. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting type III early learning centers or when needed to address issues that arise when the literal application of the academic approval regulations does not consider certain unforeseen and unusual circumstances.

3. A type III early learning center may request an appeal of the denial, termination, or refusal to renew its academic approval by submitting a written request for an appeal to the department within 15 calendar days of being given notice of the denial, termination, or refusal to renew its academic approval.

4. All appeal requests shall clearly state the specific reasons for requesting the appeal and the reasons why the appeal should be granted and shall include any necessary supporting documentation.

5. The department shall review all timely submitted appeal requests and make recommendations to BESE during the first regularly scheduled BESE meeting following receipt of the appeal requests, or during the second regularly scheduled BESE meeting if an appeal request is received within 10 working days of the next regularly scheduled BESE meeting. Within this interval, the department shall notify the center of its recommendation and allow the center to respond in writing. The department's recommendation and the center's response shall be submitted to BESE for final disposition.

6. An early learning center that appeals the termination or refusal to renew its academic approval shall retain its academic approval during the appeal process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36(C) and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2584 (December 2015), amended LR 42:

Chapter 5. Early Childhood Care and Education Accountability System

§503. Coordinated Observation Plan and Observation Requirements

A. - B.4.c. ...

5. The department shall monitor observer accuracy within each observation period by comparing the domain level results from classroom observations conducted by the department's third-party contractors to the domain level results from classroom observations conducted by the community network for each observer.

a. Within each observation period, for observations conducted by a community network observer that have been compared to domain level results conducted by the department's third-party contractors, if more than 20 percent of the domain level results are different by more than one point for the community network observer, that observer and lead agency shall be issued a notice in writing by the state regarding their level of accuracy.

b. Within each observation period, for observations conducted by a community network observer that have been compared to domain level results conducted by the department's third-party contractors, if more than 33 percent of the domain level results are different by more than one point for the community network observer, that observer shall be shadow scored by another community network observer in the next observation period.

c. Within each observation period, for observations conducted by a community network observer that have been compared to domain level results conducted by the department's third-party contractors, if 50 percent or more of the domain level results are different by more than one point for the community network observer, the department shall determine that the community network observer shall not be able to conduct observations for that community network for the next observation period.

i. If the observer is no longer able to conduct observations for the community network, the department shall notify the observer and the lead agency that the observer shall not be able to conduct observations for that community network for the next observation period.

ii. A lead agency or community network observer may request in writing that the department review its

decision in Subparagraph 5.c of this Subsection within 15 calendar days of receiving the decision.

iii. All requests for departmental review shall clearly state the specific reasons for requesting the review and the action being sought, and shall include all necessary supporting documentation.

iv. The department shall respond to the request for departmental review within 30 calendar days after receiving it.

v. The department may waive the action in Subparagraph 5.c of this Subsection in cases of extenuating circumstances or if the action would result in no other assessor being available to conduct required observations.

d. Observers who are receive notification from the department under Clause 5.c.i of this Subsection must meet the reliability requirements of 80 percent accuracy through annual recertification prior to being permitted to complete observations for the community network.

C. Coordinated Observation Plan

1. Each community network shall develop and maintain no later than September 30 of each year a written annual plan for coordinated observation using *CLASS*[®] that at a minimum includes:

a. - d.ii. ...

iii. the community network conducts inter-rater reliability observation checks for 10 percent of all classrooms observed during the fall observation period and for 10 percent of all classrooms observed during the spring observation period, and that these reliability observation checks include every observer for the community network at least once annually; and

C.1.d.iv. - D.3. ...

E. The department shall publicly release the reliability requirements for third-party contractors hired by the department annually.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2586 (December 2015, amended LR 42:

§509. Performance Rating Calculations for Publicly-Funded Sites

A. The performance rating for each publicly-funded site shall be based on the average of the dimension-level toddler and PreK observation results from the fall and spring observation periods for all toddler and PreK classrooms within the site, excluding the negative climate dimension.

1. BESE may include a weight for improvement beginning with the 2016-2017 school year.

2. Sites that have classrooms that receive a score of 3.5 or above for the negative climate dimension shall receive a notice in writing at the end of the observation period in which they received that score. If a site receives a notice for two consecutive observation periods, an indicator of high negative climate may be reported on the performance profile.

B. Any classroom in a publicly-funded site that does not have the observations required in §503 or does not have all results reported, shall have third-party scores for that classroom reported when available. If no third-party scores are available for that classroom, but there are observation scores for comparable classrooms within the site as required

in §503, the department shall assign the average domain score for the comparable classrooms to each missing CLASS score. The department may assign a score of 1 to each missing CLASS domain score if no comparable local or third-party scores are available. If this occurs, the score of one for missing or not-reported observation results shall be included in the performance rating calculation for that site. In these circumstances, the number of missing or not-reported observation results shall be reported on the performance profile.

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

a. For the 2015-2016 learning year, if the observation results conducted by community networks are consistently different by more than one point from observation results conducted by the department's third-party contractors, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractors, including those results that do not differ by at least one point.

b. Beginning with the 2016-2017 school year, if observation results conducted by community networks are consistently different by more than one point from observation results conducted by the department's third-party contractors, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractors, including those results that do not differ by at least one point.

D. The performance rating for each site shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 4.50-5.99—proficient;
3. 3.0 – 4.49—approaching proficient;
4. 1.0-2.99—unsatisfactory.

E. - G. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2587 (December 2015), amended LR 42:

§511. Performance Rating Calculations for Community Networks

A. Community networks shall receive two performance ratings which shall be calculated as follows.

1. CLASS® observation results shall be one of the community network performance ratings.
2. An equitable access score for four-year-olds shall be one of the community network performance ratings.
3. BESE may include a weight for improvement on equitable access beginning with the 2017-2018 school year.

B. The CLASS® observation results shall be determined by averaging the results of all fall and spring dimension-level toddler and PreK observation results for all toddler and PreK classrooms within the community network excluding negative climate.

1. Any classroom in a site that does not have the observations required in §503, or has not had all observation results reported, shall have third-party scores for that classroom reported when available. If no third-party scores are available for that classroom, but there are observation scores for comparable classrooms within that site as required

in §503, the department shall assign the average domain score for the comparable classrooms to each missing CLASS domain score. The department may assign a score of 1 to each missing CLASS domain score if no comparable local or third-party score are available. If this occurs, the score of one for missing observation or not-reported results shall be included in the performance rating calculation for the community network. In these circumstances the number of missing or not-reported observation results shall be reported on the community network's performance profile.

1.a - 2.b.i. ...

ii. For every year after the 2015-2016 school year, if the observation results conducted by a community network are consistently different by more than one point from observation results conducted by the department's third-party contractor, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractor for that site, including those results that do not differ by at least one point.

C. The equitable access score performance rating shall be determined by calculating the access achieved by the community network for all at-risk four-year-old children in the community network coverage area. Points are earned on a four level rating scale according to:

Percentage of At-Risk Four-Year-Olds Served	Rating
90-100 percent	Excellent
80-89.99 percent	Proficient
70-79.99 percent	Approaching Proficient
0-69.99 percent	Unsatisfactory

D. The CLASS observation results performance rating for each community network shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 4.5-5.99—proficient;
3. 3.0-4.49—approaching proficient;
4. 1.0-2.99—unsatisfactory.

E. - G. ...

H. Prior to the start of the 2017-2018 school year, a workgroup of Early Childhood Care and Education Advisory Council members shall be formed to study the inclusion of additional metrics in the performance rating calculations and review R.S. 17:407.21 et seq. for potential statutory changes, and shall make recommendations regarding the use of any additional performance rating calculation metrics in §509.D.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:

§512. Performance Ratings for Publicly-Funded Sites

A. Unsatisfactory Publicly-funded Sites

1. Beginning with the 2016-2017 school year, publicly-funded sites rated as unsatisfactory, as defined in §509, for two school years in any consecutive three school year period, shall lose their public funding and have their academic approval terminated.

2. The state superintendent may grant exception to Paragraph A.1 of this Section if the publicly-funded site serves a special population, or if taking the required action in

Subsection A would create an extraordinary burden for families or place children at risk of harm.

3. The department shall conduct an annual needs analysis for families in regions that may be impacted by publicly-funded sites losing their public funding to support access to early childhood programs.

B. Rewards and Recognition

1. Beginning in the 2016-2017 school year, sites and community networks that are rated “excellent” shall be included in an annual honor roll published by the department and be eligible for financial rewards, as funds are available and as determined by the department.

2. No later than the 2017-2018 school year, sites and community networks that demonstrate significant improvement in their overall score or rating shall be labeled “top gains” on their performance profile and be eligible for financial rewards, as funds are available and as determined by the department.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§513. Informational Metrics of Best Practices

A. Informational metrics are measures of a publicly-funded site and a community network’s use of the following early childhood care and education best practices. The performance profile shall report the publicly-funded site and community network’s use of the best practices identified as investment in quality measures, which shall include but is not limited to:

1. teacher/child ratios. Publicly-funded sites maintain teacher/child ratios based on the age of children that are at or better than the minimum standards required in BESE *Bulletin 137—The Louisiana Licensing Early Learning Center Licensing Regulations*.

a. to achieve gold level ratios, publicly-funded sites use the following teacher/child ratios and group sizes.

Age	Teacher/Child Ratio	Maximum Group Size
Birth to 1 year	1:4	8
1 year to 2 years	1:4	8
2 years to 3 years	1:6	12
3 years to 4 years	1:8	16
4 years to 5 years	1:10	20

b. to achieve silver level ratios, publicly-funded sites use the following teacher/child ratios and group sizes.

Age	Teacher/Child Ratio	Maximum Group Size
Birth to 1 year	1:4	8
1 year to 2 years	1:6	12
2 years to 3 years	1:8	16
3 years to 4 years	1:10	20
4 years to 5 years	1:12	24

c. to achieve bronze level ratios, publicly-funded sites use the minimum ratio standards required in BESE *Bulletin 137—The Louisiana Licensing Early Learning Center Licensing Regulations*.

2. teacher preparation. Publicly-funded sites ensure lead teachers meet or exceed credential requirements for publicly-funded classrooms provided in BESE *Bulletin 746—Louisiana Standards for State Certification of School Personnel*;

3. Standards-Based Curriculum. Publicly-funded sites use a curriculum that is aligned to BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*.

B. The performance profile may report informational metrics in the following categories:

1. child assessment that informs instruction;
2. investment in quality measures;
3. family engagement and supports; and
4. community network supports (reported at the community network level only):

a. the number of children served in new publicly-funded early childhood seats

b. the percent of publicly-funded early childhood seats that are filled.

C. Each year and in collaboration with the Early Childhood Care and Education Advisory Council, the department shall review the results of the accountability system, including but not limited to the performance of programs on each domain of the CLASS, how the performance profile ratings are calculated, and the observer reliability substitution rates, and recommend any improvements for this Bulletin. To develop these recommendations, the department shall work collaboratively with the Early Childhood Care and Education Advisory Council, which shall establish a workgroup for this purpose. The department, with assent shown by vote of the Advisory Council, can decide in a given year that no review is needed.

D. Contingent on available funding, the department shall conduct an external implementation evaluation of Louisiana’s Early Childhood Care and Education Network to answer questions that include but are not limited to whether the system:

1. is based on performance ratings that are valid and reliable;
2. meaningfully differentiates between levels of program quality; and
3. delivers a robust set of quality improvement supports and incentives for improvement, as well as consequences for failure to improve. The results of the study shall be shared with the Early Childhood Care and Education Advisory Council and BESE.

E. The LDE is required to collect data designed to strengthen the state’s ability to track and monitor implementation of new and ongoing policies and supports, program quality, and child outcomes, positioning Louisiana to (1) provide targeted supports to teachers, programs, and schools, and (2) be evaluation-ready when funds and evaluators become available. The LDE shall explore critical data elements being collected by other states, seek recommendations from the Early Childhood Advisory Council on critical data elements and present a report on the findings to BESE no later than January 2017.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:

§515. Reporting for the Accountability System

A. Lead agencies shall report to the department, in the manner specified by the department, the following:

1. classroom counts:

a. by October 1, the number of classrooms serving infant, toddler and PreK children in each publicly-funded site on October 1;

b. by February 1, the number of classrooms serving infant, toddler, and PreK children in each publicly-funded site on February 1; and

c. by February 1, the number of classrooms in the February 1 count that have been added or removed since the October 1 count;

A.2. - C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2589 (December 2015), amended LR 42:

§517. Data Verification

A. The department shall provide all non-survey data contributing to the performance profile for publicly-funded sites and community networks to each lead agency prior to publishing the performance rating.

B. In 2015-2016, the department shall provide lead agencies 30 calendar days for final review, correction, and verification of data for the performance profiles. For all subsequent years, the department shall provide lead agencies 10 calendar days for final review, correction, and verification of data for performance profiles.

1. The lead agency shall create and implement a community network data certification procedure that requires review of all performance profile data for each site during the data certification period.

2. The department may request the certification procedure from each lead agency.

3. Data corrections shall not be grounds for an appeal or waiver request as all data corrections shall be made prior to the release of profiles regardless of the source of any errors.

4. Data corrections may only be submitted for the following reasons:

a. CLASS[®] observations results have been reported incorrectly; or

b. CLASS[®] observation results were not reported.

5. The department shall review all data corrections and grant approval of those corrections that are proven valid.

6. The department may request additional documentation to support the validity of the changes.

C. - D. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2590 (December 2015), amended LR 42:

§521. Performance Profile Appeals Procedure

A. BESE shall have the authority to grant an appeal of a publicly-funded site or community network's performance profile.

B. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting publicly-funded sites and community networks or when needed to address issues that arise when the literal application of the accountability system regulations does not consider certain unforeseen and unusual circumstances. Failure to complete observations or use of third-party scores are not sufficient reasons for requesting an appeal. Data corrections shall not

be grounds for an appeal or waiver request as all data corrections shall be made prior to the release of profiles regardless of the source of any errors.

C. - F. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2590 (December 2015), amended LR 42:

Chapter 7. Coordinated Enrollment

§703. Coordinated Enrollment Process

A. - B.4. ...

C. In collaboration with representatives of providers of child care, Head Start, and prekindergarten services, the lead agency shall develop policies and procedures for how the requirements of §703.B will be implemented. These policies and procedures shall be submitted to the department prior to initiation of the enrollment process, and shall include training for providers and parents on the eligibility criteria for different programs, the matching process for the network, and the complaint process for providers and parents as needed.

D. - F. ...

G. Request for Departmental Review

1. Any parent or caregiver may request that the department review the placement of his or her child resulting from the coordinated enrollment process.

2. A request for departmental review shall be submitted in writing to the department within 30 calendar days of placement of the child or of the event upon which the request for review is based.

3. All requests for departmental review shall clearly state the specific reasons for requesting the review and the action being sought, and shall include all necessary supporting documentation.

4. The department shall respond to the request for departmental review within 30 calendar days after receiving it.

5. Written notice of the process in outlined in §703.G.2, as well of the complaint process described in §311.A-F. and the appropriate contact information for the department, shall be made available to any parent or caregiver at the time they receive the decision of their child's placement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2591 (December 2015), amended LR 42:

§705. Implementation Timeline

A. - D. ...

E. Prior to the start of the school year, BESE shall review this Chapter and revise as necessary based on learnings from the previous year. A work group of the Early Childhood Care and Education Advisory Council shall be formed to study the effectiveness of the coordinated enrollment process and make recommendations to the council and BESE for changes for implementation in the following school year. This research may include, but not be limited to, defining key indicators of effectiveness, conducting focus groups of all provider types, reviewing data on the placement of new early childhood seats opened statewide, and reviewing other available information. The

department, with assent shown by vote of the Advisory Council, may decide in a given year that no review is needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:

§707. Demonstrated Progress Toward Implementation

A. ...

B. The department may require community networks to complete an enrollment self-assessment each year. This self-assessment shall include, but is not limited to, the outcomes of the prior year's coordinated enrollment process, specifically how family choice resulted in these outcomes.

C. ...

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:

§709. Community Network Request for Funding for Publicly-Funded Programs

A. By December 1 of each fiscal year, the lead agency shall develop, in collaboration with representatives of providers of child care, Head Start, and prekindergarten services, and submit a funding request for the following fiscal year to the department on behalf of the community network that is based on the coordinated enrollment results, which shall include the following:

1. the number of applications received for each age of at-risk children;
2. the number of seats requested at each publicly-funded site;
3. the number of seats recommended by the lead agency to receive funding with a prioritization by site and age of children served by funding source;
4. the criteria and process used to develop the community network request;
5. the recommended plan to maximize all funding sources to increase service to at-risk children;
6. the number of seats being requested in a mixed delivery setting; and
7. The number of eligible children served in the network by specific program type.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:

§713. Request for Departmental Review

A. Any publicly-funded program may request that the department review an enrollment decision or funding request of its lead agency or local enrollment coordinator. All programs shall be given written notice of the opportunity to request a departmental review of a lead agency or local enrollment coordinator's enrollment decision or funding request, as well as the complaint process described in §311.A-F. and the appropriate contact information for the department.

B. A request for departmental review shall be submitted in writing to the department no later than 30 calendar days after the day on which community networks must submit funding requests to the department or the day in which the community network submitted the funding request to the department, whichever is later.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2593 (December 2015), amended LR 42:

James D. Garvey, Jr.
President

1610#005

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Louisiana Low-Income Academic Hospitals
(LAC 50:V.2501 and Chapter 31)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.2501 and adopts LAC 50:V.Chapter 31 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which amended the provisions governing disproportionate share hospital (DSH) payments to hospitals participating in public-private partnerships in the south and north Louisiana areas (*Louisiana Register*, Volume 39, Numbers 7 and 10). As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the corresponding State Plan amendments, the department determined that it was necessary to repeal the provisions of the July 6, 2013 and October 1, 2013 Emergency Rules governing DSH payments to the hospitals participating in the south and north Louisiana area public-private partnerships.

The department promulgated an Emergency Rule which amended the provisions governing DSH payments in order to establish payments to Louisiana low-income academic hospitals (*Louisiana Register*, Volume 40, Number 6). The department subsequently promulgated an Emergency Rule which amended the provisions of the May 24, 2014 Emergency Rule to clarify the provisions governing the payment methodology to Louisiana low-income academic hospitals (*Louisiana Register*, Volume 40, Number 9). The department promulgated an Emergency Rule which amended the provisions of the September 20, 2014 Emergency Rule in order to clarify qualifying criteria for Louisiana low-income

academic hospitals and revise the reimbursement and DSH payment methodology (*Louisiana Register*, Volume 42, Number 6).

The department subsequently promulgated an Emergency Rule which amended the provisions governing DSH payments in order to revise the reimbursement schedule for the payments (*Louisiana Register*; Volume 42, Number 10). The department has now determined that it is necessary to amend the provisions of the October 1, 2016 Emergency Rule to revise the provisions governing DSH payments in order to return to the reimbursement schedule in effect on June 20, 2016. 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 20, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions of the October 1, 2016 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 25. Disproportionate Share Hospital Payment Methodologies

§2501. General Provisions

A. - C. ...

D. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:657 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:790 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Chapter 31. Louisiana Low-Income Academic Hospitals

§3101. Qualifying Criteria

A. Hospitals Located Outside of the Baton Rouge and New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located outside of the Baton Rouge and New Orleans metropolitan statistical area (MSA) which:

i. entered into a cooperative endeavor agreement with the state of Louisiana to increase its provision of inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership change to non-state privately owned and operated prior to July 1, 2014;

b. has Medicaid inpatient days utilization greater than 18.9 percent. Qualification shall be calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during state fiscal year 2015 received by April 30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days; and

c. has a ratio of intern and resident full time equivalents (FTEs) to total inpatient beds that is greater than .08. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during state fiscal year 2015. The ratio of interns and resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

B. Hospitals Located In the New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located in the New Orleans MSA which:

i. entered into a cooperative endeavor agreement with the state of Louisiana to increase its provision of inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership changed to non-state privately owned and operated prior to July 1, 2014;

b. has Medicaid inpatient days utilization greater than 45 percent. Qualification shall be calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during state fiscal year 2015 received by April 30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days; and

c. has a ratio of intern and resident FTEs to total inpatient beds that is greater than 1.25. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during state fiscal year 2015. The ratio of interns and resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§3103. Payment Methodology

A. Each qualifying hospital shall be paid DSH adjustment payments equal to 100 percent of allowable hospital specific uncompensated care costs.

1. Costs, patient-specific data and documentation that qualifying criteria is met shall be submitted in a format specified by the department.

2. Costs and lengths of stay shall be reviewed by the department for reasonableness before payments are made.

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.

3. - 4. Repealed.

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, Bureau of Health Services Financing, LR 42:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1610#058

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Louisiana Low-Income Academic Hospitals
(LAC 50:V.2501 and Chapter 31)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.2501 and adopts LAC 50:V.Chapter 31 in the Medical Assistance Program as

authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated Emergency Rules which amended the provisions governing disproportionate share hospital (DSH) payments to hospitals participating in public-private partnerships in the south and north Louisiana areas (*Louisiana Register*, Volume 39, Numbers 7 and 10). As a result of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services' disapproval of the corresponding State Plan amendments, the department determined that it was necessary to repeal the provisions of the July 6, 2013 and October 1, 2013 Emergency Rules governing DSH payments to the hospitals participating in the south and north Louisiana area public-private partnerships.

The department promulgated an Emergency Rule which amended the provisions governing DSH payments in order to establish payments to Louisiana low-income academic hospitals (*Louisiana Register*, Volume 40, Number 6). The department subsequently promulgated an Emergency Rule which amended the provisions of the May 24, 2014 Emergency Rule to clarify the provisions governing the payment methodology to Louisiana low-income academic hospitals (*Louisiana Register*, Volume 40, Number 9). The department promulgated an Emergency Rule which amended the provisions of the September 20, 2014 Emergency Rule in order to clarify qualifying criteria for Louisiana low-income academic hospitals and revise the reimbursement and DSH payment methodology (*Louisiana Register*, Volume 42, Number 6).

The department now proposes to amend the provisions governing DSH payments in order to revise the reimbursement schedule for the payments. 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 1, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions of the June 20, 2016 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 25. Disproportionate Share Hospital Payment Methodologies

§2501. General Provisions

A. - C. ...

D. - E. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:657 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:790 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Chapter 31. Louisiana Low-Income Academic Hospitals

§3101. Qualifying Criteria

A. Hospitals Located Outside of the Baton Rouge and New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located outside of the Baton Rouge and New Orleans metropolitan statistical area (MSA) which:

i. entered into a cooperative endeavor agreement with the State of Louisiana to increase its provision of inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership change to non-state privately owned and operated prior to July 1, 2014;

b. has Medicaid inpatient days utilization greater than 18.9 percent. Qualification shall be calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during state fiscal year 2015 received by April 30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days; and

c. has a ratio of intern and resident full-time equivalents (FTEs) to total inpatient beds that is greater than .08. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during state fiscal year 2015. The ratio of interns and resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

B. Hospitals Located In the New Orleans Metropolitan Statistical Area

1. Effective for dates of service on or after July 1, 2016, a hospital may qualify for this category by:

a. being a private acute care general hospital that is located in the New Orleans MSA which:

i. entered into a cooperative endeavor agreement with the State of Louisiana to increase its provision of inpatient Medicaid and uninsured services by providing services that were previously delivered and terminated or reduced by a state owned and operated facility; or

ii. is formerly a state owned and operated hospital whose ownership changed to non-state privately owned and operated prior to July 1, 2014;

b. has Medicaid inpatient days utilization greater than 45 percent. Qualification shall be calculated by dividing the Medicaid inpatient days by the total inpatient days reported on the Medicaid as filed cost report ending during state fiscal year 2015 received by April 30, 2016, and shall include traditional, shared, and managed care Medicaid days per the worksheet S-3 part I, lines 1 through 18. Column 7 shall be used to determine allowable Medicaid days and column 8 shall be used to determine total inpatient days; and

c. has a ratio of intern and resident FTEs to total inpatient beds that is greater than 1.25. Qualification shall be based on the total inpatient beds and intern and resident FTEs reported on the Medicare/Medicaid cost report ending during state fiscal year 2015. The ratio of interns and resident FTEs shall be calculated by dividing the unweighted intern and resident FTEs reported on the Medicare Cost Report Worksheet E-4, line 6 by the total inpatient beds, excluding nursery and Medicare designated distinct part psychiatric unit beds, reported on worksheet S-3, column 2, lines 1 through 18.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§3103. Payment Methodology

A. Each qualifying hospital shall be paid DSH adjustment payments equal to 100 percent of allowable hospital specific uncompensated care costs.

1. Costs, patient specific data and documentation that qualifying criteria is met shall be submitted in a format specified by the department.

2. Costs and lengths of stay shall be reviewed by the department for reasonableness before payments are made.

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. Reimbursement Methodology

1. Payments for Hospitals Outside of the Shreveport Area. 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.

2. Payments for Hospitals in the Shreveport Area. The first payment of each fiscal year will be made after October 1 and will be 25 percent of the annual calculated uncompensated care costs. The remainder of the payments due will be made as monthly payments from November through June of each year.

3. 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.

4. 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, Bureau of Health Services Financing, LR 42:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1610#008

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Disproportionate Share Hospital Payments Major Medical Centers (LAC 50:V.2715)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:V.2715 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 disproportionate share hospital (DSH) payments in order to re-establish the provisions governing payments to public, non-rural community hospitals (*Louisiana Register*, Volume 40, Number 10). The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions to establish a qualification criteria and DSH payment methodology for major medical centers located in the central and northern areas of Louisiana (*Louisiana Register*, Volume 42, Number 7). This Emergency Rule is being promulgated to continue the provisions of the June 30, 2016 Emergency Rule.

This action is being taken to promote the public health and welfare of uninsured individuals, and ensure their continued access to health services by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective October 29, 2016, the Department of Health, Bureau of Health Services Financing adopts provisions

governing DSH payments to major medical centers located in the central and northern areas of Louisiana.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 3. Disproportionate Share Hospital Payments Chapter 27. Qualifying Hospitals

§2715. Major Medical Centers Located in Central and Northern Areas of the State

A. Effective for dates of service on or after June 30, 2016, hospitals qualifying for payments as major medical centers located in the central and northern areas of the state shall meet the following criteria:

1. be a private, non-rural hospital located in Department of Health administrative regions 6, 7, or 8;

2. have at least 200 inpatient beds as reported on the Medicare/Medicaid cost report, Worksheet S-3, column 2, lines 1-18, for the state fiscal year ending June 30, 2015. For qualification purposes, inpatient beds shall exclude nursery and Medicare designated distinct part psychiatric unit beds;

3. does not qualify as a Louisiana low-income academic hospital under the provisions of §3101; and

4. such qualifying hospital (or its affiliate) does have a memorandum of understanding executed on or after June 30, 2016 with Louisiana State University, School of Medicine, the purpose of which is to maintain and improve access to quality care for Medicaid patients in connection with the expansion of Medicaid in the state through the promotion, expansion, and support of graduate medical education and training.

B. Payment Methodology. Effective for dates of service on or after June 30, 2016, each qualifying hospital shall be paid a DSH adjustment payment which is the pro rata amount calculated by dividing their hospital specific allowable uncompensated care costs by the total allowable uncompensated care costs for all hospitals qualifying under this category and multiplying by the funding appropriated by the Louisiana Legislature in the applicable state fiscal year for this category of hospitals.

1. Costs, patient-specific data and documentation that qualifying criteria is met shall be submitted in a format specified by the department.

2. Costs and lengths of stay shall be reviewed by the department for reasonableness before payments are made.

3. Aggregate DSH payments for hospitals that receive payment from this category, and any other DSH category, shall not exceed the hospital's specific DSH limit. If payments calculated under this methodology would cause a hospital's aggregate DSH payment to exceed the limit, the payment from this category shall be capped at the hospital's specific DSH limit.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1610#059

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Intermediate Care Facilities for Persons
with Intellectual Disabilities
Evacuation and Temporary Sheltering Costs
(LAC 50:VII.33103 and 33105)

The Department of Health, Bureau of Health Services Financing amends LAC 50:VII.33103 and adopts §33105 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 intermediate care facilities for persons with intellectual disabilities (ICFs/ID) to establish reimbursement for complex care services provided to Medicaid recipients residing in non-state ICFs/ID (*Louisiana Register*, Volume 42, Number 2).

The Department of Health, Bureau of Health Services Financing now proposes to amend the provisions governing the reimbursement methodology for ICFs/ID to establish provisions governing evacuation and temporary sheltering costs incurred during a declared disaster or emergency event to ensure evacuating ICFs/ID continue to receive vendor payments while providing essential care and services to residents at a host site when they are displaced. This action is being taken to avoid imminent peril to the public health, safety or welfare of ICF/ID residents by ensuring continued access to services during declared disasters. It is estimated that implementation of this Emergency Rule will have no fiscal impact to the Medicaid Program in state fiscal year 2016-2017.

Effective October 13, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing intermediate care facilities for persons with intellectual disabilities to establish provisions governing evacuation and temporary sheltering costs during a declared disaster or emergency event.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long-Term Care Services

Subpart 3. Intermediate Care Facilities for Persons with Intellectual Disabilities

Chapter 331. Vendor Payments

§33103. Payment Limitations

A. Temporary Absence of the Client. A client's temporary absence from an ICF/ID will not interrupt the monthly vendor payment to the ICF/ID, provided the following conditions are met:

1. the ICF/ID keeps a bed available for the client's return; and

2. the absence is for one of the following reasons:

a. ...

b. leave of absence. A temporary stay outside the ICF/ID provided for in the client's written individual habilitation plan. A leave of absence will not exceed 45 days per fiscal year (July 1 through June 30) and will not exceed 30 consecutive days in any single occurrence. Certain leaves of absence will be excluded from the annual 45-day limit as long as the leave does not exceed the 30-consecutive day limit and is included in the written individual habilitation plan. These exceptions are as follows:

i.-v. ...

NOTE: Elopements and unauthorized absences under the individual habilitation plan count against allowable leave days. However, title XIX eligibility is not affected if the absence does not exceed 30 consecutive days and if the ICF/ID has not discharged the client.

3. ...

4. a period of 24 continuous hours or more shall be considered an absence. Likewise, a temporary leave of absence for hospitalization or a home visit is broken only if the client returns to the ICF/ID for 24 hours or longer;

5. upon admission, a client must remain in the ICF/ID at least 24 continuous hours in order for the ICF/ID to submit a payment claim for a day of service or reserve a bed;

EXAMPLE: A client admitted to an ICF/ID in the morning and transferred to the hospital that afternoon would not be eligible for any vendor payment for ICF/ID services.

6. ...

7. the ICF/ID shall promptly notify DHH of absences beyond the applicable 30- or 7-day limitations. Payment to the ICF/MR shall be terminated from the thirty-first or eighth day, depending upon the leave of absence. Payment will commence after the individual has been determined eligible for title XIX benefits and has remained in the ICF/ID for 30 consecutive days;

8. the limit on title XIX payment for leave days does not mean that further leave days are prohibited when provided for in the individual habilitation plan. After the title XIX payment limit is met, further leave days may be arranged between the ICF/ID and the client, family or responsible party. Such arrangements may include the following options.

a. The ICF/ID may charge the client, family or responsible party an amount not to exceed the title XIX daily rate.

b. The ICF/ID may charge the client, family or responsible party a portion of the title XIX daily rate.

c. The ICF/ID may absorb the cost into its operation costs.

B. Temporary Absence of the Client Due to Evacuations. When local conditions require evacuation of ICF/ID residents, the following procedures apply.

1. When clients are evacuated to a family's or friend's home at the ICF/ID's request, the ICF/MR shall not submit a claim for a day of service or leave day, and the client's liability shall not be collected.

2. When clients go home at the family's request or on their own initiative, a leave day shall be charged.

3. When clients are admitted to the hospital for the purpose of evacuation of the ICF/ID, Medicaid payment shall not be made for hospital charges.

4. - 5. Repealed.

C. Payment Policy in regard to Date of Admission, Discharge, or Death

1. Medicaid (title XIX) payments shall be made effective as of the admission date to the ICF/ID. If the client is medically certified as of that date and if either of the following conditions is met:

a. the client is eligible for Medicaid benefits in the ICF/ID (excluding the medically needy); or

b. the client was in a continuous institutional living arrangement (nursing home, hospital, ICF/ID, or a combination of these institutional living arrangements) for 30 consecutive days; the client must also be determined financially eligible for medical assistance.

2. The continuous stay requirement is:

a. ...

b. not interrupted by the client's absence from the ICF/ID when the absence is for hospitalization or leave of absence which is part of the written individual habilitation plan.

3. The client's applicable income is applied toward the ICF/ID fee effective with the date Medicaid payment is to begin.

4. - 5. ...

NOTE: The ICF/ID shall promptly notify LDH/BHSF of admissions, death, and/or all discharges.

D. Advance Deposits

1. An ICF/ID shall neither require nor accept an advance deposit from an individual whose Medicaid (title XIX) eligibility has been established.

EXCEPTION: An ICF/ID may require an advance deposit for the current month only on that part of the total payment which is the client's liability.

2. ...

E. Retroactive Payment. When individuals enter an ICF/ID before their Medicaid (title XIX) eligibility has been established payment for ICF/ID services is made retroactive to the first day of eligibility after admission.

F. Timely Filing for Reimbursements. Vendor payments cannot be made if more than 12 months have elapsed between the month of initial services and submittal of a claim for these services. Exceptions for payments of claims over 12 months old can be made with authorization from LDH/BHSF only.

G. Refunds to Clients

1. When the ICF/ID receives vendor payments, it shall refund any fees for services collected from clients, family or responsible party by the end of the month in which vendor payment is received.

2. Advance payments for a client's liability (applicable income) shall be refunded promptly if he/she leaves the ICF/ID.

3. The ICF/ID shall adhere to the following procedures for refunds.

a. The proportionate amount for the remaining days of the month shall be refunded to the client, family, or the responsible party no later than 30 days following the date of discharge. If the client has not yet been certified, the procedures spelled out in §33103.G.1 above shall apply.

b. No penalty shall be charged to the client, family, or responsible party even if the circumstances surrounding the discharge occurred as follows:

i. - ii. ...

iii. within some other "minimum stay" period established by the ICF/ID.

c. ...

H. ICF/ID Refunds to the Department

1. Nonparticipating ICF/ID. Vendor payments made for services performed while an ICF/ID is in a nonparticipating status with the Medicaid Program shall be refunded to the department.

2. Participating ICF/ID. A currently participating title XIX, ICF/ID shall correct billing or payment errors by use of appropriate adjustment void or patient liability (PLI) adjustment forms.

I. Sitters. An ICF/ID will neither expect nor require a client to have a sitter. However, the ICF/ID shall permit clients, families, or responsible parties directly to employ and pay sitters when indicated, subject to the following limitations.

1. The use of sitters will be entirely at the client's, family's, or responsible party's discretion. However, the ICF/ID shall have the right to approve the selection of a sitter. If the ICF/ID disapproves the selection of the sitter, the ICF/ID will provide written notification to the client, family, and/or responsible party, and to the department stating the reasons for disapproval.

2. - NOTE. ...

3. Payment to sitters is the direct responsibility of the ICF/ID facility when:

a. - c. ...

4. A sitter will be expected to abide by the ICF/ID's rules, including health standards and professional ethics.

5. The presence of a sitter does not absolve the ICF/ID of its full responsibility for the client's care.

6. The ICF/ID is not responsible for providing a sitter if one is required while the resident is on home leave.

J. Tips. The ICF/ID shall not permit tips for services rendered by its employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and

Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:682 (April 1999), LR 31:1082 (May 2005), repromulgated LR 31:2257 (September 2005), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

§33105. Evacuation and Temporary Sheltering Costs

A. Intermediate care facilities for persons with intellectual disabilities required to participate in an evacuation, as directed by the appropriate parish or state official, or which act as a host shelter site may be entitled to reimbursement of its documented and allowable evacuation and temporary sheltering costs.

1. The expense incurred must be in excess of any existing or anticipated reimbursement from any other sources, including the Federal Emergency Management Agency (FEMA) or its successor.

2. ICFs/ID must first apply for evacuation or sheltering reimbursement from all other sources and request that the department apply for FEMA assistance on their behalf.

3. ICFs/ID must submit expense and reimbursement documentation directly related to the evacuation or temporary sheltering of Medicaid residents to the department.

B. Eligible Expenses. Expenses eligible for reimbursement must occur as a result of an evacuation and be reasonable, necessary, and proper. Eligible expenses are subject to audit at the department's discretion and may include the following.

1. Evacuation Expenses. Evacuation expenses include expenses from the date of evacuation to the date of arrival at a temporary shelter or another ICF/ID. Evacuation expenses include:

- a. resident transportation and lodging expenses during travel;
- b. nursing staff expenses when accompanying residents, including:
 - i. transportation;
 - ii. lodging; and
 - iii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented:

(a). the direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department;

c. any additional allowable costs that are directly related to the evacuation and that would normally be allowed under the ICF/ID rate methodology.

2. Non-ICF/ID Facility Temporary Sheltering Expenses. Non-ICF/ID facility temporary sheltering expenses include expenses from the date the Medicaid residents arrive at a non-ICF/ID facility temporary shelter to the date all Medicaid residents leave the shelter. A non-ICF/ID facility temporary shelter includes shelters that are not part of a licensed ICF/ID and are not billing for the residents under the ICF/ID reimbursement methodology or any other Medicaid reimbursement system. Non-ICF/ID facility temporary sheltering expenses may include:

- a. additional nursing staff expenses including:
 - i. lodging; and
 - ii. additional direct care expenses, when a direct care expense increase of 10 percent or more is documented:

(a). the direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department;

b. care-related expenses incurred in excess of care-related expenses prior to the evacuation;

c. additional medically necessary equipment such as beds and portable ventilators that are not available from the evacuating nursing facility and are rented or purchased specifically for the temporary sheltered residents; and

i. these expenses will be capped at a daily rental fee not to exceed the total purchase price of the item;

ii. the allowable daily rental fee will be determined by the department;

d. any additional allowable costs as determined by the department and that are directly related to the temporary sheltering and that would normally be allowed under the ICF/ID reimbursement methodology.

3. Host ICF/ID Temporary Sheltering Expenses. Host ICF/ID temporary sheltering expenses include expenses from the date the Medicaid residents are admitted to a licensed ICF/ID to the date all temporary sheltered Medicaid residents are discharged from the ICF/ID, not to exceed a six-month period.

a. The host ICF/ID shall bill for the residents under Medicaid's ICF/ID reimbursement methodology.

b. Additional direct care expenses may be submitted when a direct care expense increase of 10 percent or more is documented.

i. The direct care expense increase must be based on a comparison to the average of the previous two pay periods or other period comparisons determined acceptable by the department.

C. Payment of Eligible Expenses

1. For payment purposes, total eligible Medicaid expenses will be the sum of nonresident-specific eligible expenses multiplied by the facility's Medicaid occupancy percentage plus Medicaid resident-specific expenses.

a. If Medicaid occupancy is not easily verified using the evacuation resident listing, the Medicaid occupancy from the most recently filed cost report will be used.

2. Payments shall be made as quarterly lump-sum payments until all eligible expenses have been submitted and paid. Eligible expense documentation must be submitted to the department by the end of each calendar quarter.

3. All eligible expenses documented and allowed under §33105 will be removed from allowable expenses when the ICF/ID's Medicaid cost report is filed. These expenses will not be included in the allowable cost used to set ICF/ID reimbursement rates in future years.

a. Equipment purchases that are reimbursed on a rental rate under §33105.B.2.c may have their remaining basis included as allowable cost on future costs reports provided that the equipment is in the ICF/ID and being used. If the remaining basis requires capitalization then depreciation will be recognized.

4. Payments shall remain under the upper payment limit cap for ICFs/ID.

D. When an ICF/ID resident is evacuated to a temporary sheltering site (an unlicensed sheltering site or a licensed

ICF/ID) for less than 24 hours, the Medicaid vendor payment to the evacuating facility will not be interrupted.

E. When an ICF/ID resident is evacuated to a temporary sheltering site (an unlicensed sheltering site or a licensed NF) for greater than 24 hours, the evacuating ICF/ID may submit the claim for Medicaid vendor payment for a maximum of five days, provided that the evacuating ICF/ID provides sufficient staff and resources to ensure the delivery of essential care and services to the resident at the temporary shelter site.

F. When an ICF/ID resident is evacuated to a temporary shelter site, which is an unlicensed sheltering site, for greater than five days, the evacuating ICF/ID may submit the claim for Medicaid vendor payment for up to an additional 15 days, provided that the evacuating ICF/ID:

1. has received an extension to stay at the unlicensed shelter site; and
2. provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

G. When an ICF/ID resident is evacuated to a temporary shelter site, which is a licensed ICF/ID, for greater than five days, the evacuating ICF/ID may submit the claim for Medicaid vendor payment for an additional period, not to exceed 55 days, provided that:

1. the host/receiving ICF/ID has sufficient licensed and certified bed capacity for the resident, or the host/receiving ICF/ID has received departmental and/or CMS approval to exceed the licensed and certified bed capacity for a specified period; and
2. the evacuating ICF/ID provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

H. If an ICF/ID resident is evacuated to a temporary shelter site which is a licensed ICF/ID, the receiving/host ICF/ID may submit claims for Medicaid vendor payment under the following conditions:

1. beginning day two and continuing during the "sheltering period" and any extension period, if the evacuating nursing home does not provide sufficient staff and resources to ensure the delivery of essential care and services to the resident and to ensure the needs of the residents are met;
2. upon admission of the evacuated residents to the host/receiving ICF/ID; or
3. upon obtaining approval of a temporary hardship exception from the department, if the evacuating ICF/ID is not submitting claims for Medicaid vendor payment.

I. Only one ICF/ID may submit the claims and be reimbursed by the Medicaid Program for each Medicaid resident for the same date of service.

J. An ICF/ID may not submit claims for Medicaid vendor payment for non-admitted residents beyond the expiration of its extension to exceed licensed (and/or certified) bed capacity or expiration of its temporary hardship exception.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1610#034

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Nursing Facilities—Evacuation and Temporary Sheltering Costs (LAC 50:II.20019)

The Department of Health, Bureau of Health Services Financing amends LAC 50:II.20019 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with the directives of Act 540 of the 2006 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions governing the reimbursement methodology for nursing facilities to provide for the facility-specific reimbursement of documented and allowable evacuation and temporary sheltering costs of Medicaid-certified nursing facilities (*Louisiana Register*, Volume 38, Number 5).

The Department of Health, Bureau of Health Services Financing now proposes to amend the provisions of the May 20, 2008 Rule governing the reimbursement methodology for nursing facilities to amend the provisions governing evacuation and temporary sheltering costs in order to ensure that an evacuating nursing facility continues to receive vendor payments while providing essential care and services to residents at a host site when they are displaced. This action is being taken to avoid imminent peril to the public health, safety or welfare of nursing facility residents by ensuring continued access to services during declared disasters. It is estimated that implementation of this Emergency Rule will have no fiscal impact to the Medicaid Program in state fiscal year 2016-2017.

Effective October 13, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to revise the provisions governing evacuation and

temporary sheltering costs during a declared disaster or emergency event.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20019. Evacuation and Temporary Sheltering Costs

[Formerly LAC 50:VII.1319]

A. - B.1.b.iii.(a). ...

c. any additional allowable costs as defined in the *CMS Publication 15-1-21*, last modified 9/28/2012, that are directly related to the evacuation and that would normally be allowed under the nursing facility case-mix rate.

2. - 2.a.ii.(a). ...

b. care-related expenses as defined in LAC 50:II.20005 and incurred in excess of care-related expenses prior to the evacuation;

c. - c.ii. ...

d. any additional allowable costs as defined in the *CMS Publication 15-1-21*, last modified 9/28/2012, that are directly related to the temporary sheltering and that would normally be allowed under the nursing facility case-mix rate.

3. - 3.b.i. ...

C. Payment of Eligible Expenses

1. - 2. ...

3. All eligible expenses documented and allowed under §20019 will be removed from allowable expenses when the nursing facility's Medicaid cost report is filed. These expenses will not be included in the allowable cost used to set case-mix reimbursement rates in future years.

a. Equipment purchases that are reimbursed on a rental rate under §20019.B.2.c may have their remaining basis included as allowable cost on future costs reports provided that the equipment is in the nursing facility and being used. If the remaining basis requires capitalization under *CMS Publication 15-1-21* guidelines, last modified 9/28/2012, then depreciation will be recognized.

4. ...

D. When a nursing facility (NF) resident is evacuated to a temporary sheltering site (an unlicensed sheltering site or a licensed NF) for less than 24 hours, the Medicaid vendor payment to the evacuating facility will not be interrupted.

E. When an NF resident is evacuated to a temporary shelter site (an unlicensed sheltering site or a licensed NF) for greater than 24 hours, the evacuating nursing facility may submit the claim for Medicaid vendor payment for a maximum of five days, provided that the evacuating nursing facility provides sufficient staff and resources to ensure the delivery of essential care and services to the resident at the temporary shelter site.

F. When an NF resident is evacuated to a temporary shelter site, which is an unlicensed sheltering site, for greater than five days, the evacuating nursing facility may submit the claim for Medicaid vendor payment for up to an additional 15 days, provided that the evacuating nursing facility:

1. has received an extension to stay at the unlicensed shelter site; and

2. provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

G. When an NF resident is evacuated to a temporary shelter site, which is a licensed nursing home, for greater than five days, the evacuating nursing facility may submit the claim for Medicaid vendor payment for an additional period, not to exceed 55 days, provided that:

1. the host/receiving nursing home has sufficient licensed and certified bed capacity for the resident, or the host/receiving nursing home has received departmental and/or CMS approval to exceed the licensed and certified bed capacity for a specified period; and

2. the evacuating nursing facility provides sufficient staff and resources to ensure the delivery of essential care and services to the resident, and to ensure the needs of the resident are met.

H. If an NF resident is evacuated to a temporary shelter site which is a licensed NF, the receiving/host nursing home may submit claims for Medicaid vendor payment under the following conditions:

1. beginning day two and continuing during the "sheltering period" and any extension period, if the evacuating nursing home does not provide sufficient staff and resources to ensure the delivery of essential care and services to the resident and to ensure the needs of the residents are met;

2. upon admission of the evacuated residents to the host/receiving nursing facility; or

3. upon obtaining approval of a temporary hardship exception from the department, if the evacuating NF is not submitting claims for Medicaid vendor payment.

I. Only one nursing facility may submit the claims and be reimbursed by the Medicaid Program for each Medicaid resident for the same date of service.

J. A nursing facility may not submit claims for Medicaid vendor payment for non-admitted residents beyond the expiration of its extension to exceed licensed (and/or certified) bed capacity or expiration of its temporary hardship exception.

AUTHORITY NOTE: Promulgated in 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 34:879 (May 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1610#035

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Recovery Audit Contractor Program (LAC 50:I.Chapter 85)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:I.Chapter 85 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 Patient Protection and Affordable Care Act (PPACA), U.S. Public Law 111-148, and 111-152 directed states to establish a Recovery Audit Contractor (RAC) program to audit payments to Medicaid providers. Act 568 of the 2014 Regular Session of the Louisiana Legislature directed the Department of Health and Hospitals to implement a Recovery Audit Contractor program. In compliance with the Patient Protection and Affordable Care Act (PPACA) and Act 568, the department promulgated an Emergency Rule which adopted provisions to establish the RAC program (*Louisiana Register*, Volume 40, Number 11). This Emergency Rule is being promulgated to continue the provisions of the November 20, 2014 Emergency Rule. This action is being taken to avoid federal sanctions.

Effective November 15, 2016, the Department of Health, Bureau of Health Services Financing adopts provisions establishing the Recovery Audit Contractor program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 9. Recovery

Chapter 85. Recovery Audit Contractor

§8501. General Provisions

A. Pursuant to the provisions of the Patient Protection and Affordable Care Act (PPACA), Public Law 111-148, 111-152, and Act 562 of the Regular Session of the Louisiana Legislature, the Medicaid Program adopts provisions to establish a Recovery Audit Contractor (RAC) program.

B. These provisions do not prohibit or restrict any other audit functions that may be performed by the department or its contractors. This Rule shall only apply to Medicaid RACs as they are defined in applicable federal law.

C. This Rule shall apply to RAC audits that begin on or after November 20, 2014, regardless of dates of claims reviewed.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8503. Definitions

Adverse Determination—any decision rendered by the recovery audit contractor that results in a payment to a provider for a claim or service being reduced either partially or completely.

Department—Department of Health (LDH) or any of its sections, bureaus, offices, or its contracted designee.

Provider—any healthcare entity enrolled with the department as a provider in the Medicaid program.

Recovery Audit Contractor (RAC)—a Medicaid recovery audit contractor selected by the department to perform audits for the purpose of ensuring Medicaid program integrity in accordance with the provisions of 42 CFR 455 et seq.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8505. Contractor Functions

A. Notwithstanding any law to the contrary, the RAC shall perform all of the following functions.

1. The RAC shall ensure it is reviewing claims within three years of the date of its initial payment. For purposes of this requirement, the three-year look back period shall commence from the beginning date of the relevant audit.

2. The RAC shall send a determination letter concluding an audit within 60 days of receipt of all requested materials from a provider.

3. For any records which are requested from a provider, the RAC shall ensure proper identification of which records it is seeking. Information shall include, but is not limited to:

- a. recipient name;
- b. claim number;
- c. medical record number (if known); and
- d. date(s) of service.

B. Pursuant to applicable statute, the RAC program's scope of review shall exclude the following:

1. all claims processed or paid within 90 days of implementation of any Medicaid managed care program that relates to said claims. This shall not preclude review of claims not related to any Medicaid managed care program implementation;

2. claims processed or paid through a capitated Medicaid managed care program. This scope restriction shall not prohibit any audits of per member per month payments from the department to any capitated Medicaid managed care plan utilizing such claims; and

3. medical necessity reviews in which the provider has obtained prior authorization for the service.

C. The RAC shall refer claims it suspects to be fraudulent directly to the department for investigation.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8507. Reimbursement and Recoupment

A. The department has in place, and shall retain, a process to ensure that providers receive or retain the appropriate reimbursement amount for claims within any look back period in which the RAC determines that services delivered have been improperly billed, but reasonable and necessary. It shall be the provider's responsibility to provide documentation to support and justify any recalculation.

B. The RAC and the department shall not recoup any overpayments identified by the RAC until all informal and formal appeals processes have been completed. For purposes of this Section, a final decision by the Division of

Administrative Law shall be the conclusion of all formal appeals processes. This does not prohibit the provider from seeking judicial review and any remedies afforded thereunder.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8509. Provider Notification

A. The RAC shall provide a detailed explanation in writing to a provider for any adverse determination as defined by state statute. This notification shall include, but not be limited to the following:

1. the reason(s) for the adverse determination;
2. the specific medical criteria on which the determination was based, if applicable;
3. an explanation of any provider appeal rights; and
4. an explanation of the appropriate reimbursement determined in accordance with §8507, if applicable.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8511. Records Requests

A. The RAC shall limit records requests to not more than 1 percent of the number of claims filed by the provider for the specific service being reviewed in the previous state fiscal year during a 90 day period. The 1 percent shall be further limited to 200 records. For purposes of this Chapter, each specific service identified for review within the requested time period will be considered a separate and distinct audit.

B. The provider shall have 45 calendar days to comply with any records request unless an extension is mutually agreed upon. The 45 days shall begin on the date of receipt of any request.

1. *Date of Receipt*—two business days from the date of the request as confirmed by the post office date stamp.

C. If the RAC demonstrates a significant provider error rate relative to an audit of records, the RAC may make a request to the department to initiate an additional records request relative to the issue being reviewed for the purposes of further review and validation.

1. The provider shall be given an opportunity to provide written objections to the secretary or his/her designee of any subsequent records request. Decisions by the secretary or his/her designee in this area are final and not subject to further appeal or review.

2. This shall not be an adverse determination subject to the Administrative Procedure Act process.

3. A *significant provider error rate* shall be defined as 25 percent.

4. The RAC shall not make any requests allowed above until the time period for the informal appeals process has expired.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8513. Audits and Records Submission

A. The RAC shall utilize provider self-audits only if mutually agreed to by the provider and the RAC.

B. If the provider is determined to be a low-risk provider, the RAC shall schedule any on-site audits with advance notice of not less than 10 business days. The RAC shall make a reasonable good-faith effort to establish a mutually agreed upon date and time, and shall document such efforts.

C. In association with an audit, providers shall be allowed to submit records in electronic format for their convenience. If the RAC requires a provider to produce records in any non-electronic format, the RAC shall make reasonable efforts to reimburse the provider for the reasonable cost of medical records reproduction consistent with 42 CFR 476.78.

1. The cost for medical record production shall be at the current federal rate at the time of reimbursement to the provider. This rate may be updated periodically, but in no circumstance shall it exceed the rate applicable under Louisiana statutes for public records requests.

2. Any costs associated with medical record production may be applied by the RAC as a credit against any overpayment or as a reduction against any underpayment. A tender of this amount shall be deemed a reasonable effort.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8515. Appeals Process

A. A provider shall have a right to an informal and formal appeals process for adverse determinations made by the RAC.

B. The informal appeals process shall be conducted as follows.

1. Beginning on the date of issuance of any initial findings letter by the RAC, there shall be an informal discussion and consultation period. During this period the provider and RAC may communicate regarding any audit determinations.

2. Within 45 calendar days of receipt of written notification of an adverse determination from the RAC, a provider shall have the right to request an informal hearing relative to such determination. The department's Program Integrity Section shall be involved in this hearing. Any such request shall be in writing and the date of receipt shall be deemed to be two days after the date of the adverse determination letter.

3. The informal hearing shall occur within 30 days of receipt of the provider's request.

4. At the informal hearing the provider shall have the right to present information orally and in writing, the right to present documents, and the right to have the department and the RAC address any inquiry the provider may make concerning the reason for the adverse determination. A provider may be represented by an attorney or authorized representative, but any such individual must provide written

notice of representation along with the request for informal hearing.

5. The RAC and the Program Integrity Section shall issue a final written decision related to the informal hearing within 15 calendar days of the hearing closure.

C. Within 30 days of issuance of an adverse determination of the RAC, if an informal hearing is not requested or there is a determination pursuant to an informal hearing, a provider may request an administrative appeal of the final decision by requesting a hearing before the Division of Administrative Law. A copy of any request for an administrative appeal shall be filed contemporaneously with the Program Integrity Section. The date of issuance of a final decision or determination pursuant to an informal hearing shall be two days from the date of such decision or determination.

D. The department shall report on its website the number of adverse determinations overturned on informal or formal appeals at the end of the month for the previous month.

E. If the department or the Division of Administrative Law hearing officer finds that the RAC determination was unreasonable, frivolous or without merit, then the RAC shall reimburse the provider for its reasonable costs associated with the appeals process. Reasonable costs include, but are not limited to, cost of reasonable attorney's costs and other reasonable expenses incurred to appeal the RAC's determination. The fact that a decision has been overturned or partially overturned via the appeals process shall not mean the determination was without merit.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

§8517. Penalties and Sanctions

A. If the department determines that the RAC inappropriately denied a claim(s), the department may impose a penalty or sanction. A claim has been inappropriately denied when the:

1. adverse determination is not substantiated by applicable department policy or guidance and the RAC fails to utilize guidance provided by the department; or

2. RAC fails to follow any programmatic or statutory rules.

B. If more than 25 percent of the RAC's adverse determinations are overturned on informal or formal appeal, the department may impose a monetary penalty up to 10 percent of the cost of the claims to be awarded to the providers of the claims inappropriately determined, or a monetary penalty up to 5 percent of the RAC's total collections to the department.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 42:

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030 or by email to MedicaidPolicy@la.gov. Ms. Steele 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.

Rebekah E. Gee MD, MPH
Secretary

1610#060

DECLARATION OF EMERGENCY

Department of Health Office of Public Health

Added Controlled Dangerous Substances (LAC 46:LIII.2704)

The Department of Health, Office of Public Health (LDH/OPH), pursuant to the rulemaking authority granted to the secretary of LDH by R.S. 40:962(C) and (H), hereby adopts the following Emergency Rule for the protection of public health. This Emergency Rule is being promulgated in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and shall remain in effect for the maximum period allowed under the Act or until adoption of a final Rule, whichever occurs first.

Based on the criteria, factors, and guidance set forth in R.S. 40:962(C) and 40:963, the secretary, under this rulemaking, has determined that the below listed substances have a high potential for abuse and should be scheduled as controlled dangerous substances to avoid an imminent peril to the public health, safety, or welfare. In reaching the decision to designate the below listed substances as controlled dangerous substances under schedule I, the secretary has considered the criteria provided under R.S. 40:963 and the specific factors listed under R.S. 40:962(C). The secretary has determined that schedule I is the most appropriate due to her findings that the substances added herein have a high potential for abuse, the substances have no currently accepted medical use for treatment in the United States, and there is a lack of accepted safety for use of the substances under medical supervision. This Emergency Rule is effective on September 27, 2016.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 27. Controlled Dangerous Substances

Subchapter A. General Provisions

§2704. Added Controlled Dangerous Substances

A. The following drugs or substances are added to Schedule I of the Louisiana Uniform Controlled Dangerous Substances Law, R.S. 40:961 et seq.:

1. ...

2. U-477003,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:962, R.S. 40:963, and R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 42:

Rebecca E. Gee, MD, MPH
Secretary

1610#009

DECLARATION OF EMERGENCY

Department of Health Office of Public Health

Special Supplemental Nutrition Program for
Women, Infants and Children (WIC)
(LAC 48:V.Chapters 41, 43 and 45)

Under the authority of R.S. 46:972 and in accordance with the emergency rulemaking provisions of R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Louisiana Department of Health, Office of Public Health (LDH-OPH), amends Subpart 15 [Special Supplemental Food Services for Women, Infants, and Children (WIC)] of Part V (Preventive Health Services) of Title 48 (*Public Health—General*) of the *Louisiana Administrative Code* (LAC).

These amendments are necessary to ensure that the state of Louisiana remains in compliance with applicable federal regulations of the United States Department of Agriculture (USDA). Failure to timely adopt such amendments may cause federal monetary sanctions to be imposed against the Louisiana WIC program. The effective date of this Emergency Rule is October 1, 2016 and, unless terminated earlier, it shall remain in effect for the maximum time period allowed under law. At this time, the Louisiana WIC program intends to publish a Notice of Intent under regular rulemaking procedures in the November 20, 2016 *Louisiana Register*.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Preventive Health Services

Subpart 15. Special Supplemental Nutrition Program for Women, Infants and Children (WIC)

Chapter 41. General Provisions

§4101. Purpose and Scope

A. The purpose of LAC 48:V.Subpart 15 is to adopt applicable and corresponding state regulations enacted under the authority of the federal secretary of agriculture in order to implement the federal Special Supplemental Nutrition Program for Women, Infants and Children (WIC program) within the state of Louisiana. section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), as amended, states in part that “Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program to provide supplemental foods and nutrition education, including breastfeeding promotion and support, through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems, including drug abuse, and improve the health status of these persons.” The program shall be supplementary to the Supplemental Nutrition Assistance Program (SNAP); any program under which foods are distributed to needy families in lieu of SNAP benefits; and, receipt of food or meals from soup kitchens, or shelters, or other forms of emergency food assistance.

B. The Special Supplemental Nutrition Program for Women, Infants and Children (WIC), also hereinafter known as “program” or “the program”, provides supplemental foods and nutrition education, including breastfeeding promotion and support, for women, infants and children. It is federally funded through the U.S. Department of Agriculture via cash grants to state agencies which administer the program. The Louisiana Department of Health, Office of Public Health, Center for Community and Preventive Health, Bureau of Nutrition Services, shall be responsible for the administration of the program in Louisiana. Extensive regulations have been published by the Food and Nutrition Service (FNS) of the U.S. Department of Agriculture in 7 CFR part 246. Federal regulations stipulate participation requirements, length of certifications, certification processes and standards, participant responsibilities and participant grievance rights. If there is a conflict with any portion of LAC 48:V.Subpart 15 and 7 CFR part 246, the provisions of 7 CFR part 246 shall supersede the provisions of LAC 48:V.Subpart 15.

C. The annual Louisiana WIC program state plan, including a comprehensive policy and procedure manual, is available for review by any interested party at both of the Bureau of Nutrition Services offices in Louisiana, as follows: Room 828, 628 North Fourth Street, Baton Rouge, LA 70802 and Suite 1906, 1450 Poydras Street, New Orleans, LA 70112.

D. As described in 7 CFR part 246, the agency is to provide supplemental foods and nutrition education, including breastfeeding promotion and support, to categorically eligible participants who are income eligible and found to be at nutritional risk. The program shall serve as an adjunct to good health care during critical times of growth and development, in order to prevent the occurrence of health problems, including drug and other harmful substance abuse, and to improve the health status of these persons. The WIC state agency is responsible for providing services to as many eligible participants as funding allows.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR Part 246, P. L. 95-627, and 41 USC 1786. Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4103. Definitions

A. The following words and terms are defined for the purposes of this Subpart and for all contracts, guidelines, instructions, forms and other documents related hereto.

Above-50-Percent (A50) Vendors—vendors that derive more than 50 percent of their annual food sales revenue from WIC food instruments, and new vendor applicants expected to meet this criterion under guidelines approved by FNS. A50 vendors are subject to payment limitations that ensure that the prices of A50 vendors do not result in higher total food costs if program participants transact their food instruments at A50 vendors rather than at non-A50 (“regular”) vendors.

Administrative Review—a procedure by which a vendor may appeal an adverse action by the state agency.

Applicants—pregnant women, breastfeeding women, postpartum women, infants, and children who are applying to receive WIC benefits, and the breastfed infants of

applicant breastfeeding women. Applicants include individuals who are currently participating in the program but are re-applying because their certification period is about to expire.

Authorized Supplemental Foods/WIC-Approved Foods—those supplemental foods authorized by the state agency for issuance to participants.

Authorized WIC Vendor (Vendor)—a retail grocery store that has submitted a complete WIC vendor application and any required supporting documentation, passed a pre-authorization on-site review, completed a training program, signed a formal vendor agreement binding the vendor to follow all WIC rules and policies upon authorization, and received a signed authorization letter from the Louisiana WIC program. Only authorized WIC vendors may transact WIC food instruments (FIs)/cash-value vouchers (CVVs).

Breastfeeding—the practice of feeding a mother's breastmilk to her infant(s) on an average frequency of at least once a day.

Breastfeeding Women—women up to one year postpartum who are breastfeeding their infants.

CMP—civil money penalty.

CSFP—the Commodity Supplemental Food Program administered by the U.S. Department of Agriculture, authorized by section 4 of the Agriculture and Consumer Protection Act of 1973 [7 U.S.C. 1431(a)], as amended, and governed by 7 CFR part 247.

Cash-Value Voucher (CVV)—a fixed-dollar amount check, voucher, electronic benefit transfer (EBT) card or other document which is used by a participant to obtain authorized fruits and vegetables.

Categorical Eligibility—persons who meet the definitions of pregnant women, breastfeeding women, postpartum women, infants or children.

Certification—the implementation of criteria and procedures to assess and document each applicant's eligibility for the program.

Change of Location—the move of a WIC vendor from one physical address to another address.

Change of Ownership—a change that results when all of the assets of the store are sold or transferred to a new owner or business entity. This includes adding a new partner(s).

Children—persons who have had their first birthday but have not yet attained their fifth birthday.

Clinic—a facility where applicants are certified.

Competent Professional Authority—an individual on the staff of the local agency authorized to determine nutritional risk and prescribe supplemental foods. The following persons are the only persons the state agency may authorize to serve as a competent professional authority: physicians, nutritionists (bachelor's or master's degree in nutritional sciences, community nutrition, clinical nutrition, dietetics, public health nutrition or home economics with emphasis in nutrition), dietitians, registered nurses, physician's assistants (certified by the National Committee on Certification of Physician's Assistants or certified by the state medical certifying authority), or state or local medically-trained health officials. This definition also applies to an individual who is not on the staff of the local agency but who is qualified to provide data upon which nutritional risk determinations are made by a competent professional authority on the staff of the local agency.

Competitive Price Criteria (CPC)—price level at or below which WIC-approved foods shall be priced in order for a vendor applicant to be considered for authorization. The state agency determines CPC for each WIC-approved food item based on shelf prices for vendors within each peer group of regular vendors. CPC varies by vendor peer group. All vendors are subject to the CPC at all times in order to ensure that vendors do not raise prices, subsequent to selection, to a level that would make such vendors ineligible for authorization.

Confidentiality—in the context of the WIC program, not using or disclosing any confidential applicant, participant or vendor information gathered as a result of participation in the WIC program. Confidential applicant and participant information is any information about an applicant or participant, whether it is obtained from the applicant or participant, another source, or generated as a result of WIC application, certification, or participation, that individually identifies an applicant or participant and/or family member(s). Applicant or participant information is confidential, regardless of the original source. Vendors are required to keep confidential the customer's eligibility for and receipt of WIC benefits. Confidential vendor information is any information about a vendor (whether it is obtained from the vendor or another source) that individually identifies the vendor, except for vendor's name, address, telephone number, web site/e-mail address, store type, and authorization status.

Corrective Action Plan (CAP)—any plan developed by the state agency, or by a vendor and approved by the state agency, to correct deficiencies identified by the state agency in a vendor's compliance with WIC rules, regulations, policies, and/or procedures. Vendors shall implement CAPs when required by the state agency. CAPs may include, but are not limited to, requirements to provide store personnel or stock rotation training and/or to correct inappropriate WIC FI/CVV processing procedures used by the vendor.

Days—calendar days.

Disqualification—the act of ending the program participation of a participant, or authorized state or local agency, whether as a punitive sanction or for administrative reasons and the act of ending program participation of an authorized WIC vendor for violations of the vendor agreement and/or federal or state rules, regulations or policy governing the WIC program.

Documentation—the presentation of written documents which substantiate oral, written, or electronic statements made by an applicant or participant or a person applying on behalf of an applicant or a vendor.

Drug—

- a. beverage containing alcohol;
- b. controlled substance (having the meaning given it in section 102 of the Controlled Substances Act of 1970 (21 U.S.C. 802(6)), as amended; or
- c. controlled substance analogue (having the meaning given it in section 102 of the Controlled Substances Act of 1970 [21 U.S.C. 802(32)], as amended).

Dual Participation—simultaneous participation in the program in more than one WIC clinic, or participation in the program and in the CSFP during the same period of time.

Electronic Signature—an electronic sound, symbol, or process, attached to or associated with an application or

other record and executed and or adopted by a person with the intent to sign the record.

FNS—the Food and Nutrition Service of the U.S. Department of Agriculture.

Family—a group of related or nonrelated individuals who are living together as one economic unit, except that residents of a homeless facility or an institution shall not all be considered as members of a single family.

Food Costs—the costs of supplemental foods, determined in accordance with 7 CFR §246.14(b).

Food Delivery System—the method used by state and local agencies to provide supplemental foods to participants.

Food Instrument (FI)—a voucher, check, electronic benefits transfer (EBT) card, coupon or other document that is used by a participant to obtain WIC-approved foods.

Food Package—WIC-eligible food items listed on WIC food instruments in designated quantities.

Food Sales—sales of all SNAP-eligible foods intended for home preparation and consumption, including meat, fish, and poultry; bread and cereal products; dairy products; and fruits and vegetables. Food items such as condiments and spices, coffee, tea, cocoa, and carbonated and noncarbonated drinks may be included in food sales when offered for sale along with foods in the categories identified above. Food sales do not include sales of any items that cannot be purchased with SNAP benefits, such as hot foods or food that will be eaten in the store.

Fraud and Abuse—conduct that violates WIC program rules, regulations, policies, and/or procedures, including, but not limited to, those violations leading to disqualification, as identified in the sanction schedule.

Full-Line Grocery Store—a retail food store/market (as defined under LAC 51:XXIII.101.A) that stocks, and has on hand at all times, at least:

- a. 5 varieties of cereal with 5 or more units of each variety;
- b. 3 varieties of bread or tortillas with 5 or more units of each variety;
- c. 4 varieties of fresh fruits with at least 5 units of each variety;
- d. 4 varieties of fresh vegetables with at least 5 units of each variety; and
- e. 4 varieties of fresh or frozen meat, poultry or fish with at least 5 units of each variety;
- f. 2 varieties of rice with 6 or more units of each variety.

Health Services—ongoing, routine pediatric and obstetric care (such as infant and child care and prenatal and postpartum examinations) or referral for treatment.

Homeless Facility—the following types of facilities which provide meal service:

- a. a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;
- b. a facility that provides a temporary residence for individuals intended to be institutionalized; or
- c. a public or private place not designed for, or normally used as, a regular sleeping accommodation for human beings.

Homeless Individual—a woman, infant or child:

- a. who lacks a fixed and regular nighttime residence; or
- b. whose primary nighttime residence is:
 - i. a supervised publicly- or privately-operated shelter (including a welfare hotel, a congregate shelter, or a shelter for victims of domestic violence) designated to provide temporary living accommodations;
 - ii. an institution that provides a temporary residence for individuals intended to be institutionalized;
 - iii. a temporary accommodation of not more than 365 days in the residence of another individual; or
 - iv. a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Incentive Items/Incentives—any goods or services provided as inducements to shop in a grocery store or recruit customers.

Infant Formula—a food that meets the definition of an infant formula in section 201 of the Federal Food, Drug, and Cosmetic Act of 1938 (21 U.S.C. 321(z)), as amended, and that meets the requirements for an infant formula under section 412 of the Federal Food, Drug, and Cosmetic Act of 1938 (21 U.S.C. 350a), as amended, and the regulations at 21 CFR Parts 106 and 107.

Infants—persons under 1 year of age.

Institution—any residential accommodation which provides meal service, except private residences and homeless facilities.

Judicial Review—the procedure by which a vendor may appeal a decision rendered at an administrative review, or a participant may appeal a decision rendered at a fair hearing.

Local Agency—a public or private, nonprofit or human service agency which provides health services, either directly or through contract, in accordance with 7 CFR §246.5.

Maximum Allowable Reimbursement Level (MARL)—the highest reimbursement amount for each FI for each peer group that the state agency may pay. The state agency determines a MARL for every WIC FI. Any FI that is submitted with a price higher than MARL shall be reduced through the automated clearing house (ACH) process.

Migrant Farmworker—an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the last 24 months, and who establishes, for the purposes of such employment, a temporary abode.

Non-A50 Vendors—see regular vendors (non-A50).

Nonprofit Agency—a private agency which is exempt from federal income tax under the *Internal Revenue Code* of 1954, (title 26 of the U.S.C.), as amended.

Nutrition Education—individual and group sessions and the provision of materials that are designed to improve health status and achieve positive change in dietary and physical activity habits, and that emphasize the relationship between nutrition, physical activity, and health, all in keeping with the personal and cultural preferences of the individual.

Nutritional Risk—

- a. detrimental abnormal nutritional conditions detectable by biochemical or anthropometric measurements;
- b. other documented nutritionally-related medical conditions;
- c. dietary deficiencies that impair or endanger health;
- d. conditions that directly affect the nutritional health of a person, including alcoholism or drug abuse; or
- e. conditions that predispose persons to inadequate nutritional patterns or nutritionally-related medical conditions, including, but not limited to, homelessness and migrancy.

Other Harmful Substances—other substances such as tobacco, prescription drugs and over-the-counter medications that can be harmful to the health of the WIC population, especially the pregnant woman and her fetus.

Participant Access—the ability of a WIC participant to adequately access WIC-approved foods through the state agency's selection and authorization of an appropriate number and distribution of vendors consistent with ensuring effective state agency management, oversight, and review of its authorized vendors. The state agency has established participant access criteria in accordance with WIC regulations at 7 CFR part 246.

Participant Violation—any intentional or unintentional action of a participant, caregiver or a proxy that violates federal or state statutes, regulations, policies or procedures governing the program.

Participants—pregnant women, breastfeeding women, postpartum women, infants and children up to their fifth birthday who are currently enrolled in the WIC program and are receiving supplemental foods under the program, and the breastfed infants of participant breastfeeding women.

Participation—the sum of the number of:

- a. persons who received supplemental foods or food instruments during the reporting period;
- b. infants who did not receive supplemental foods or food instruments but whose breastfeeding mother received supplemental foods or food instruments during the report period; and
- c. breastfeeding women who did not receive supplemental foods or food instruments but whose infant received supplemental foods or food instruments during the report period.

Peer Group—a group of vendors that is based on common characteristics or criteria that affect food prices. Vendors are grouped for management and cost containment purposes including, but not limited to, establishing and applying appropriate competitive price criteria (CPC) and MARLs to vendors.

Postpartum Women—usually, women up to six months after termination of pregnancy; however, this term shall also be apply to breastfeeding women up to one year after termination of pregnancy.

Pregnant Women—women determined to have one or more embryos or fetuses *in utero*.

Price Adjustment—an adjustment made by the state agency, in accordance with the vendor agreement, to the purchase price on a food instrument after it has been submitted by a vendor for redemption. Price adjustments are

made to ensure that the payment to the vendor for the food instrument complies with the state agency's price limitations.

Program—WIC (unless the context in which this word is used in this Subpart clearly indicates otherwise).

Proxy—any person designated by a woman participant, or by a parent or caretaker of an infant or child participant, to obtain and transact FIs and CVVs and/ or to obtain WIC-approved foods on behalf of a participant. The proxy shall be designated consistent with the state agency's procedures established pursuant to 7 CFR §246.12(r)(1). Parents or caretakers applying on behalf of child and infant participants are not proxies.

Regular Vendors (Non-A50)—vendors that do not meet the above-50-percent (A50) vendor's criterion, as defined elsewhere in this Subsection.

Reimbursement—the payment received by vendors after completing the routine process of depositing an FI or CVV into the banking system and the payment that may be received through the procedure an authorized vendor may use to request payment from the state agency when an FI or CVV has been refused by the bank or state agency. The state agency only reimburses vendors up to the applicable maximum allowable reimbursement level (MARL) for valid FIs and CVVs.

Sanctions—actions taken by the state agency when an authorized vendor fails to comply with WIC program rules, regulations, policies and/or procedures. Actions include, but are not limited to, CAPs, training requirements, termination of agreements, disqualifications or civil money penalties (CMPs), and fines.

Secretary—the secretary of the United States Department of Agriculture.

Sign or Signature—a handwritten signature on paper or an electronic signature. If the state agency chooses to use electronic signatures, the state agency shall ensure the reliability and integrity of the technology used and the security and confidentiality of electronic signatures collected in accordance with sound management practices, and applicable Federal law and policy, and the confidentiality provisions at 7 CFR §246.26.

State—the state of Louisiana.

State Agency—the state of Louisiana, Louisiana Department of Health, Office of Public Health, Center for Community and Preventive Health.

State Plan—a plan of program operation and administration that describes the manner in which the state agency intends to implement and operate all aspects of program administration within its jurisdiction in accordance with 7 CFR §246.4.

Supplemental Foods—those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding and postpartum women, infants, and children, and foods that promote the health of the population served by the WIC program as indicated by relevant nutrition science, public health concerns, and cultural eating patterns, as prescribed by the secretary in 7 CFR §246.10.

Supplemental Nutrition Assistance Program (SNAP)—the program authorized by the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), in which eligible households receive benefits that can be used to purchase food items

from authorized retail stores and farmers' markets (formerly known as the Food Stamp Program).

Termination—the ending of a vendor agreement by the state agency for administrative reasons.

USDA—the United States Department of Agriculture.

Vendor—a sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one or more stores authorized by the state agency to provide authorized supplemental foods to participants under a retail food delivery system. Each store operated by a business entity constitutes a separate vendor and shall be authorized separately from other stores operated by the business entity. Each store shall have a single, fixed location, except when the authorization of mobile stores is necessary to meet the special needs described in the state agency's state plan in accordance with 7 CFR §246.4(a)(14)(xiv).

Vendor Agreement—a document that is a legally binding agreement between an authorized vendor and the WIC program.

Vendor Authorization—the process by which the state agency assesses, selects, and enters into agreements with stores that apply or subsequently reapply to be authorized as vendors.

Vendor Limiting Criteria—criteria established by the state agency to determine the maximum number and distribution of vendors it authorizes pursuant to 7 CFR §246.12(g)(2).

Vendor Number—a distinctive five digit number assigned to each authorized vendor.

Vendor Overcharge—any intentional or unintentional charge for supplemental foods to the state agency for more than is permitted under the vendor agreement. It is not a vendor overcharge when a vendor submits a food instrument for redemption in accordance with the vendor agreement and the state agency makes a price adjustment to the food instrument.

Vendor Portal—a web-based application maintained by the state agency that serves as the primary point of contact for all Louisiana vendors and contains the WIC vendor price reporting system.

Vendor Selection Criteria—the criteria established by the state agency to select individual vendors for authorization consistent with the requirements in 7 CFR §246.12(g)(3) and (g)(4) and found in Section 4503 of this Subpart.

Vendor Violation—any intentional or unintentional action of a vendor's current owners, officers, managers, agents, or employees (with or without the knowledge of management) that violates the vendor agreement or federal or state statutes, regulations, policies, or procedures governing the program.

WIC—WIC program.

WIC-Approved Foods (Authorized Supplemental Foods)—those supplemental foods authorized by the state agency for issuance to participants.

WIC Program—the Special Supplemental Nutrition Program for Women, Infants and Children authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), as amended.

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Chapter 43. Participant Eligibility

§4301. Integration with Health Services

A. To lend administrative efficiency and participant convenience to the certification process, whenever possible, program intake procedures shall be combined with intake procedures for other health programs or services administered by the state and local agencies. Such merging may include verification procedures, certification interviews, and income computations. Local agencies shall maintain and make available for distribution to all pregnant, postpartum, and breastfeeding women, and to parents or caretakers of infants and children, any of whom are applying for and participating in the program, a list of local counseling and treatment resources for drug and other harmful substance abuse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4303. Eligibility Criteria

A. To be certified as eligible for the WIC program, applicants shall:

1. reside within the jurisdiction of the state; however, length of residency is not an eligibility requirement;
2. meet the income requirement as described in Subsection B of this Section; and
3. meet nutritional risk criteria as described in Subparagraph C.3.d (priority IV) of this Section and in the state plan.

B. Income Criteria and Income Eligibility Determination

1. Income criteria for the program is established at 185 percent of poverty level (U.S. Department of Health and Human Services) as issued annually by the Louisiana Department of Health, Office of Public Health, Bureau of Nutrition Services. This shall have an effective date of no later than July 1 annually.

2. The state agency shall ensure that WIC clinics and local agencies determine income through the use of a clear and simple application form provided or approved by the state agency. Routine verification of income and/or a random selection to verify participant income is at the discretion of the state agency. Documentation of an applicant's participation in other agency-administered programs which routinely verify income, such as Medicaid, Supplemental Nutrition Assistance Program (SNAP) or Temporary Assistance for Needy Families (TANF) may be accepted provided those programs have income guidelines at or below the WIC program guidelines.

C. Nutritional Risk. A competent professional authority shall determine if a participant is at nutritional risk through a medical and/or nutritional assessment. This determination may be based on referral data by an applicant or participant's medical provider.

1. Determination of Nutritional Risk. At a minimum, height or length and weight of the participant shall be measured, and a hematological test for anemia such as a hemoglobin, hematocrit or free erythrocyte protoporphyrin

test shall be performed. However, such tests are not required for infants under 9 months of age.

2. Appropriate nutritional risk codes, as specified in the state plan and as summarized in Paragraph 3 of this Subsection, shall be documented at each certification/recertification visit.

3. Nutritional Risk Priority System. The state agency shall, in the event that statewide participation has reached the maximum level, fill vacancies according to the federally-mandated priority system. In the event a priority level must be partially closed, subpriorities are described in the state plan as approved by the USDA. Priority levels are identified as follows.

a. Priority I consists of pregnant women, breastfeeding women and infants at nutritional risk as demonstrated by hematological or anthropometric measurements, or other documented nutritionally-related medical conditions which demonstrate the need for supplemental foods.

b. Priority II consists of (except those infants who qualify for priority I) infants up to 6 months of age born of women who participated in the program during pregnancy, and infants up to 6 months of age born of women who were not program participants during pregnancy but whose medical records document that they were at nutritional risk during pregnancy due to nutritional conditions detectable by biochemical or anthropometric measurements or other documented nutritionally related medical conditions which demonstrated the person's need for supplemental foods.

c. Priority III consists of children at nutritional risk as demonstrated by hematological or anthropometric measurements or other documented medical conditions which demonstrate the child's need for supplemental foods.

d. Priority IV consists of pregnant women, breastfeeding women, and infants at nutritional risk because of an inadequate dietary pattern.

e. Priority V consists of children at nutritional risk because of an inadequate dietary pattern.

f. Priority VI consists of postpartum women at nutritional risk.

g. Priority VII consists of individuals certified for WIC solely due to homelessness or migrancy and, at state agency option, previously certified participants who might regress in nutritional status without continued provision of supplemental foods.

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§4305. Timeframes for Processing Applicants

A. When the WIC clinic or local agency is not serving its maximum caseload, the local agency shall accept applications, make eligibility determinations, notify the applicants of the decisions made and, if the applicants are to be enrolled, issue food, cash-value vouchers or food instruments. All of these actions shall be accomplished within the timeframes set forth below.

1. The processing timeframes shall begin when the individual visits the local agency during clinic office hours to make an oral or written request for benefits.

2. Special nutritional risk applicants shall be notified of their eligibility or ineligibility within 10 days of the date of the first request for program benefits; except that state agencies may provide an extension of the notification period to a maximum of 15 days for those local agencies which make written request, including a justification of the need for an extension. The state agency shall establish criteria for identifying categories of persons at special nutritional risk who require expedited services. At a minimum, however, these categories shall include pregnant women eligible as priority I participants, and migrant farmworkers and their family members who soon plan to leave the jurisdiction of the local agency.

3. All other applicants shall be notified of their eligibility or ineligibility within 20 days of the first date of the request for program benefits.

4. Each WIC clinic or local agency using a retail purchase system shall issue a food instrument(s) and if applicable a cash-value voucher(s) to the participant at the same time as notification of certification. Such food instrument(s) and cash-value voucher(s) shall provide benefits for the current month or the remaining portion thereof and shall be redeemable immediately upon receipt by the participant. Local agencies may mail the initial food instrument(s) and, if applicable, cash-value voucher(s) with the notification of certification to those participants who meet the criteria for the receipt of food instruments through the mail, as provided in 7 CFR §246.12(r)(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4307. Certification Periods

A. Program benefits shall be based upon certifications established in accordance with the following timeframes.

1. Pregnant women shall be certified for the duration of their pregnancy and for up to six weeks postpartum.

2. Postpartum women shall be certified for up to six months postpartum.

3. Breastfeeding women shall be certified at intervals of approximately six months and ending with the breastfed infant's first birthday.

4. Infants shall be certified up until their first birthday.

5. Children shall be certified at intervals of approximately six months and ending with the end of the month in which a child reaches its fifth birthday.

B. Upon request, participants shall receive verification of certification when transferring to another WIC program out of state.

C. If the nutritional risk determination is based on data taken before the time of entrance into the program, the certification period for breastfeeding women and children shall be based upon the date when the data was first taken.

D. Participants receiving program benefits may be disqualified during a certification period for the following reasons:

1. participant violation including, but not limited to:
a. intentionally making false or misleading statements or intentionally misrepresenting, concealing, or withholding facts to obtain benefits;

b. exchanging CVVs, FIs, or WIC-approved foods for cash, credit, non-food items, or unauthorized food items, including WIC-approved foods in excess of those listed on the participant's FI;

c. threatening to harm or physically harming vendor staff; or

d. making a written, electronic, or verbal offer to sell WIC benefits, including WIC-approved foods, FIs, CVVs, and/or EBT cards, or allowing someone else to do so;

2. if the state agency experiences funding shortages, it may be necessary to discontinue program benefits to a number of certified and participating participants. The state agency shall not enroll new participants during the period when currently participating participants, those who have received benefits during a current certification, are denied remaining benefits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4309. Participant Rights and Responsibilities/Notification/Fair Hearing

A. Participant Rights and Responsibilities. All applicants shall read or have read to them the programs' rights and responsibilities statement, including the restriction of dual participation in the program or between the program and CSFP. After reviewing the statement, all applicants shall sign attesting to have reviewed the statement.

B. Notification of Ineligibility. Participants found ineligible during a certification period shall be advised in writing of the ineligibility, the reasons for the ineligibility and of the right to a fair hearing.

C. Notification of Disqualification. Participants who are about to be disqualified from program participation during a certification period shall be advised in writing not less than 15 days before the effective date of disqualification, of the reasons for the disqualification and the right to a fair hearing.

D. Fair Hearing Procedures for Participants. The state agency provides a hearing procedure through which any individual may appeal, within 60 days of the date of notification by the state agency, an action which results in the denial of participation or the disqualification from the program.

1. The hearing process is governed by the procedures set forth in the Administrative Procedure Act, R.S. 49:950 et seq., and as mandated by federal regulations, 7 CFR part 246.

2. The state agency shall not summarily deny or dismiss an appeal unless:

a. the request is withdrawn in writing by the appellant or legal representative of the appellant;

b. the appellant or legal representative fails, without good cause, to appear at the scheduled hearing; or

c. the appellant has been denied participation by a previous decision following a hearing and does not allege in the request for appeal that circumstances relevant to program

eligibility have changed in such a way as to justify a new hearing.

3. The state agency shall continue program benefits for a participant whose participation has been terminated during a certification period if a request for an appeal is received within the 15-days advance notification of disqualification. Benefits shall continue until the hearing officer reaches a decision or the certification period expires, whichever occurs first. Applicants who are denied benefits at initial certification or because of the expiration of their certification may appeal the denial, but shall not receive benefits while pending the hearing and decision of the hearing officer.

4. A participant or representative may appeal the fair hearing decision through judicial review as provided for in the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

Chapter 45. Vendor Selection, Participation and Sanctions

§4501. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), repealed by the Department of Health, Office of Public Health, LR 42:

§4503. Vendor Selection Criteria

A. As outlined in the *Federal Register*, 7 CFR Part 246, the state agency has the responsibility to maximize the use of available funds by providing supplemental foods to participants at the most reasonable prices and to have an agreement with enough vendors to ensure adequate participant access. The state agency reserves the right to implement limiting criteria on vendors statewide by peer group in order to meet this responsibility. If the state agency elects to implement such limiting criteria, the criteria shall be made available to all vendors and applied equally to all vendors within peer groups.

B. Vendor Selection Criteria. In order to be eligible to participate in the Louisiana WIC program, the applicant vendor and/or authorized vendors shall:

1. submit a complete and notarized application, including any required supporting documentation, to the WIC state agency within applicable timeframes set by the WIC state agency;

2. be currently authorized and participating in the USDA Supplemental Nutrition Assistance Program (SNAP) and cannot have received a SNAP civil money penalty (CMP) for which the disqualification period, if it had been imposed, would not yet have expired;

3. have a grocery class permit to operate issued under the Bureau of Sanitarian Services of the Office of Public Health for the current state fiscal year;

4. maintain the establishment in a clean, orderly and safe condition, with no current sanctions for violations of the Louisiana state *Sanitary Code* (LAC 51), the *International Plumbing Code* as amended by the Louisiana state Uniform

Construction Code Council (LAC 17:I.111), or local health code ordinances;

5. be open a minimum of 6 days, and at least 48 hours, per week;

6. have prices that are competitive with other vendors in the vendor's state agency designated peer group, as determined by the state agency's competitive price criteria (CPC). Applying vendors, whose prices are higher than the CPC applicable to their peer groups, shall be informed and given one opportunity to lower their prices to meet the CPC;

7. display prices for WIC-approved foods on the foods or on the shelves/display area in immediate proximity to the foods;

8. stock and maintain sufficient quantities and varieties of all WIC-approved foods in accordance with Louisiana WIC's minimum stock requirements, which can be found in the minimum stock requirements section of the vendor guide;

9. purchase infant formula only from vendors included on Louisiana WIC's list of infant formula manufacturers registered with the Food and Drug Administration (FDA) that provide infant formula, and licensed infant formula wholesalers, distributors, and retailers. This list can be found at <http://new.dhh.louisiana.gov/index.cfm/newsroom/detail/2328>;

10. not have been denied WIC authorization or had a prior WIC authorization terminated by the state agency within the past year for any reason other than the expiration of the vendor agreement, store closing, or store relocation;

11. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have been formerly employed by any vendor that was disqualified from any USDA food program within the prior six years;

12. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have been convicted of any felony within the prior six years;

13. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have been convicted of any federal, state or local tax violations within the prior six years;

14. ensure that the vendor, vendor applicant or any of the vendor's or vendor applicant's current owners, officers, or managers shall not have a civil judgment entered against them within the prior six years for any activity indicating a lack of business integrity (including but not limited to fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, and obstruction of justice);

15. be in good standing with no unpaid or overdue balances owed to the Louisiana WIC program;

16. not have had any WIC vendor agreement terminated due to false or inaccurate information provided to the WIC program within the past six years;

17. have access to a computer, with internet access, and shall have an email account that can be used to send messages to and receive messages from the Louisiana WIC program, and shall be able to download and upload electronic documents sent/received via email or

posted/requested on the vendor portal or any other online application used by the WIC program;

18. utilize a cash register system that performs split tender transactions and produces itemized receipts showing date of purchase, items purchased, price of items purchased, and the total sale amount, at a minimum;

19. redeem or expect to redeem at least 50 WIC FIs per month;

20. agree to be placed in a vendor peer group with other above-50-percent vendors when deriving or expecting to derive more than 50 percent of their annual food sales revenue from WIC FI transactions. Vendors within this peer group shall maintain WIC-approved food prices at a level such that the average payments per FI for above-50-percent vendors does not exceed average payments per FI to regular vendors;

21. agree to neither provide nor advertise nor indicate an intent to provide customers with any incentive items, when deriving or expecting to derive more than 50 percent of their annual food sales revenue from WIC FI transactions. The state agency shall make a determination on what constitutes a violation of the intent of the previous sentence; however, incentive items definitively prohibited include, but are not necessary limited to:

a. services which result in a conflict of interest or the appearance of such conflict for the above-50-percent vendor, such as assistance with applying for WIC benefits;

b. lottery tickets at no charge or below face value;

c. cash gifts in any amount for any reason;

d. anything made available in a public area as a complimentary gift which may be consumed or taken without charge;

e. food, merchandise or services of any value provided to the customer;

f. food, merchandise sold to customers below cost, or services purchased by customers below fair market value;

g. any kind of incentive item which incurs a liability for the WIC program; and

h. any kind of incentive item which violates any federal, state, or local law or regulations;

22. not derive or expect to derive more than 50 percent of annual food sales revenue from WIC FI transactions; and

23. be a full-line grocery store, as defined by the state agency. The Louisiana WIC definition of a *full-line grocery store* can be found in Section 4103 of this Subpart.

C. After authorization, all WIC vendors shall continue to meet the criteria of this Section, and any changes thereto, at all times. A WIC vendor found to be out of compliance with the WIC regulations, vendor agreement, or WIC vendor selection criteria, at any time during the authorization period is subject to termination of the WIC authorization and vendor agreement and possible disqualification. Disqualification from WIC may result in disqualification from the Supplemental Nutrition Assistance Program (SNAP) and such SNAP disqualification is not subject to administrative or judicial review under the SNAP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4505. Agreement

A. The authorized vendor shall sign and agree to the conditions enumerated and/or referenced in the WIC vendor application and vendor agreement.

B. The authorized vendor shall accept state agency adjustments to WIC FI and CVV claims for reimbursement. The state agency may make adjustments to ensure that payments to the authorized vendor do not exceed the maximum allowable reimbursement level for the vendor's assigned peer group.

C. No request for reimbursement submitted by the vendor shall be paid by the state agency unless the claim is in accordance with the terms of the vendor agreement.

D. Unauthorized vendors that accept FIs or CVVs may be held liable for repayment of any funds received.

E. Terms of Agreement. An agreement shall be for a period not exceeding three years. The agreement is null and void if ownership changes. Neither party has an obligation to renew the agreement. Fifteen days written notice shall be given prior to the expiration of an agreement. Expiration of an agreement is not subject to appeal.

F. Termination of Agreement. The agreement may be terminated by 15 days written notice to the other party or by the mutual agreement to terminate of both parties. The 15 days written notice does not apply when the state agency terminates the agreement or disqualifies a vendor as a result of violation(s) of the terms of the agreement.

1. The state agency shall terminate an authorized vendor agreement for failure of the vendor to meet the selection criteria found in Section 4503.B of this Subpart

2. The state agency shall immediately terminate the agreement if it determines that the vendor has provided false information in connection with its application for authorization. Violations of the WIC program regulations shall result in termination of the agreement, disqualification, and/or possible referral for criminal prosecution.

G. A vendor may be subject to announced and unannounced monitoring visits and inventory audits by authorized personnel to determine compliance with the vendor agreement and/or federal or state rules, regulations or policy governing the WIC program.

H. WIC vendors agree to provide any records requested by authorized parties pursuant to their vendor agreement by established due dates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4507. Reimbursement of Altered or Bank Rejected Food Instruments or Cash-Value Vouchers

A. If a vendor has an FI or CVV that has been rejected or has had the payment amount adjusted by the Louisiana WIC contracted bank and the vendor feels that the rejection or adjustment was made in error, the vendor may request reimbursement from the state agency.

B. The vendor shall submit to the state agency, in a format specified by the state agency, any bank-rejected FIs or CVVs within 60 days from the last day of the valid period. Any FIs or CVVs submitted thereafter shall not be considered.

C. In determining whether or not to reimburse vendors for FI(s) or CVV(s) rejected by the bank due to errors on the vendors' part, the state agency may consider the following criteria in making its determination:

1. the prior record of the same repeated errors;
2. the vendor's reported food costs versus the amount requested for reimbursement; and
3. the level of documented inventory on hand.

D. Vendors shall be notified of adverse reimbursement decisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4509. Vendor Sanctions for Violations

A. Federal Mandatory Vendor Sanctions

1. The state agency shall permanently disqualify a vendor convicted of trafficking in food instruments (FIs) or cash value vouchers (CVVs) or selling firearms, ammunition, explosives, or controlled substances [as defined in section 102 of the Controlled Substances Act of 1970 (21 U.S.C. 802), as amended] in exchange for FIs or CVVs.

2. The state agency shall disqualify a vendor for six years for:

- a. one incidence of buying or selling a WIC FI or CVV for cash (trafficking); or
- b. one incidence of selling firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, as amended, in exchange for a WIC FI or CVV.

3. The state agency shall disqualify a vendor for three years for:

- a. one incidence of the sale of alcohol, alcoholic beverages, or tobacco products in exchange for a WIC FI or CVV;
- b. a pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item that exceeds the store's documented inventory of that supplemental food item for a specific period of time;
- c. a pattern of vendor overcharges;
- d. a pattern of receiving, transacting and/or redeeming FIs or CVVs outside of authorized channels, including the use of an unauthorized vendor and/or an unauthorized person;
- e. a pattern of charging for supplemental foods not received by the participant; or
- f. a pattern of providing credit or non-food items (not including alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in 21 U.S.C. 802, as amended) in exchange for FIs or CVVs.

4. The state agency shall disqualify a vendor for one year for:

- a. a pattern of providing unauthorized food items in exchange for FIs or CVVs, including charging for supplemental foods provided in excess of those listed on the FI; or
- b. a pattern of an above-50-percent vendor providing prohibited incentive items to participants as set forth in federal regulations at 7 CFR 246.12(g)(3)(iv).

B. Second Federal Mandatory Vendor Sanction. When a vendor has previously been assessed a sanction for any of the federal mandatory vendor sanctions and then receives a second sanction for any of the federal mandatory vendor sanctions, the state agency shall double the second sanction. The total amount assessed in civil money penalties (CMPs) for a second sanction may not exceed the maximum limits allowed under federal regulations.

C. Third or Subsequent Federal Mandatory Vendor Sanction. When a vendor who previously has been assessed two or more sanctions for any of the federal mandatory vendor sanctions and then receives another sanction for any of the federal mandatory vendor sanctions, the state agency shall double the third sanction and all subsequent sanctions. The state agency may not impose a civil money penalty (CMP) in lieu of disqualification for third or subsequent sanctions for federal mandatory vendor sanctions.

D. State Agency Vendor Sanctions. The state agency identifies violations contained in Paragraphs 1 through 7 and 9 of this Subsection as actions subject to a corrective action plan for an initial violation. Corrective action plans shall be implemented in full by vendors when required by the state agency and can include, but are not limited to, store employee training, stock rotation training, and/or training on WIC FI/ CVV processing procedures. If the vendor fails to implement a corrective action plan for failure to adhere to selection criteria, the state agency shall terminate the vendor agreement. The state agency may disqualify a vendor from participation in WIC for one year for a pattern of any of the following state agency violations:

1. providing cash for returned WIC-approved foods purchased with WIC FIs/ CVVs;
2. failing to comply with FI and CVV processing and redemption procedures;
3. stocking or selling WIC-approved foods that are expired or otherwise not fresh, as determined by the state agency;
4. failing to participate in and complete training, as scheduled and required by the state agency;
5. failing to maintain or provide the state agency with required information by the due date identified by the state agency;
6. failing to notify the state agency of instances in which a participant or proxy has failed to comply with WIC program requirements;
7. failing to provide to WIC participants or proxies the same courtesies as offered to other customers;
8. failing to implement a corrective action plan imposed by the state agency; or
9. failing to adhere to any other requirements of the vendor agreement or vendor guide except those for which a longer disqualification period is required as specifically identified within Subsection A-A.2.f of this Section.

E. Civil Money Penalty. Except where prohibited by federal regulation or in those cases of permanent vendor disqualification pursuant to the application of Subsection A of this Section, if the state agency determines in its sole discretion that disqualification of the authorized vendor would result in inadequate participant access, the state agency shall impose a civil money penalty (CMP) in lieu of disqualification. Such CMP shall be calculated in accordance with federal regulations. If a vendor does not pay the CMP,

only partially pays the CMP, or fails to make timely payment of the CMP in lieu of disqualification, the state agency shall disqualify the vendor for the length of the disqualification corresponding to the violation for which the CMP was assessed.

F. Recoupment of Excess Payment. The state agency shall recoup excess payments made to the authorized vendor resulting from the vendor's violation of the vendor agreement.

G. SNAP Disqualification. The state agency shall disqualify from the WIC program a vendor who is disqualified from SNAP. The disqualification shall be for the same length of time as SNAP disqualification, may begin at a later date than SNAP disqualification, and is not subject to administrative or judicial review under the WIC program.

H. SNAP CMP. The state agency shall disqualify a vendor who receives a CMP for hardship by SNAP. The length of such disqualification shall correspond to the period for which the vendor would otherwise have been disqualified in SNAP.

I. Mandatory Sanction by another WIC State Agency. The state agency shall disqualify a vendor that has been disqualified or assessed a CMP in lieu of disqualification by another WIC state agency for a federal mandatory vendor sanction under the provisions of Subsection A.1-A.4.b of this Section. The length of the disqualification shall be for the same length of time as the disqualification by the other WIC state agency or, in the case of a CMP in lieu of disqualification assessed by the other WIC state agency, for the same length of time for which the vendor would otherwise have been disqualified. The disqualification may begin at a later date than the sanction imposed by the other WIC state agency.

J. Voluntary Withdrawal Not Accepted. Voluntary withdrawal of a vendor and non-renewal of the vendor agreement as alternatives to WIC disqualifications shall not be accepted, and the disqualification shall be entered on the record.

K. Comprehensive Inclusion of Violations of Vendor Document Requirements (including the WIC vendor guide and the WIC vendor agreement which is not covered elsewhere in this Section). Vendor sanctions for violations of vendor document requirements (including the WIC vendor guide and the WIC vendor agreement not covered elsewhere in this Section) may result in termination or disqualification, following provision to the vendor of reasonable notice and opportunity to correct, where permitted by WIC regulations. Violations may give rise to the state agency's assessment of vendor claims, fines, and penalties. Termination of the vendor agreement does not relieve the vendor of the obligation to pay such assessments.

L. State Agency Actions. The state agency shall determine the action to be taken whenever vendor fraud, abuse, or administrative violations are discovered. If the state agency determines that the vendor has violated WIC rules or regulations, the vendor may be required to develop and submit a corrective action plan, the vendor agreement may be terminated and/or the vendor may be disqualified from participation in the WIC program for a period of time no more than the maximum period of time allowed under federal regulations at 7 CFR part 246. To obtain reauthorization, vendors who are disqualified or whose

vendor agreement has been terminated shall reapply and meet all current requirements for authorization.

M. Vendor Notification. The state agency shall notify a vendor in writing when an investigation reveals an initial incidence of a violation for which a pattern of incidences must be established in order to impose a sanction, before another such incidence is documented, unless the state agency determines, in its discretion, on a case-by-case basis, that notifying the vendor would compromise an investigation. Notification shall not be provided for a pattern of claiming reimbursement for the sale of an amount of a specific supplemental food item that exceeds documented inventory.

N. Effect on Other Stores under Same Ownership. If an individual, partnership, corporation, limited liability company, or other business structure is convicted of a criminal offense involving WIC, SNAP, or any other program funded and administered by the Food and Nutrition Service of the U.S. Department of Agriculture, all grocery stores wholly or partially owned or managed by the convicted individual, partnership, corporation, limited liability company, other business structure, or by a partner of a convicted partnership or an officer, of a convicted corporation or a convicted limited liability company, shall be terminated from vendor authorization and shall be ineligible for future vendor authorization for the maximum period of time allowed by federal law and regulations. This termination and period of ineligibility shall occur whether or not the grocery store was the location at which the crime occurred, and regardless of whether or not a penalty was imposed upon the convicted party by the court of competent jurisdiction.

O. Legal Remedies not Precluded by Sanction. The state agency sanctions for vendor violations or program abuse shall not be construed as excluding or replacing any criminal or civil sanctions or other remedies that may be applicable under any federal or state statute or local ordinance. A vendor who commits fraud or abuse of the program is liable to prosecution under applicable federal, state or local laws. Those vendors who have willfully misapplied, stolen or fraudulently obtained program funds shall be subject to a fine of not more than \$25,000 or imprisonment for not more than five years or both, if the value of the funds is \$100 or more. If the value of the funds is less than \$100, such vendors shall be subject to a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

P. Prosecution Referral. The state agency shall, where appropriate, refer vendors who abuse the program to federal, state and/or local authorities for prosecution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4511. Administrative Review of State Agency Adverse Actions

A. Adverse actions taken by the Louisiana WIC program that affect vendors or vendor applicants may be subject to administrative review, if appealed.

B. The Louisiana WIC program shall provide written notification of the adverse action, the procedures to follow to

request an administrative review, and the cause(s) for and the effective date of the action. If the vendor is disqualified due in whole or in part to violations of Subsection A of Section 4509 of this Subpart, such notification shall include the following statement: "This disqualification from WIC may result in disqualification as a retailer in SNAP. Such disqualification is not subject to administrative or judicial review under SNAP." If the WIC-authorized vendor or applicant vendor wishes to appeal the decision, the vendor or applicant vendor shall submit a request for appeal stating the reason for the appeal. The request shall be submitted in writing and mailed to the Louisiana WIC program within 15 calendar days after the receipt of the state agency's written notification of the adverse action. Within the notice of adverse action, the Louisiana WIC program shall include an appropriate return mailing address, along with a staff member's contact name, so that an aggrieved party may properly submit a request for appeal.

C. The adverse action shall be imposed on the effective date noted in the written notification and shall remain in place during the administrative review unless the Louisiana WIC program determines, at its sole discretion, that the adverse action would result in inadequate participant access to supplemental foods.

D. Adverse actions subject to administrative review include the following:

1. denial of authorization based on the application of the vendor selection criteria for minimum variety and quantity of approved foods;
2. denial of authorization based on a determination that the vendor is attempting to circumvent a sanction;
3. termination of an agreement for cause;
4. disqualification, except as a result of a disqualification from SNAP;
5. imposition of a fine or a civil money penalty in lieu of disqualification;
6. denial of authorization based on the vendor selection criteria for business integrity;
7. denial of authorization based on the selection criteria for a current SNAP disqualification or civil money penalty for hardship;
8. denial of authorization based on the application of the vendor selection criteria for competitive price;
9. the application of the state agency's vendor peer group criteria and the criteria used to identify vendors that are above-50-percent vendors or comparable to above-50-percent vendors;
10. denial of authorization based on a state agency-established vendor selection criterion if the basis of the denial is a WIC vendor sanction or a SNAP withdrawal of authorization or disqualification;
11. denial of authorization based on the state agency's limiting criteria, if any;
12. denial of authorization because a vendor submitted its application outside the timeframes during which applications are being accepted and processed, as established by the state agency;
13. termination of an agreement because of a change in ownership or location or cessation of operations;
14. a civil money penalty imposed in lieu of disqualification based on a SNAP disqualification; and

15. denial of an application based on a determination of whether an applicant vendor is currently authorized by SNAP.

E. A WIC authorized vendor or vendor applicant who files a proper appeal request for those actions subject to administrative review shall be provided:

1. adequate advance notice of the time and place of the administrative review to provide all parties involved sufficient time to prepare for the review and at least one opportunity to reschedule the administrative review date upon specific request;

2. the opportunity to examine, prior to the review, the evidence upon which the Louisiana WIC program's action is based;

3. the opportunity to be represented by counsel;

4. the opportunity to cross-examine adverse witnesses (when necessary to protect the identity of witnesses, they may be cross-examined behind a protective screen or other device);

5. the opportunity to present its case;

6. an impartial decision-maker, whose determination is based solely on whether the Louisiana WIC program has correctly applied federal and state statutes, regulations, policies, and procedures governing the program, according to the evidence presented at the review; and

7. written notification of the review decision, including the basis for the decision, within 90 days from the date of receipt of a vendor's request for an administrative review; however, this timeframe is only an administrative goal for the Louisiana WIC program and, should a decision of the appeal review not be made within the specified timeframe, such delay shall not provide a basis to overturn the adverse action.

F. Actions not subject to administrative review include:

1. the validity or appropriateness of the Louisiana vendor limiting criteria, if any;

2. the validity or appropriateness of Louisiana's vendor selection criteria for the minimum variety and quantity of supplemental foods, business integrity, current SNAP disqualification, or civil money penalty for hardship;

3. the validity or appropriateness of the Louisiana selection criteria for a competitive price including, but not limited to, vendor peer group criteria and the criteria used to identify vendors that are above-50-percent vendors or comparable to above-50-percent vendors;

4. the validity or appropriateness of the state agency's participant access criteria and the state agency's participant access determinations;

5. the state agency's determination to include or exclude an infant formula manufacturer, wholesaler, distributor, or retailer from the list of businesses from which an authorized vendor may purchase infant formula pursuant to selection criteria;

6. the validity or appropriateness of the state agency's prohibition of incentive items and the state agency's denial of an above-50-percent vendor's request to provide an incentive item to customers;

7. the state agency's determination whether to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction;

8. the state agency's determination whether a vendor had an effective policy and program in effect to prevent trafficking and that the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation;

9. denial of authorization if the state agency's vendor authorization is subject to the procurement procedures applicable to the state agency;

10. the expiration of a vendor's agreement;

11. disputes regarding food instrument or cash-value voucher payments and vendor claims (other than the opportunity to justify or correct a vendor overcharge or other error); and

12. disqualification of a vendor as a result of disqualification from SNAP.

G. A vendor that is permitted to continue program operations while its appeal is in process does not relieve such vendor from the responsibility of continued compliance with the terms of any written agreement with the Louisiana WIC program. Administrative review decisions of the Division of Administrative Law are the final action of the Louisiana WIC program. If the review decision upholds the adverse action against the vendor, the vendor may be able to pursue judicial review of the decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

§4513. Availability of Documents

A. The vendor application, the vendor agreement, and the WIC vendor guide shall be provided for review to any interested party by submission of an email request to LAWICVendor@la.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health, Office of Public Health, LR 42:

Public Comments

Interested persons may submit written comments to Bruce Boyea, Director, Bureau of Nutrition Services, Office of Public Health, 1450 Poydras Street, Suite 1906, New Orleans, LA 70112, or faxed to (504) 568-8232. He is responsible for responding to inquiries regarding this Emergency Rule.

Rebecca E. Gee, MD, MPH
Secretary

1610#011

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 28—Suspension of Right to Cancel or Nonrenew Residential, Commercial Residential, or Commercial Property Insurance Due To Historic Flooding (LAC 37:XI.Chapter 51)

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted by *Louisiana Revised Statutes* 22:1 et seq., adopts Emergency Rule 28. Emergency Rule 28 shall be effective upon adoption and shall remain effective through Wednesday, October 12, 2016.

Emergency Rule 28 is issued pursuant to the transfer of authority to suspend provisions of regulatory statutes and implementing regulations from the governor to the commissioner of Insurance in Executive Order No. JBE 2016-58, signed by Governor John Bel Edwards on August 17, 2016 and amended on September 12, 2016, by Executive Order No. JBE 2016-67. The transfer of authority in Executive Order No. JBE 2016-58 is authorized in the Louisiana Homeland Security and Emergency Assistance and Disaster Act, R.S. 29:721 et seq., and rules promulgated by the commissioner relative to the *Louisiana Insurance Code* are authorized in R.S. 22:11 and are promulgated through the aforementioned Administrative Procedure Act.

On August 12, 2016, Governor John Bel Edwards declared a State of Emergency within the state of Louisiana in response to historic flooding in Louisiana. This State of Emergency, declared pursuant to Proclamation No. 111 JBE 2016, extends from Friday, August 12, 2016, to Monday, September 12, 2016. Louisiana citizens have suffered damage due to this historic flooding. In some places, it could be several weeks before electricity is restored. The homes of many Louisiana citizens were destroyed, precluding habitation. The damage caused by this historic flooding has resulted in the closing of businesses and financial institutions, the temporary suspension of mail service, interruption of communication services, the temporary displacement of persons from their homes, loss of personal belongings, and temporary loss of employment. This disruption has affected the ability of these citizens to timely pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance-related matters. This historic flooding has created a mass disruption to the normalcy previously enjoyed by Louisianans and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens.

Insurers have been working diligently to adjust and pay claims. However, due to a shortage of building materials, contractors, and construction workers, many policyholders who have received, or will soon receive, claim payments from insurers will find that they are unable to repair or reconstruct their residential, commercial residential, or commercial property within normal time frames. In many places, it could be months before residential, commercial residential, or commercial property damaged by the historic flood can be repaired or reconstructed. This inordinate time

period to repair or reconstruct residential, commercial residential, or commercial property continues to affect the ability of Louisiana insureds to maintain or obtain personal residential, commercial residential, or commercial property insurance. For these reasons, Executive Order No. JBE 2016-58, amended by Executive Order No. JBE 2016-67 signed by Governor John Bel Edwards on September 12, 2016, remains in effect through Wednesday, October 12, 2016.

The commissioner will be hindered in the proper performance of his duties and responsibilities under the *Louisiana Insurance Code*, as well as his duties and responsibilities regarding the referenced State of Emergency, without the authority to suspend certain statutes in the *Louisiana Insurance Code* and the rules and regulations that implement the *Louisiana Insurance Code* and without the adoption of Emergency Rule 28, which relates to the cancellation and nonrenewal of all personal residential, commercial residential, or commercial property insurance subject to the *Louisiana Insurance Code*.

Therefore, Emergency Rule 28 is issued and shall apply to all insurers, property and casualty insurers, surplus lines insurers, and any and all other entities doing business in Louisiana and/or regulated by the commissioner, regarding any and all types of homeowners insurance and/or residential property insurance, commercial insurance, fire and extended coverage insurance, credit property and casualty insurance, property and casualty insurance, all surplus lines insurance, and any and all other insurance regulated entities doing business in Louisiana and/or regulated by the commissioner.

Emergency Rule 28 is applicable to insureds who, as of 12:01 a.m. on August 12, 2016, had a personal residential, commercial residential, or commercial property insurance policy covering a dwelling, residential property, or commercial property located in one of the following parishes: Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge, and West Feliciana, and any such parishes that may receive a major disaster declaration by the President of the United States or such officer acting under his authority.

Emergency Rule 28 is available on the internet at www.lidi.state.la.us and is available for inspection between the hours of 8 a.m. until 4:30 p.m. at the Louisiana Department of Insurance, 1702 North Third Street, Baton Rouge, LA 70802.

Title 37 INSURANCE Part XI. Rules

Chapter 51. Emergency Rule 28—Suspension of Right to Cancel or Nonrenew Residential, Commercial Residential, or Commercial Property Insurance Due To Historic Flooding

§5101. Benefits, Entitlements, and Protections

A. The benefits, entitlements, and protections of Emergency Rule 28 shall be applicable to insureds who, as of 12:01 a.m. on August 12, 2016, had a personal residential,

commercial residential, or commercial property insurance policy covering a dwelling, residential property, or commercial property located in one of the following parishes: Acadia, Ascension, Assumption, Avoyelles, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Livingston, Pointe Coupee, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Tammany, Tangipahoa, Vermilion, Washington, West Baton Rouge, and West Feliciana, and any such parishes that may receive a major disaster declaration by the President of the United States or such officer acting under his authority.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5103. Applicability

A. Emergency Rule 28 shall apply to any and all types of personal residential, commercial residential, or commercial property insurance covering a dwelling, residential property, or commercial property located in one of the parishes set forth in Section 5101.A that sustained damage as a result of the August 2016 historic flood or its aftermath, including but not limited to, any and all types of homeowners insurance and/or residential property insurance, commercial insurance, fire and extended coverage insurance, credit property and casualty insurance, property and casualty insurance, and any and all other insurance regulated by the commissioner that falls within the intent and purpose of Emergency Rule 28.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5105. Cancellation or Nonrenewal Suspended

A. Any statutory or regulatory provision, or any policy provisions contained in any and all policies of insurance set forth in Section 5103.A above, that authorizes any insurer, surplus lines insurer, or any other entity regulated by the commissioner to cancel or nonrenew, on the grounds of a material change in the risk being insured, any personal residential, commercial residential, or commercial property insurance policy covering a dwelling, residential property, or commercial property located in Louisiana that sustained damages as a result of the August 2016 historic flood or its aftermath, is suspended and unenforceable, and such cancellations or nonrenewals shall be prohibited through Wednesday, October 12, 2016, unless extended by the commissioner. Any such notice of cancellation or nonrenewal issued on or after August 12, 2016, through October 12, 2016, shall be null and void and have no force or effect. Furthermore, any such notice shall be reissued *de novo* to the insured in accordance with existing statutory requirements, and any such notice shall not be issued prior to October 13, 2016.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5107. Insured's Obligation

A. The insured is obligated to exercise good faith with regard to undertaking the repairs or reconstruction of the dwelling or residential property.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5109. Insurer's Obligation

A. The insurer or surplus lines insurer or any other entity regulated by the commissioner is obligated to provide the insured with sufficient time to effectuate the repairs or reconstruction to the dwelling or residential property and to recognize the inordinate conditions that exist in the state of Louisiana with regard to the ability of the insured to engage a contractor, engage construction workers, obtain materials, and otherwise undertake to accomplish the necessary repairs or reconstruction of the dwelling, residential property, or commercial property.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5111. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 28 upon the written request by the insurer if the commissioner determines that compliance with Emergency Rule 28 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5113. Purpose and Intent

A. The provisions of Emergency Rule 28 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana who desire to maintain or obtain personal residential, commercial residential, or commercial property.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5115. Authority

A. The commissioner reserves the right to amend, modify, alter, or rescind all or any portion of Emergency Rule 28. Additionally, the commissioner reserves the right to extend Emergency Rule 28.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5117. Severability

A. If any section or provision of Emergency Rule 28 is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Emergency Rule 28 to any persons or circumstances to which provisions can be given effect without the invalid sections or provisions, and the application to any such person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

§5119. Effective Date

Emergency Rule 28 shall be effective upon promulgation and shall remain effective through Wednesday, October 12, 2016.

AUTHORITY NOTE: Promulgated in accordance with Executive Order No. JBE 2016-58 and Executive Order No. JBE 2016-67.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 42:

James J. Donelon
Commissioner of Insurance

1610#003

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of the State Fire Marshal Uniform Construction Code Council

Uniform Construction Code (LAC 17:I.Chapter 1)

The Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) has exercised the emergency provision in accordance with R.S. 49:953(B) of the Administrative Procedure Act to amend, supplement and expand portions of and readopt LAC 17:I.Chapter 1 in the state *Uniform Construction Code* as authorized by R.S. 40:1730.26 and R.S. 40:1730.28. Furthermore, the LSUCCC has found an immediate need to adopt amendments of the current plumbing provisions in the *International Building Code*, *International Residential Code*, and the *International Plumbing Code* regarding health and safety for the public. This Emergency Rule was adopted and became effective September 12, 2016 and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The LSUCCC is promulgating this Rule adoption and amendments to provide greater health and safety for the public and those providing installation and maintenance on plumbing systems. This Rule was first adopted on December 9, 2015 and published in the December 2015 edition of the *Louisiana Register* (Vol. 41, No. 12). The Rule became effective on January 1, 2016.

The Emergency Rule was re-adopted on May 10, 2016 to continue those provisions. At that time, the Rule was amended to add standards for repairs to drainage systems via reroutes and trap seals. It also amended definitions and made

technical changes within the aforementioned international codes.

Prior to this publication, a notice for a public hearing was published in the "Potpourri" section of the *Louisiana Register* on July 20, 2016 (Vol. 42, No. 07). The notice included proposed substantial changes to the Rule. The public hearing was held August 23, 2016 at 10 a.m. at the Office of the State Fire Marshal. There were no comments to the proposed changes. Therefore, the changes were adopted and the Emergency Rule became effective September 12, 2016.

Act 836 of the 2014 Regular Session of the Louisiana Legislature mandates the adoption of the plumbing provisions in the *International Plumbing Code*, *International Building Code* and the *International Residential Code*. This Emergency Rule addresses this mandate by providing for necessary amendments to the codes. These amendments will also allow new technology and methods to be used that were not allowed in the previous Louisiana state *Plumbing Code*.

The public welfare dictates that these changes be implemented immediately through the adoption of this Emergency Rule to promote greater safety to existing plumbing systems and those providing maintenance and installation on plumbing systems thus allowing new and existing facilities to incorporate designs which provided for greater public safety while providing more cost-effective new methods and technology.

The public welfare further dictates that these changes are implemented immediately through the adoption of this Emergency Rule because of the health risks these amendments address. Adoption of this Emergency Rule will allow owners and developers to immediately use these new standards in expanding existing facilities and/or constructing new facilities.

Adoption of this Emergency Rule will also provide proven methods for plumbing systems and new technology in the plumbing codes which will ensure the health, safety and welfare of not only plumbers, installers and maintenance workers, but for the public as well.

Title 17

CONSTRUCTION

Part I. Uniform Construction Code

Chapter 1. Uniform Construction Code

§101. Louisiana State Uniform Construction Code (Formerly LAC 55:VI.301.A)

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective January 1, 2016 the following is hereby adopted as an amendment to the Louisiana state Uniform Construction Code.

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), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire

Marshal, LR 41:2380 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:

§107. International Residential Code
(Formerly LAC 55:VI.301.A.3.a)

A.1. - A.8.d. ...

A.8.d.i. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric vacuum breaker, a pressure vacuum breaker assembly or a reduced pressure principle backflow prevention assembly. Shutoff or control valves shall not be prevented downstream from an atmospheric vacuum breaker. When an irrigation/lawn sprinkler system is provided with separate zones, the potable water supply shall be protected by a pressure vacuum breaker or reduced pressure principal backflow prevention assembly. Atmospheric vacuum breakers shall be installed at least 6 inches (152 mm) above the highest point of usage (i.e., 6 inches (152 mm) above all downstream piping and highest sprinkler head). Pressure type vacuum breakers shall be installed at least 12 inches (305 mm) above the highest point of usage (i.e., 12 inches (305 mm) above all downstream piping and the highest sprinkler head). Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow prevention assembly.

A.8.e. - A.9.r. ...

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), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2383 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:

§111. The International Plumbing Code
(Formerly LAC 55:VI.301.A.5)

A. The *International Plumbing Code*, 2012 Edition. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption. (per R.S. 40:1730.28 eff. 1/1/16)

1. Amend Chapter One.

a. Amend section [A] 101.2, Scope.

i. Section [A] 101.2 Scope. The provisions of this code shall apply to the erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing systems within this jurisdiction. This code shall also regulate nonflammable medical gas, inhalation anesthetic, vacuum piping, nonmedical oxygen systems and sanitary and condensate vacuum collection systems. The installation of fuel gas distribution piping and equipment, fuel-gas-fired water heaters and water heater venting systems shall be regulated by the *International Fuel*

Gas Code. Provisions in the appendices shall not apply unless specifically adopted.

(a). Nothing in this Part or any provision adopted pursuant to this Part shall prohibit the Department of Health and Hospitals from the following:

(i). regulating stored water temperatures through enforcement of the *Sanitary Code*;

(ii). regulating medical gas and medical vacuum systems.

[a]. Exception:

[i]. detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the *International Residential Code*.

B. Amend Chapter Two Definitions.

Adult Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of 10 or more people 18 years and older, not related to the caregiver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven-day week in a place other than the person's home.

Air Break (Drainage System)—a piping arrangement in which a drain from a fixture, appliance or device discharges indirectly into another fixture, or receptacle at a point below the flood level rim and above the trap seal. An unobstructed horizontal distance of free atmosphere between the outside of the indirect waste pipe and the inside of the waster receptor must exist so as to allow a back-flow of sewage to spill over the flood level rim of the receiving sink or other receptor to prevent such back-flow from reaching the fixture, device, appliance or apparatus served by the indirect waste pipe.

Barometric Loop—a fabricated piping arrangement rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage backflow.

Building Drain—that part of the lowest piping of a drainage system that receives the discharge from soil, waste and other drainage pipes in side and that extends 30 inches (762 mm) in developed length of pipe beyond the exterior walls of the building and conveys the drainage to the building sewer.

NOTE: Delete definition Combined—a building drain that conveys both sewage and storm water or other drainage.

a. *Sanitary*—a building drain that conveys sewage only.

b. *Storm*—a building drain that conveys storm water or other drainage, but not sewage.

Building Sewer—that part of the drainage system that extends from the end of the building drain and conveys the discharge to a community sewerage system, commercial treatment facility, or individual sewerage system or other point of disposal.

NOTE: Delete definition Combined—a building sewer that conveys both sewage and storm water or other drainage.

a. *Sanitary*—a building drain that conveys sewage only.

b. *Storm*—a building drain that conveys storm water or other drainage, but not sewage.

By-Pass—any system of piping or other arrangement whereby the water may be diverted around any part or

portion of the water supply system including, but not limited to, around an installed backflow preventer.

Child Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of seven or more children under the age of 18, not related to the care giver and supervision and guidance of seven or more children under the age of 18, not related to the care giver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven-day week in a place other than the children's home. A day care center that remains open for more than 20 hours in a continuous seven-day week, and in which no individual child remains for more than 24 hours in one continuous stay shall be known as a full-time day care center.

NOTE: Delete definition Combined Building Drain—"See building drain, combined"

NOTE: Delete definition Combined Building Sewer—"See Building sewer, combined"

Commercial Treatment Facility—any treatment facility which is required by the state health officer whenever the use of an individual sewerage system is unfeasible or not authorized.

Community Sewerage System—any sewerage system which serves multiple connections and consists of a collection and/or pumping system/transport system and treatment facility.

Containment—a method of backflow prevention which requires a backflow prevention device or method on the water service pipe to isolate the customer from the water main.

Continuous Water Pressure—a condition when a backflow preventer is continuously subjected to the spill over the flood level rim of the receiving sink or other receptor to prevent such back-flow from reaching the fixture, device, appliance or apparatus served by the indirect waste pipe.

NOTE: Delete definition Lead Free Pipe and Fittings—Containing not more than 8.0 percent lead

NOTE: Delete definition Lead Free Solder and Flux—Containing not more than 0.2 percent lead

Day Care Centers—includes adult and child day care centers.

Degree of Hazard—an evaluation of the potential risk to public health if the public were to be exposed to contaminated water caused by an unprotected or inadequately protected cross connection.

Domestic Well—a water well used exclusively to supply the household needs of the owner/lessee and his family. Uses may include human consumption, sanitary purposes, lawn and garden watering and caring for pets.

Dual Check Valve—a device having two spring loaded, independently operated check valves without tightly closing shut-off valves and test cocks. Generally employed immediately downstream of the water meter. Not an approved backflow prevention device.

Fixture Isolation—a method of backflow prevention in which a backflow preventer is located to protect the potable water of a water supply system against a cross connection at a fixture located within the structure or premises itself.

Human Consumption—the use of water by humans for drinking, cooking, bathing, showering, hand washing, dishwashing, or maintaining oral hygiene.

Indirect Waste Pipe—a waste pipe that does not connect directly with the drainage system, but that discharges into the drainage system through an *air break* or *air gap* into a trap, fixture, or *waste receptor*.

Delete definition *Individual water supply*—A water supply that serves one or more families, and that is not an approved public water supply.

Individual Sewerage System—any system of piping (excluding the building drain and building sewer), and/or collection and/or transport system which serves one or more connections, and/or pumping facility, and treatment facility, all located on the property where the sewage originates; and which utilizes the individual sewerage system technology which is set forth in LAC 51:XIII.Chapter 7, Subchapter B, or a commercial treatment facility which is specifically authorized for use by the state health officer.

Infant—any child under the age of 12 months.

Lead Free—

a. in general:

i. not containing more than 0.2 percent lead when used with respect to solder and flux; and

ii. not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures;

b. calculation:

i. the weighted average lead content of a pipe, pipe fitting, plumbing fitting, or fixture shall be calculated by using the following formula:

(a). for each wetted component, the percentage of lead in the component shall be multiplied by the ratio of the wetted surface area of that component to the total wetted surface area of the entire product to arrive at the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component shall be added together, and the sum of these weighted percentages shall constitute the weighted average lead content of the product. The lead content of the material used to produce wetted components shall be used to determine compliance with Clause a.ii above. For lead content of materials that are provided as a range, the maximum content of the range shall be used.

NOTE: Delete definition Lead Free Pipe and Fittings—Containing not more than 8.0 percent lead

NOTE: Delete definition Lead Free Solder and Flux—Containing not more than 0.2 percent lead.

Master Meter—a water meter serving multiple residential dwelling units or multiple commercial units. Individual units may or may not be sub-metered.

Plumbing—the practice, materials and fixtures utilized in the installation, maintenance, extension and alteration of all piping, fixtures, plumbing appliances and plumbing appurtenances, within or adjacent to any structure, in connection with sanitary drainage or storm drainage facilities; venting systems; and public or private water supply systems. Plumbing includes yard piping connecting sanitary or storm drainage with any point of disposal or other acceptable terminal as well as the water service piping connecting to a water main or other source of water supply. Plumbing does not include the installation, alteration, repair or maintenance of automatic fire sprinklers and including the underground or overhead water supply beginning at the outlet of an approved backflow prevention device installed under the plumbing provisions of this Code where water is

to be used or is intended to be used exclusively for fire protection purposes.

Potable Water—water free from impurities present in amount sufficient to cause disease or harmful physiological effects and conforming to the bacteriological, physical, radiological, and chemical quality requirements of the federal Safe Drinking Water Act or the regulations of the Department of Health and Hospitals, Office of Public Health.

Potable Water Supply—a publicly owned or privately owned water supply system which purveys potable water.

Preschool—any child less than five years of age.

Private Water Supply—a potable water supply that does not meet the criteria for a public water supply including, but not limited to a domestic well.

Public or Public Utilization—in the classification of plumbing fixtures, “public” applies to fixtures in general toilet rooms of schools, gymnasiums, hotels, hotel/motel rooms, airports, bus and railroad stations, public buildings, bars, public comfort stations, office buildings, stadiums, stores, restaurants, patient rooms and other installations where a number of fixtures are installed so that their utilization is similarly unrestricted.

NOTE: Delete definition *Public Water Main*—A water supply pipe for public use controlled by public authority.

Public Water Supply—public water system.

Public Water System—a particular type of water supply system intended to provide potable water to the public having at least 15 service connections or regularly serving an average of at least 25 individuals daily at least 60 days out of the year.

Putrescible Waste—waste which is subject to spoilage, rot, or decomposition and may give rise to foul smelling, offensive odors and/or is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies. It includes wastes from the preparation and consumption of food, vegetable matter, and animal offal and carcasses.

Residential Facility—any place, facility, or home operated by any person who receives therein four or more people who are not related to such person for supervision, care, lodging and maintenance with or without transfer of custody. This shall include, but not be limited to group homes, community homes, maternity homes, juvenile detention centers, emergency shelters, halfway homes and schools for the mentally retarded.

Sanitary Sewage—see “sewage.”

Sewer—a pipe or other constructed conveyance which conveys sewage, rainwater, surface water, subsurface water, or similar liquid wastes.

a. *Building Sewer*—see “building sewer.”

b. *Public Sewer*—a common sewer directly controlled by a public authority or utilized by the public.

c. *Sanitary Sewer*—a sewer that carries sewage and excludes storm, surface and ground water.

d. *Storm Sewer*—a sewer that conveys rainwater, surface water, subsurface water and similar liquid wastes.

Sewerage System—any system of piping (excluding the building drain and building sewer) and/or collection and/or transport system and/or pumping facility and/or treatment

facility, all for the purpose of collecting, transporting, pumping, treating and/or disposing of sanitary sewage.

Waste Receptor—a *plumbing fixture* designed specifically to collect and dispose of liquid waste received from an indirect waste pipe which is connected to other *plumbing fixtures*, plumbing equipment or appliances which are required to discharge to the drainage system through either an air gap (drainage system) or air break (drainage system). The following type fixtures fall within the classification of indirect waste receptors: floor sinks, curbed cleaning facilities with floor drain, and standpipe drains with integral air gaps (drainage system) or air breaks (drainage system), and may include others when approved as such by the code official.

Water Main—a water supply pipe or system of pipes installed and maintained by a city, township, county, Public Utility Company or other public entity, on public property, in the street or in an approved dedicated easement of public or community use. This term shall also mean the principal artery (or arteries) used for the distribution of potable water to consumers by any water supplier including, but not limited to, those public water systems which are not owned by the public and which may not be on public property.

Water Supplier—a person who owns or operates a water supply system including, but not limited to, a person who owns or operates a public water system.

Water Supply System—the water service pipe, water distribution pipes, and the necessary connecting pipes, fittings, control valves and all appurtenances in or adjacent to the structure or premise. This term shall also mean the system of pipes or other constructed conveyances, structures and facilities through which water is obtained, treated to make it potable (if necessary) and then distributed (with or without charge) for human consumption or other use.

NOTE: Delete definition *Well*—

Bored—a well constructed by boring a hole in the ground with an auger and installing a casing.

Drilled—a well constructed by making a hole in the ground with a drilling machine of any type and installing casing and screen.

Driven—a well constructed by driving a pipe in the ground. The drive pipe is usually fitted with a well point and screen.

Dug—a well constructed by excavating a large-diameter shaft and installing a casing.

C. Amend Chapter 3, General Regulations.

1. Add section 303.5, Water Piping Quality.

a. All potable water pipes, fittings, valves, and fixtures shall be lead-free and shall be evaluated and listed as conforming with NSF/ANSI 372. Any solder or flux which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead-free.

i. Exception. The lead-free requirement above shall not apply to:

(a) leaded joints necessary for the repair of existing cast iron pipes;

(b) fire hydrants, pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor

watering, or any other uses where the water is not anticipated to be used for human consumption; or

(c). toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.

2. Amend section [B] 309.2, Flood hazard.

a. For structures located in flood hazard areas, the following systems and equipment shall be located and installed as required by section 1612 of the *International Building Code*.

NOTE: Where a private water supply is used it must meet the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (Water Wells) shall be utilized.

i. Exception

(a). The following systems are permitted to be located below the elevation required by section 1612 of the *International Building Code* for utilities and attendant equipment provided that the systems are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to up to such elevation:

- (i). all water service pipes;
- (ii). all sanitary drainage piping;
- (iii). storm drainage piping;
- (iv). manhole covers shall be sealed, except where elevated to or above the design flood elevation;
- (v). all other plumbing fixtures, faucets, fixture fittings, piping systems and equipment;
- (vi). water heaters;
- (vii). vents and vent systems.

3. Amend section 312.1, Required Tests.

a. The permit holder shall make the applicable tests prescribed in sections 312.2 through 312.10 to determine compliance with the provisions of this code. The permit holder shall give reasonable advance notice to the code official when the plumbing work is ready for tests. The code official shall verify the test results. The equipment, material, power and labor necessary for the inspection and test shall be furnished by the permit holder and the permit holder shall be responsible for determining that the work will withstand the test pressure prescribed in the following tests. All plumbing system piping shall be tested with either water or by air. After the plumbing fixtures have been set and their traps filled with water, the entire drainage system shall be submitted to final tests. The code official shall require the removal of any cleanouts if necessary to ascertain whether the pressure has reached all parts of the system.

4. Amend section 312.3, Drainage and vent test.

a. An air test shall be made by forcing air into the system until there is a uniform gauge pressure of 5 psi (34.5 kPa) or sufficient to balance a 10-inch (254 mm) column of mercury. This pressure shall be held for a test period of not less than 15 minutes. Any adjustments to the test pressure required because of changes in ambient temperatures or the seating of gaskets shall be made prior to the beginning of the test period.

5. Amend section 312.5, Water supply system test.

a. Upon completion of a section of or the entire water supply system, the system, or portion completed, shall be tested and proved tight under a water pressure not less

than 1.5 times the working pressure of the system, but not less than 140 psi; or, for piping systems other than plastic, by an air test of not less than 50 psi (344 kPa). This pressure shall be held for not less than 15 minutes. The water utilized for tests shall be obtained from a potable source of supply. The required tests shall be performed in accordance with this Section and Section 107.

6. Amend section 312.10, Installation, inspection and testing of backflow prevention assemblies, barometric loops and air gaps.

a. Installation, inspection and testing shall comply with sections 312.10.1 through 312.10.3.

7. Amend section 312.10.1, Inspections.

a. Annual inspections shall be made of all backflow prevention assemblies, barometric loops and air gaps to determine whether they are operable, properly installed and maintained, and meet testing/code requirements. Inspections of backflow prevention devices including barometric loops and air gaps used to protect high degree of hazard cross connections shall be documented in writing and the report provided to the owner of the backflow prevention device.

8. Amend section 312.10.2, Testing.

a. Reduced pressure principle, double check, pressure vacuum breaker, reduced pressure detector fire protection, double check detector fire protection, and spill-resistant vacuum breaker backflow preventer assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The testing procedure shall be performed in accordance with one of the following standards: ASSE 5013, ASSE 5015, ASSE 5020, ASSE 5047, ASSE 5048, ASSE 5052, ASSE 5056, CSA B64.10.1, USC's FCCC and HR's "Manual of Cross-Connection Control", or UFL's TREEO's "Backflow Prevention—Theory and Practice". Any backflow preventer which is found to be defective shall be repaired.

9. Add section 312.10.3, Owner Responsibilities.

a. The owner of the backflow prevention assemblies shall comply with the following.

i. It shall be the duty of the owner of the backflow prevention assembly to see that these tests are made in a timely manner in accord with the frequency of field testing specified in 312.10.2 of this code.

ii. The owner shall notify the building official, and/or water supplier (for those devices associated with containment) in advance when the tests are to be undertaken so that the building official and/or water supplier may witness the tests if so desired.

iii. Upon completion, the owner shall provide records of such tests, repairs, overhauls, or replacements to the building official or water supplier (for those devices associated with containment). In addition, all records shall be kept by the owner of the backflow prevention device or method for at least 5 years and, upon specific request, shall be made available to the building official or water supplier.

iv. All tests, repairs, overhauls or replacements shall be at the expense of the owner of the backflow preventer.

10. Add section 314.3, Plenum.

a. No floor drain or other plumbing fixture except electric water heaters shall be installed in a room containing air handling machinery when such room is used as a plenum. When rooms are used as a plenum, equipment drains shall be

conveyed through an indirect waste receptor located outside such rooms or other approved point of disposal.

11. Amend section 316.1.2, Submittal.

a. The registered design professional engineer shall indicate on the permit application that the plumbing system is an alternative engineered design. The permit and permanent permit records shall indicate that an alternative engineered design was part of the approved installation.

D. Amend chapter 4.

1. Amend section 403.3.3, Location of toilet facilities in occupancies other than malls and educational buildings.

a. In occupancies other than covered and open mall buildings, and educational buildings, the required public and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m).

2. Add section 403.3.7, Location of toilet facilities in educational buildings.

a. For primary schools, and other special types of institutions with classrooms, for children through 12 years of age, separate boys' and girls' toilet room doors shall not be further than 200 feet from any classroom doors. For secondary schools, and other special types of institutions with classrooms, for persons of secondary school age, separate boys' and girls' toilet room doors shall not be further than 400 feet from any classroom door. In multi-storied buildings, there shall be boys' and girls' toilet rooms on each floor, having the number of plumbing fixtures as specified in Table 403.1 of this Code for the classroom population of that floor. When new educational buildings are added to an existing campus, the restroom facilities and drinking fountains located in the existing building(s) may be used to serve the occupants of the new educational building(s) only when all of the following provisions are met:

i. covered walkways consisting of a roof designed to protect the students and faculty from precipitation having a minimum width of 6 feet and located above a slip-resistant concrete or other acceptable hard surfaces leading to and from the restrooms shall be provided whenever children or faculty have to walk outside to access the toilet room;

ii. the path of travel from the classroom door to the toilet room doors (boys' or girls') does not exceed the applicable distance specified in this Section; and

iii. the number of occupants of the new building does not cause an increase in the school population that would trigger the need for more fixtures per Table 403.1 (Minimum Number of Required Plumbing Fixtures).

3. Add section 403.6, Other fixture requirements for licensed pre-schools, day care centers, and residential facilities.

a. Additional plumbing fixtures shall be provided in day care centers and residential facilities as required by this Section.

4. Add section 403.6.1, Food preparation.

a. The food preparation area in pre-schools, day cares, and residential facilities shall meet the following requirements. The food preparation, storage and handling where six or less individuals are cared for shall provide a two-compartment sink and an approved domestic type dishwasher. Where the number of individuals cared for is

between 7 and 15, either a three-compartment sink, or an approved domestic or commercial type dishwashing machine and a two-compartment sink with hot and cold running water shall be provided. Where 16 or more individuals are cared for, a three-compartment sink must be provided. If a dishwasher is also utilized in these instances (16 or more individuals), it must be a commercial type and it shall be in addition to the required three-compartment sink. One laundry tray, service sink, or curbed cleaning facility with floor drain shall also be provided on the premises for cleaning of mops and mop water disposal (for facilities caring for 16 or more individuals).

5. Add section 403.6.2, Caring for children between 0 and 4 years of age.

a. In child day care facilities, a hand washing sink shall be in or adjacent to each diaper changing area. In addition, one extra laundry tray, service sink, or similar fixture is required to clean and sanitize toilet training potties immediately after each use. Such fixture shall be dedicated solely for this purpose and shall not be in the food preparation/storage, utensil washing, or dining areas. Training potties shall not be counted as toilets in determining the minimum fixture requirements of Table 403.1. Fixtures shall be size appropriate for the age of the children being cared for (toilets 11 inches maximum height and lavatories 22 inches maximum height), or if standard size fixtures are used, safe, cleanable step aids shall be provided.

6. Add section 410.5, Minimum Required Separation from Contamination.

a. Drinking fountain fixtures shall provide a minimum requirement of 18 inches of separation from its water outlet (spigot) to any source of contamination. Combination sink/drinking fountain units shall provide a minimum of 18 inches between the drinking fountain water outlet (spigot) and the nearest outside rim of the sink bowl [or other source(s) of contamination].

i. Exception

(a). This 18-inch minimum separation may only be reduced by the use of a vertical shield made of a smooth, easily cleaned surface that is attached flush with the top surface of the unit and extends to a distance at least 18 inches in height above the drinking fountain water outlet (spigot) level.

(b). Prohibited Fixture. Combination sink/drinking fountain units which share the same sink bowl are prohibited except in individual prison cells.

7. Amend section 412, Floor and Trench Drains.

a. Add section 412.5, Miscellaneous areas.

i. A floor drain shall be required in public toilet rooms, excluding hotel/motel guest rooms or patient rooms of a hospital or nursing home.

ii. A floor drain shall be required in the recess room for sterilizers in a medical facility.

iii. Floor drains are not permitted in general food storage areas, for example, a food storage closet or room.

8. Amend section 417.3, Shower water outlet.

a. Waste outlets serving showers shall be not less than 2 inches (50.8 mm) in diameter and, for other than waster outlets in bathtubs, shall have removable strainers not less than 3 inches (76 mm) in diameter with strainer openings not less than 1/4 inch (6.4 mm) in least dimension.

Where each shower space is not provided with an individual waste outlet, the waste outlet shall be located and the floor pitched so that waste from one shower does not flow over the floor area serving another shower. Waste outlets shall be fastened to the waste pipe in an approved manner.

9. Add section 418.4, Handwash Sinks.

a. Dedicated handwash sinks shall be located to permit convenient use by all employees in food processing, food preparation, and other food handling areas.

b. Each commercial body art (tattoo) facility shall provide a hand washing sink to be used solely for hand washing in body art procedure area for the exclusive use of the operator. A separate instrument sink shall also be provided for the sole purpose of cleaning instruments and equipment prior to sterilization.

c. A hand washing sink may not be used for purposes other than hand washing.

d. Sinks used for food preparation or for washing and sanitizing of equipment and utensils shall not be used for hand washing.

10. Add section 418.5, Manual Warewashing, Sink Requirements.

a. A sink with at least three compartments constructed of smooth, impervious non-corrosive material such as stainless steel or high density food grade polymer plastic shall be provided in slaughter rooms, packing rooms, retail food establishments, and other food handling areas for manual washing, rinsing and sanitizing equipment and utensils except where there are no utensils or equipment to wash, rinse and sanitize; i.e., such as in a facility with only prepackaged foods.

11. Add section 422.11, Handwashing Facilities.

a. Medical facilities, including doctor's office and clinics, shall be provided with hand washing facilities within each patient examination and treatment room. The hand wash facility shall be provided with hot and cold water delivered via a mixing faucet.

12. Amend section 425.2, Flushometer valves and tanks.

a. Flushometer valves and tanks shall comply with ASSE 1037 or CSA B125.3. I vacuum breakers on flushometer valves shall conform to the performance requirements of ASSE 1001 or CSA B64. 1.1. Flushometer valves shall be equipped with an approved vacuum breaker. The vacuum breaker shall be installed on the discharge side of the flushing valve with the critical level at least 4 inches (102 mm) above the overflow rim of the bowl. Access shall be provided to vacuum breakers. Flushometer valves shall be of the water conservation type and shall not be used where the water pressure is lower than the minimum required for normal operation. When operated, the valve shall automatically complete the cycle of operation, opening fully and closing positively under the water supply pressure. Each flushometer valve shall be provided with a means for regulating the flow through the valve. The trap seal to the fixture shall be automatically refilled after each flushing cycle.

E. Amend Chapter 5, Water Heaters.

1. Amend section 503.1, Cold water line valve.

a. The cold water branch line from the main water supply line to each hot water storage tank or water heater shall be provided with a full port ball valve, located near the

equipment and serving only the hot water storage tank or water heater. The valve shall not interfere or cause a disruption of the cold water supply to the remainder of the cold water system. The valve shall be provided with access on the same floor level as the water heater served.

2. Amend section 504.7, Required pan.

a. Where a storage tank-type water heater or a hot water storage tank is installed in a location where water leakage from the tank will cause damage, the tank shall be installed in a galvanized steel pan having a material thickness of not less than 0.0276-inch (0.7 mm), or other pans approved for such use.

i. Exception

(a). Electric water heaters may rest in a high impact plastic pan of at least 1/16-inch (1.6 mm) thickness.

3. Amend section 504.7.1, Pan size and drain.

a. The drain pan shall be a minimum of 2 inches (2") (50.8 mm) in depth and shall be of sufficient size and shape to receive all dripping or condensate from the tank or water heater. The pan shall be drained by an indirect waste pipe having a diameter of not less than 1 inch (25.4 mm). Piping for safety pan drains shall be of those materials listed in Table 605.4.

F. Amend Chapter 6, Water Supply and Distribution.

1. Amend section 602.3, Individual water supply.

a. Where a potable public water supply is not available, a private water supply meeting the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (Water Wells) shall be utilized.

i. Delete and remove sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5 and 602.3.5.1, Pump Enclosure.

2. Amend section 603.2, Separation of water service and sewer lines.

a. Underground water service pipe and the building drain or building sewer shall be horizontally separated by not less than 5-feet (1524 mm) of undisturbed or compacted earth.

i. Exceptions:

(a). The required separation distance shall not apply where the bottom of the water service pipe within 5 feet (1524 mm) of the sewer is not less than 12 inches (305 mm) above the top of the highest point of the sewer and the sewer pipe materials conform to Table 702.3.

(b). Water service pipe is permitted to be located in the same trench with a building drain or building sewer, provided such sewer is constructed of materials listed in Table 702.2 and the water service pipe is placed on a solid shelf excavated at one side of the common trench. The bottom of the water service pipe, at all points, shall be at least 12 inches (305 mm) above the top of the sewer line at its highest point.

(c). Any underground water service pipe which must cross a pipe that conveys sewage (e.g., building drains, building sewers, and other piping conveying sewage) shall have a minimum vertical separation of 12 inches (305 mm) above the top of the sewer. The water service pipe shall be sleeved to a point not less than 5 feet (1524 mm) horizontally from the sewer pipe centerline on both sides of such crossing with pipe materials listed in Table 605.3, 702.2 or 702.3.

3. Add section 603.3, Potable Water (Pressure) Lines Near Soil Absorption Trenches, Sand Filter Beds, Oxidation

Ponds, and any Effluent Reduction Option (Effluent Reduction Fields, Rock Plant Filters, Spray Irrigation Systems, Overland Flow Systems, Mound Systems, or Subsurface Drip Disposal Systems).

a. Underground potable water (pressure) lines shall not be located within 25 feet (7.6 m) of any soil absorption trenches, sand filter beds, oxidation ponds, or any effluent reduction option including, but not limited to effluent reduction fields, rock plant filters, spray irrigation systems (from the edge of the spray and its drainage), overland flow systems (from the discharge point and field of flow), mound systems, or subsurface drip disposal systems which have been installed for either the disposal of septic tank effluent or mechanical treatment plant effluent.

4. Add section 603.4, Potable Water (Pressure) Lines Near Septic Tanks, Mechanical Sewage Treatment Plants, and Pump Stations.

a. Underground potable water (pressure) lines shall not be located within 10 feet (3.0 m) of any septic tank, mechanical sewage treatment plant, or sewage pump station.

5. Add section 603.5, Potable Water (Pressure) Lines Near Seepage Pit, Cesspool, or Sanitary Pit Privy.

a. Underground potable water (pressure) lines shall not be located within 50 feet (15.2m) of any seepage pit, cesspool, or sanitary pit privy.

6. Add 603.6, Reclaimed Water Lines.

a. Reclaimed water lines shall be considered and treated as though they are sewerage lines and shall be installed in accord with the spacing requirements of this Section for the protection of potable water lines.

7. Add section 603.7, Stop and Waste Valves and Devices.

a. Combination stop and waste valves and cocks shall not be installed underground in a water service pipe, water supply system, or a water distribution system. Any fixture or device which incorporates a stop and waste feature is prohibited if the waste opening is underground or in any location that waste water or water-borne contaminants may enter the device or water supply from the ground or other source by reversal of flow.

8. Amend Table 604.5, Minimum Sizes of Fixture Water Supply Lines.

a. Table 604.5—Minimum Sizes of Fixture Water Supply Pipes.

Fixture	Minimum Pipe Size (inch)
Bathtubs ^a (60x 32 and smaller)	1/2
Bathtubs ^a (larger than 60x 32)	1/2
Bidet	3/8
Combination sink and tray	1/2
Dishwasher, domestic ^a	1/2
Drinking fountain	1/2
Hose bibbs	1/2
Kitchen sink ^a	1/2
Kitchen sink , Commercial	3/4
Lavatory	1/2
Shower, single head ^a	1/2
Sinks, flushing rim	3/4
Sinks, service	1/2
Urinal, flush tank	1/2
Urinal, flushometer valve	3/4
Wall hydrant	1/2
Water closet, flush tank	3/8

Fixture	Minimum Pipe Size (inch)
Water closet, flushometer valve	1
Water closet, flushometer tank	1/2
Water closet, one piece ^a	1/2

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 pound per square inch = 6.895 kPa.

^a Where the developed length of the distribution line is 60 feet or less, and the available pressure at the meter is 35 psi or greater, the minimum size of an individual distribution line supplied from a manifold and installed as part of a parallel water distribution system shall be one nominal tube size smaller than the sizes indicated.

9. Amend section 605.2, Lead content of water supply pipe and fittings.

a. Water Piping Quality. All potable water pipes, fittings, valves, and fixtures shall be lead-free and shall be evaluated and listed as conforming with NSF/ANSI 372. Any solder or flux which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead-free.

i. Exception. The lead-free requirement above shall not apply to:

(a). leaded joints necessary for the repair of existing cast iron pipes;

(b). fire hydrants, pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or

(c). toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.604.

10. Amend section 605.3, Water service pipe with corresponding Table 605.3.

a. Water service pipe shall conform to NSF 61 and shall conform to one of the standards listed in Table 605.3. Water service pipe or tubing, installed underground and outside of the structure, shall have a working pressure rating of not less than 160 psi (1100 kPa) at 73.4°F (23°C). Where the water pressure exceeds 160 psi (1100 kPa) piping material shall have a working pressure rating not less than the highest available pressure. Water service piping materials not third-party certified for water distribution shall terminate at or before the full open valve located at the entrance to the structure. All ductile iron water service piping shall be cement mortar lined in accordance with AWWA C104.

i. Table 605.3—Water Service Pipe

Material	Standard
Acrylonitrile butadiene styrene (ABS) plastic pipe	ASTM D 1527; ASTM D 2282
Brass pipe	ASTM B 43
Chlorinated polyvinyl chloride (CPVC) plastic pipe	ASTM D 2846; ASTM F 441; ASTM F 442; CSA B137.6
Copper or copper-alloy pipe	ASTM B 42; ASTM B 302
Copper or copper-alloy tubing (Type K, WK, L, or WL only. i.e., Type M copper is prohibited.)	ASTM B 75; ASTM B 88; ASTM B 251; ASTM B 447

Material	Standard
Cross-linked polyethylene (PEX) plastic pipe and tubing	ASTM F 876; ASTM F 877; AWWA C904; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F 1281; ASTM F 2262; CSA B137.10M
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Ductile iron water pipe	AWWA C151/A21.51; AWWA C115/A21.15
Galvanized steel pipe	ASTM A 53
Polyethylene (PE) plastic pipe	ASTM D 2239; ASTM D 3035; AWWA C901; CSA B137.1
Polyethylene (PE) plastic tubing	ASTM D 2737; AWWA C901; CSA B137.1
Polyethylene/aluminum/polyethylene (PE-AL-PE) pipe	ASTM F 1282; CSA B137.9
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 2769
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Polyvinyl chloride (PVC) plastic pipe	ASTM D 1785; ASTM D 2241; ASTM D 2672; CSA B137.3
Stainless steel pipe (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel pipe (Type 316/316L)	ASTM A 312; ASTM A 778

11. Amend section 605.3.1, Dual check-valve-type backflow preventer.

a. Dual check-valve backflow preventers installed on the water supply system shall comply with ASSE 1024 or CSA B64.6. These devices, which are commonly installed immediately downstream of water meters by water suppliers, are not approved backflow prevention devices and are only allowed to be installed when no cross connections exist downstream of the device or when all downstream cross connections are properly protected by approved backflow prevention devices, assemblies, or methods in accordance with section 608 of this code.

12. Amend Table 605.4, Water Distribution Pipe.

a. Table 605.4—Water Distribution Pipe

Material	Standard
Brass pipe	ASTM B 43
Chlorinated polyvinyl chloride (CPVC) plastic pipe and tubing	ASTM D 2846; ASTM F 441; ASTM F 442; CSA B137.6
Copper or copper-alloy pipe	ASTM B 42; ASTM B 302
Copper or copper-alloy tubing (Type K, WK, L, or WL only. i.e., Type M copper is prohibited.)	ASTM B 75; ASTM B 88; ASTM B 251; ASTM B 447
Cross-linked polyethylene (PEX) plastic tubing	ASTM F 876; ASTM F 877; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F 1281; ASTM F 2262; CSA B137.10M

Material	Standard
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Ductile iron pipe	AWWA C151/A21.51; AWWA C115/A21.15
Galvanized steel pipe	ASTM A 53
Polyethylene/aluminum/polyethylene (PE-AL-PE) composite pipe	ASTM F 1282
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 2769
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Stainless steel pipe (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel pipe (Type 316/316L)	ASTM A 312; ASTM A 778

13. Amend section 605.5, Fittings.

a. Pipe fittings shall be approved for installation with the piping material installed and shall comply with the applicable standards listed in Table 605.5. Pipe fittings utilized in water supply systems shall also comply with NSF 61. Ductile and gray iron pipe fittings shall be cement mortar lined in accordance with AWWA C104. For repairs all copper, brass and stainless steel joints below a building slab shall be brazed and/or welded in accordance with the requirements of this code, as appropriate. With the exception of heat fused polypropylene, all other joints and fittings for plastic pipe below a building slab are prohibited.

14. Amend Table 605.5, Pipe Fittings.

a. Table 605.5—Pipe Fittings

Material	Standard
Acrylonitrile butadiene styrene (ABS) plastic	ASTM D 2468
Cast-iron	ASME B16.4; ASME B16.12
Chlorinated polyvinyl chloride (CPVC) plastic	ASSE 1061; ASTM D 2846; ASTM F 437; ASTM F 438; ASTM F 439; CSA B137.6
Copper or copper alloy	ASSE 1061; ASME B16.15; ASME B16.18; ASME B16.22;
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Fittings for cross-linked polyethylene (PEX) plastic tubing	ASSE 1061, ASTM F 877; ASTM F 1807; ASTM F 1960; ASTM F 2080; ASTM F 2098, ASTM F 2159; ASTM F 2434; ASTM F 2735; CSA B137.5
Fittings for polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 1807; ASTM F 2098; ASTM F 2159; ASTM F 2735
Gray iron and ductile iron	AWWA C110/A21.10; AWWA C153/A21.53
Insert fittings for polyethylene/aluminum/polyethylene (PE-AL-PE) and cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX)	ASTM F 1974; ASTM F 1281; ASTM F 1282; CSA B137.9; CSA B137.10M

Material	Standard
Malleable iron	ASME B16.3
Metal (brass) insert fittings for polyethylene/aluminum/polyethylene (PE-AL-PE) and cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX)	ASTM F 1974
Polyethylene (PE) plastic pipe	ASTM D 2683; ASTM D 3261; ASTM F 1055; CSA B137.1
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Polyvinyl chloride (PVC) plastic	ASTM D 2464; ASTM D 2466; ASTM D 2467; CSA B137.2; CSA B137.3
Stainless steel (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel (Type 316/316L)	ASTM A 312; ASTM A 778
Steel	ASME B16.9; ASME B16.11; ASME B16.28

15. Amend section 606.1, Location of full-open valves.

a. Full-open valves shall be installed in the following locations:

- i. on the building water service pipe from the public water supply near the curb;
- ii. on the water distribution supply pipe at the entrance into the structure;
- iii. on the discharge side of every water meter;
- iv. on the base of every water riser pipe in occupancies other than multiple-family residential occupancies that are two stories or less in height and in one- and two-family residential occupancies;
- v. on the top of every water down-feed pipe in occupancies other than one- and two-family residential occupancies;
- vi. on the entrance to every water supply pipe to a dwelling unit, except where supplying a single fixture equipped with individual stops;
- vii. on the water supply pipe to a gravity or pressurized water tank;
- viii. on the water supply pipe to every water heater;
- ix. on each water supply branch line 1 1/2 inches or larger so as to isolate all fixtures and all pieces of equipment supplied by the branch line. The shutoff valve shall be installed in a labeled and accessible location as close to the connection to the supply main and/or riser as practical.

b. When such shutoff valve is located in the service pipe outside the building, it shall be located and accessible in a manufactured, approved, valve box with a readily removable access cover which extends to grade (G) level. When drain valves are provided for the distribution piping or other portions of the water distribution system, such drains shall be above grade (G) or otherwise located to prevent the possibility of backflow into the piping system after the system has been drained.

16. Amend section 606.2, Location of shutoff valves.

a. Shutoff valves shall be installed in the following locations:

- i. on the fixture supply to each plumbing fixture other than bathtubs and showers in one- and two-family

residential occupancies. Such valves shall permit each fixture to be shut off without interfering with the water supply to any other fixtures. In all buildings other than one- and two-family residential occupancies, shutoff valves shall be installed which permit the water supply to all fixtures and equipment in each separate room to be shut off without interference with the water supply to any other room or portion of the building or each individual fixture and piece of equipment shall have a shutoff valve which will permit each fixture and piece of equipment to be shut off without interfering with the water supply to other fixtures or equipment;

ii. on the water supply pipe to each sillcock;

iii. on the water supply pipe to each appliance or mechanical equipment.

17. Amend section 606.5.5, Low-pressure cutoff required on booster pumps.

a. A low-pressure cutoff shall be installed on all booster pumps in a water pressure booster system to prevent creation of a vacuum or negative pressure on the suction side of the pump when a positive pressure of 20 psi (137.9 kPa) or less occurs on the suction side of the pump.

18. Amend section 607.3.2, Backflow prevention device or check valve.

a. Where a backflow prevention device, check valve or other device is installed on a water supply system utilizing storage water heating equipment, a device for controlling pressure shall be installed at an accessible location between the checking device and the water heating equipment to limit thermal expansion of the water being heated to not more than 80 psi (552 kPa) static pressure at any fixture on the system. A potable water expansion tank or auxiliary relief valve set at 80 psi (552 kPa) shall be acceptable. The auxiliary relief valve shall be in addition to the water heater safety relief valve. This thermal expansion control device shall be designed and trimmed for repeated operation. The valve shall be a minimum 1/2-inch pipe size, shall be adjustable and calibrated, and shall include a tag describing its function.

19. Amend section 608.1, General.

a. A potable water supply system shall be designed, installed and maintained in such a manner so as to prevent contamination from non-potable liquids, solids or gases being introduced into the potable water supply through cross-connections or any other piping connections to the system. Backflow preventers shall conform to the applicable Standard referenced in Table 608.1. Backflow preventer applications shall conform to Table 608.1, except as specifically stated in sections 608.2 through 608.16.27 and sections 608.18 through 608.18.2.

20. Amend section 608.4, Water service piping/Containment to protect potable water supplies.

a. Water service piping shall be protected in accordance with sections 603.2. Containment to protect potable water supplies shall be achieved in accordance with 608.18 through 608.18.2.

21. Amend section 608.6, Cross-connection control.

a. Cross connections shall be prohibited, except where approved backflow prevention devices, assemblies, or methods are installed to protect the potable water supply. A dual check valve type backflow preventer (i.e., device meeting ASSE 1024 or CSA B64.6 with two spring loaded,

independently operating check valves without tightly closing shut-off valves or test cocks which is commonly installed immediately downstream of water meters by water suppliers) is not an approved backflow prevention device when a known cross connection exists downstream of the device. These devices are only allowed to be installed when no cross connections exist downstream of the device or when all downstream cross connections are properly protected by approved backflow prevention devices, assemblies, or methods.

22. Amend section 608.8, Identification of nonpotable water.

a. Where nonpotable water systems are installed, the piping conveying the nonpotable water shall be identified either by color marking or metal tags in accordance with sections 608.8.1 through 608.8.3. All nonpotable water outlets such as hose connections, open ended pipes, and faucets shall be identified at the point of use for each outlet with the words, "Nonpotable—not safe for drinking." The words shall be indelibly printed on a tag or sign constructed of corrosion-resistant waterproof material or shall be indelibly printed on the fixture. The letters of the words shall be not less than 0.5 inches (12.7 mm) in height and in colors in contrast to the background on which they are applied.

i. Exception

(a). Overall Exception to this Section (§608.8 of this code). Pursuant to R.S. 40:4.12, industrial-type facilities listed therein shall not be required to comply with this section (§608.8 of this code) provided that such facilities have a potable water distribution identification plan in conformity with the requirements of R.S. 40:4.12. The required formal cross-connection control survey of the facility referenced in R.S. 40:4.12 shall be performed by an individual holding a valid cross-connection control surveyor certificate issued under the requirements of ASSE 5120, or other individuals holding a surveyor certificate from a nationally recognized backflow certification organization approved by the state health officer.

23. Amend section 608.14, Location of backflow preventers.

a. Access shall be provided to backflow preventers as specified by the manufacturer's instructions for the required testing, maintenance and repair. A minimum of 1-foot of clearance shall be provided between the lowest portion of the assembly and grade or platform. Elevated installations exceeding 5 feet above grade (g) shall be provided with a suitably located permanent platform capable of supporting the installer, tester, or repairer. Reduced pressure principal type backflow preventers, and other types of backflow preventers with atmospheric ports and/or test cocks (e.g., atmospheric type vacuum breakers, double check valve assemblies, pressure type vacuum breaker assemblies, etc.), shall not be installed below grade (in vaults or pits) where the potential for a relief valve, an atmospheric port, or a test cock being submerged exists.

24. Amend section 608.14.2, Protection of backflow preventers.

a. Backflow preventers subjected to freezing temperatures shall protected from freezing by heat, insulation or both; or as otherwise recommended by the manufacturer.

25. Amend section 608.15.4, Protection by a vacuum breaker.

a. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. The critical level of atmospheric type vacuum breakers shall be installed not less than 6 inches (152 mm) above all downstream piping and not less than 6 inches (152 mm) above the flood-level rim of the fixture receptor or device served. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. Atmospheric vacuum breakers including, but not limited to, hose bibb vacuum breakers shall not be subjected to continuous water pressure. The critical level of pressure type vacuum breakers shall be installed not less than 12 inches (305 mm) above all downstream piping and not less than 12 inches (305 mm) above the flood-level rim of the fixture receptor or device served. Fill valves shall be set in accordance with section 425.3.1. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors.

26. Amend section 608.15.4.2, Hose connections.

a. Sillcocks, hose bibbs, wall hydrants and other openings with a hose connection shall be protected against backflow by an atmospheric-type or pressure-type vacuum breaker installed in accordance with section 608.15.4, or by a permanently attached hose connection vacuum breaker in which the highest point of usage is less than 10 feet above the hose connection vacuum breaker. Hose bib vacuum breakers shall not be subjected to continuous water pressure.

27. Amend section 608.16, Connections to the potable water system.

a. Connections to the potable water system shall conform to sections 608.16.1 through 608.16.27. These sections (608.16.1-608.16.27) are not inclusive of all potential contamination sources which may need fixture isolation protection. For potential contamination sources not listed in sections 608.16.1 through 608.16.27, backflow prevention methods or devices shall be utilized in accordance with Table B1 of CAN/CSA B64.10-1994. When a potential contamination source and its associated backflow prevention method or device is not identified in this code or Table B1 of CAN/CSA B64.10-1994, backflow prevention methods or devices shall be utilized as directed by the building official.

28. Amend section 608.16.5, Connections to lawn irrigation systems.

a. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric vacuum breaker, a pressure vacuum breaker assembly or a reduced pressure principle backflow prevention assembly. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. When an irrigation/lawn sprinkler system is provided with separate zones, the potable water supply shall be protected by a pressure vacuum breaker or reduced pressure principal backflow prevention assembly. Atmospheric vacuum breakers shall be installed at least 6 inches (152 mm) above the highest point of usage (i.e., 6 inches (152 mm) above all downstream piping or highest sprinkler head). Pressure type vacuum breakers shall be installed at least 12 inches (305 mm) above the highest point of usage (i.e., 12 inches (305

mm) above all downstream piping and the highest sprinkler head). Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow prevention assembly.

29. Amend section 608.16.8, Portable Cleaning Equipment.

a. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with section 608.13.1, 608.13.2, 608.13.3, 608.13.5, 608.13.6, or 608.13.8. The type of backflow preventer shall be selected based upon the application in accordance with Table 608.1.

30. Add section 608.16.11, Cooling towers.

a. The potable water supply to cooling towers shall be protected against backflow by an air gap.

31. Add section 608.16.12, Chemical tanks.

a. The potable water supply to chemical tanks shall be protected against backflow by an air gap.

32. Add section 608.16.13, Commercial Dishwashers in commercial establishments.

a. The potable water supply to commercial dishwashers in commercial establishments shall be protected against backflow by an air gap, atmospheric vacuum breaker, or pressure vacuum breaker. Vacuum breakers shall meet the requirements of section 608.15.4.

33. Add section 608.16.14, Ornamental Fountains.

a. The potable water supply to ornamental fountains shall be protected against backflow by an air gap.

34. Add section 608.16.15, Swimming pools, spas, hot tubs.

a. The potable water supply to swimming pools, spas, or hot tubs shall be protected against backflow by an air gap or reduced pressure principal backflow prevention assembly.

35. Add section 608.16.16, Baptismal fonts.

a. The potable water supply to baptismal fonts shall be protected against backflow by an air gap.

36. Add section 608.16.17, Animal watering troughs.

a. The potable water supply to animal watering troughs shall be protected against backflow by an air gap.

37. Add section 608.16.18, Agricultural chemical mixing tanks.

a. The potable water supply to agricultural chemical mixing tanks shall be protected against backflow by an air gap.

38. Add section 608.16.19, Water hauling trucks.

a. The potable water supply to water hauling trucks/tankers shall be protected against backflow by an air gap when filled from above. When allowed to be filled from below, they shall be protected by a reduced pressure principle backflow prevention assembly. When a tanker truck is designated for the hauling of food grade products (and has been cleaned utilizing food grade cleaning procedures) and is allowed to be filled from below, a double check valve assembly shall be acceptable.

39. Add section 608.16.20, Air conditioning chilled water systems and/or condenser water systems.

a. The potable water supply to air conditioning chilled water systems and condenser water systems shall be protected against backflow by a reduced pressure principal backflow prevention assembly.

40. Add section 608.16.21, Pot-type chemical feeders.

a. The potable water supply to pot-type chemical feeders shall be protected against backflow by a reduced pressure principal backflow prevention assembly.

41. Add section 608.16.22, Food processing steam kettles.

a. The potable water supply to food processing steam kettles shall be protected against backflow by a double check valve backflow prevention assembly.

42. Add section 608.16.23, Individual travel trailer pads.

a. The potable water supply to individual travel trailer pads shall be protected against backflow by a double check valve backflow prevention assembly.

43. Add section 608.16.24, Laboratory and/or medical aspirators.

a. The potable water supply to laboratory and/or medical aspirators shall be protected against backflow by an atmospheric or pressure vacuum breaker installed in accordance with sections 608.3.1 and 608.15.4.

44. Add section 608.16.25, Laboratory or other sinks with threaded or serrated nozzles.

a. The potable water supply to laboratory sinks or other sinks with threaded or serrated nozzles shall be protected against backflow by an atmospheric or pressure vacuum breaker installed in accordance with sections 608.3.1 and 608.15.4.

45. Add section 608.16.26, Mortuary/embalming aspirators.

a. The potable water supply to mortuary/embalming aspirators shall be protected against backflow by a pressure vacuum breaker installed in the supply line serving the aspirator. The critical level of the vacuum breaker shall be installed a minimum of 12 inches higher than the aspirator. The aspirator shall be installed at least 6 inches above the highest level at which suction may be taken. An air gap shall be provided between the outlet of the discharge pipe and the overflow rim of the receiving fixture.

46. Add section 608.16.27, Room(s) or other sub-unit(s) of a premise or facility receiving water where access is prohibited.

a. When access is prohibited to particular areas, rooms, or other sub-units of a premise or facility which is receiving water, the potable water supply serving those areas shall be protected against backflow by a reduced pressure principal backflow protection assembly.

47. Amend section 608.17, Protection of individual water supplies.

a. An individual water supply shall be located and constructed so as to be safeguarded against contamination in accordance with the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (Water Wells).

48. Remove and delete sections 608.17.1 thru 608.17.8 including Table 608.17.1.

49. Add section 608.18, Containment practices.

a. Backflow prevention methods or devices shall be utilized as directed by the water supplier or code official to isolate specific water supply system customers from the water supply system's mains when such action is deemed necessary to protect the water supply system against potential contamination caused by backflow of water from

that part of the water system owned and maintained by the customer (for example, the piping downstream of the water meter, if provided). Minimum requirements shall be in accordance with section 608.18.1 through 608.18.2.

50. Add section 608.18.1, Containment requirements.

a. As a minimum, the following types of backflow prevention assemblies or methods shall be installed and maintained by water supply system customers immediately downstream of the water meter (if provided) or on the water service pipe prior to any branch line or connections serving the listed customer types and categories.

51. Add Table 608.18.1, Containment Requirements.

a. Table 608.18.1—Containment Requirements

Air Gap
1. Fire Protection/Sprinkler System utilizing non-potable water as an alternative or primary source of water
Reduced Pressure Principle Backflow Prevention Assembly
1. Hospitals, Out-Patient Surgical Facilities, Renal Dialysis Facilities, Veterinary Clinics
2. Funeral Homes, Mortuaries
3. Car Wash Systems
4. Sewage Facilities
5. Chemical or Petroleum Processing Plants
6. Animal/Poultry Feedlots or Brooding Facilities
7. Meat Processing Plants
8. Metal Plating Plants
9. Food Processing Plants, Beverage Processing Plants
10. Fire Protection/Sprinkler Systems using antifreeze in such system (a detector type assembly is recommended on unmetered fire lines)
11. Irrigation/Lawn Sprinkler Systems with Fertilizer Injection
12. Marinas/Docks
13. Radiator Shops
14. Commercial Pesticide/Herbicide Application
15. Photo/X-ray/Film Processing Laboratories
16. Multiple Commercial Units served by a master meter
17. Any type of occupancy type or any other facility having one or more Single-walled Heat Exchangers which uses any chemical, additive, or corrosion inhibitor, etc., in the heating or cooling medium
18. Any type of occupancy type or any other facility having one or more Double-walled Heat Exchangers which use any chemical, additive, or corrosion inhibitor, etc., in the heating or cooling medium and which does not have a path to atmosphere with a readily visible discharge
19. Premises where access/entry is prohibited
Pressure Vacuum Breaker Assembly/Spill Resistant Vacuum Breaker Assembly
1. Irrigation/Lawn Sprinkler Systems
Double Check Valve Assembly
1. Fire Protection/Sprinkler Systems (a detector type double check valve assembly is recommended on unmetered fire lines)
2. Two residential dwelling units served by a master meter, unless both units are located on a parcel or contiguous parcels of land having the same ownership and neither unit is used for commercial purposes. As used herein, the term "commercial purposes" means any use other than residential.
3. Three or more residential dwelling units served by a master meter
4. Multistoried Office/Commercial Buildings (over 3 floors)
5. Jails, Prisons, and Other Places of Detention or Incarceration

52. Add section 608.18.2, Other containment requirements.

a. Table 608.18.1 of this code above is not inclusive of all potential contamination sources which may need containment protection. For potential contamination sources not listed in this table, backflow prevention methods or devices shall be utilized in accordance with Table B1 of CAN/CSA B64.10-1994. When a potential contamination source and its associated backflow prevention method or device is not identified in Table 608.18.1 of this code above

or Table B1 of CAN/CSA B64.10-1994, backflow prevention methods or devices shall be utilized:

- i. as directed by the building code official; or
- ii. as directed by the water supplier.

iii. In cases of a discrepancy regarding the particular backflow prevention assembly or method required, the assembly or method providing the higher level of protection shall be required.

G. Amend Chapter 7, Sanitary Drainage.

1. Amend section 701.2, Sewer required.

a. Buildings in which plumbing fixtures are installed and premises having sanitary drainage system piping shall be connected to a community sewerage system, where available, or an approved commercial treatment facility or individual sewerage meeting the requirements of LAC 51:XIII (Sewage Disposal).

2. Amend section 701.3, Separate Sewer Connection.

a. A building having plumbing fixtures installed and intended for human habitation, occupancy or use on premises abutting on a street, alley or easement in which there is community sewerage system shall have a separate connection with the sanitary sewer. Where located on the same lot, multiple buildings shall not be prohibited from connecting to a common sanitary building sewer that connects to the community sewerage system.

3. Amend section 701.8, Engineered systems.

a. Engineered sanitary drainage systems shall conform to the provisions of section 316 and 714. Single stack plumbing systems may be considered for approval by the code official for use on the upper floors of hotel and motel guest rooms but shall not be approved for condominium or apartment complexes.

4. Amend section 701.9, Drainage piping in food service areas.

a. Exposed soil or waste piping, including vacuum drainage systems, shall not be installed above any food preparation areas, food or utensil storage areas or eating surfaces in food service establishments unless they are adequately shielded to intercept potential drips.

5. Add section 701.10, Repairs to drainage system via re-route.

a. In the case where it is determined that there is a broken underground drain line including, but not limited to, broken drain lines under the slab of a building, and a drain line re-route is performed, the existing broken underground drain line shall be cut or otherwise disconnected from the entire drainage system. At the point of such cutting or disconnection, the entire circumference of the existing pipe which remains connected to the drainage system shall have a wall thickness of not less than 1/8-inch. The existing pipe which remains connected to the drainage system shall be sealed watertight and gastight using approved plumbing materials and joining/jointing methods, e.g., properly install an approved cap, plug, or cleanout on the cut or disconnected pipe.

6. Amend section 702.5, Chemical waste system.

a. A chemical waste system shall be completely separated from the sanitary drainage system. The chemical waste shall be treated in accordance with section 803.2 before discharging to the sanitary drainage system. Separate drainage systems for chemical wastes and vent pipes shall be constructed of one of the materials listed in Table 702.5 or

other materials approved by the plumbing official. The material selected shall be resistant to corrosion and degradation for the concentrations of chemicals involved. Joints shall be made in conformance with the manufacturer's recommendations.

i. Table 702.5—Chemical Waste System

Material	Standard
High silicon cast iron	ASTM A 518/A 518M
Borosilicate glass	ASTM C 1053
Chlorinated poly [vinyl chloride] (CPVC)	ASTM F 2618
Polyolefin	ASTM F 1412
Polyvinylidene fluoride (PVDF)	ASTM F 1673

- 7. Add section 703.6, Minimum Size Building Sewer.
 - a. No building sewer shall be less than 4 inches in size with the exception of force lines.
- 8. Delete section 706.4, Heel- or side-inlet quarter bends.
- 9. Amend section 708.3, Where Required.
 - a. Cleanouts shall be located in accordance with sections 708.3.1 through 708.3.6.
- 10. Amend section 708.3.1, Horizontal drains within buildings.
 - a. Horizontal drains within buildings shall be provided with cleanouts as follows.
 - i. All horizontal drains 3-inch nominal diameter or less, cleanouts shall be located at not more than 50 feet (15 200mm) intervals.
 - ii. For horizontal drains 4-inch nominal diameter through 6-inch nominal diameter, cleanouts shall be located at not more than 80 feet (24 400mm) intervals.
 - iii. Horizontal drains larger than 6-inch nominal diameter shall be provided with cleanouts located at not more than 100 feet (30 480 mm) intervals.
- 11. Amend section 708.3.2, Building sewers.
 - a. Building sewers 4-inch nominal diameter through 6-inch nominal diameter shall be provided with cleanouts located not more than 80 feet (24 400mm) apart measured from the upstream entrance of the cleanout. For building sewers 8 inches (203 mm) and larger, manholes shall be provided and located not more than 200 feet (60 960 mm) from the junction of the building drain and building sewer, at each change in direction and at intervals of not more than 400 feet (122 m) apart. Manholes and manhole covers shall be of an approved type.

12. Amend section 708.3.3, Changes of direction.

- a. Each horizontal drainage pipe shall be provided with a cleanout at the upstream end of the pipe and in changes of direction over 45° (0.785 rad).
 - i. Exceptions
 - (a). The following plumbing arrangements are acceptable in lieu of the upstream cleanout:
 - (i). "P" traps connected to the drainage piping with slip joints or ground joint connections;
 - (ii). "P" traps into which floor drains, shower drains or tub drains with removable strainers discharge;

- (iii). "P" traps into which the straight through type waste and overflow discharge with the overflow connecting to the branch of the tee;
- (iv). "P" traps into which residential washing machines discharge;
- (v). test tees or cleanouts in a vertical pipe above the flood-level rim of the fixtures that the horizontal pipe serves and not more than 4-feet (1219 mm) above the finish floor.

13. Amend section 708.3.5, Building drain and building sewer junction.

- a. There shall be a cleanout within 6 feet (1829 mm) of the junction of the building drain and the building sewer. The cleanout shall be either inside or outside the building wall and shall be brought up to the finished ground level or to the basement floor level. An approved two-way cleanout is allowed to be used at this location to serve as a required cleanout for both the building drain and building sewer. The minimum size of the cleanout at the junction of the building drain and building sewer shall comply with section 708.7.

14. Amend section 710.1, Maximum fixture unit load.

- a. The maximum number of drainage fixture units connected to a given size of building sewer, building drain or horizontal branch of the building drain shall be determined using Table 710.1(1). The maximum number of drainage fixture units connected to a given size vertical soil or waste stack, or horizontal branch connecting to a vertical soil or waste stack, shall be determined using Table 710.1(2).

15. Amend Table 710.1(1).

a. Table 710.1(1)—Building Drains And Sewers

Diameter Of Pipe (Inches)	Maximum Number Of Drainage Fixture Units Connected To Any Portion Of The Building Drain Or The Building Sewer, Including Branches Of The Building Drain ^a			
	Slope Per Foot			
	1/16 inch	1/8 inch	1/4 inch	1/2 inch
1 1/4			1	1
1 1/2			3	3
2			21	26
2 1/2			24	31
3		20 (not over two water closets)	27 (not over two water closets)	36 (not over two water closets)
4	—	180	216	250
5	—	390	480	575
6	—	700	840	1,000
8	1,400	1,600	1,920	2,300
10	2,500	2,900	3,500	4,200
12	3,900	4,600	5,600	6,700
15	7,000	8,300	10,000	12,000

For SI: 1 inch = 25.4 mm, 1 inch per foot = 83.3 mm/m.

^a The minimum size of any building drain serving a water closet shall be 3 inches.

16. Amend Table 710.1(2).

a. Table 710.1(2)—Horizontal Fixture Branches and Soil Stacks^a

Diameter of Pipe (inches) (The minimum size of any branch or soil stack serving a water closet shall be 3".)	Maximum Number of Drainage Fixture Units (dfu)			
	Total for Horizontal Branch (Does not include branches of the building drain. Use 50 percent less dfu's for any circuit or battery vented fixture branches, no size reduction permitted for circuit or battery vented branches throughout the entire branch length.)	Soil Stacks ^b		
		Total discharge into one branch interval when greater than three branch intervals	Total for soil stack when three branch intervals or less	Total for soil stack when greater than three branch intervals
1 1/2	3	2	4	8
2	6	6	10	24
2 1/2	12	9	20	42
3	20 (not over two water closets)	16 (not over two water closets)	30 (not over six water closets)	60 (not over six water closets)
4	160	90	240	500
5	360	200	540	1,100
6	620	350	960	1,900
8	1,400	600	2,200	3,600
10	2,500	1,000	3,800	5,600
12	3,900	1,500	6,000	8,400
15	7,000	Note ^c	Note ^c	Note ^c

For SI: 1 inch = 25.4 mm.

^a Does not include branches of the building drain. Refer to Table 710.1(1).

^b Soil stacks shall be sized based on the total accumulated connected load at each story or branch interval. As the total accumulated connected load decreases, stacks are permitted to be reduced in size. Stack diameters shall not be reduced to less than one-half of the diameter of the largest stack size required.

^c Sizing load based on design criteria.

17. Add section 710.1.3, Minimum size of soil and waste stacks.

a. No soil or waste stack shall be smaller than the largest horizontal branch connected thereto except that a 4x3 water closet connection shall not be considered as a reduction in pipe size. The soil or waste stack shall run undiminished in size from its connection to the building drain to its connection to the stack vent.

18. Add section 710.1.4, Minimum size of drain serving a water closet.

a. The minimum size of any building drain serving a water closet shall be 3 inches. Not more than two water closets shall discharge into a 3-inch horizontal building drain. Not more than six water closets shall discharge into a 3-inch vertical building drain.

19. Add section 710.3, Underground Drainage Piping.

a. Any portion of the drainage system installed underground or below a basement or cellar shall not be less than 2-inch diameter. In addition, any portion of the drainage system installed underground which is located upstream from a grease trap or grease interceptor as well as the underground horizontal branch receiving the discharge there from shall not be less than 3-inch diameter.

20. Amend section 713.9, Local vents and stacks for bedpan washers.

a. Bedpan washers shall be vented to open air above the roof by means of one or more local vents. The vent terminal and location of the local vent shall be the same as required for sanitary sewer vents. The local vent for a bedpan washer shall not be less than a 2-inch-diameter (51 mm) pipe. A local vent serving a single bedpan washer is permitted to drain to the fixture served.

H. Chapter 8 Indirect/Special Waste

1. Amend section 802.1.1, Food handling.

a. Equipment and fixtures utilized for the storage, preparation and handling of food shall discharge through an indirect waste pipe by means of an air gap. Food handling equipment includes but is not limited to the following: any sink where food is cleaned, peeled, cut up, rinsed, battered, defrosted or otherwise prepared or handled; potato peelers; ice cream dipper wells; refrigerators; freezers; walk-in coolers or freezers; ice boxes; ice making machines; fountain type drink dispensers; rinse sinks; cooling or refrigerating coils; laundry washers; extractors; steam tables; steam kettles; egg boilers; coffee urns; steam jackets or other food handling or cooking equipment wherein the indirect waste pipe may come under a vacuum; or similar equipment.

2. Amend section 802.2, Installation.

a. Indirect waste piping shall discharge through an air gap or air break into a waste receptor. Waste receptors and standpipes shall be trapped and vented and shall connect to the building drainage system. All indirect waste piping that exceeds 30 inches (762 mm) in developed length measured horizontally, or 54 inches (1372 mm) in total developed length, shall be trapped. The maximum length of indirect waste piping to the waste receptor shall not exceed 15 feet (4527 mm). Should an indirect waste pipe exceed 15 feet in length, a local vent shall be provided at a maximum of every 15 feet (4527 mm) in length. Indirect waste piping shall be installed as to permit ready access for flushing and cleaning.

3. Amend section 802.2.2, Air break.

a. An air break shall be provided between the indirect waste pipe and the trap seal of the waste receptor or standpipe. The air break (drainage system) between the indirect waste and the building drainage system shall be installed such that the level of the lowest outlet located on the fixture, device, appliance or apparatus (to which the indirect waste pipe connects) is above the flood-level rim of the receiving sink or other receptor by a vertical distance of at least twice the diameter of the effective opening of the indirect waste pipe, but in no case less than 2 inches (51 mm). In addition, the indirect waste pipe shall terminate below the flood-level rim of the receiving sink or other receptor a distance equal to not more than one-half (1/2) the diameter of the effective opening of the indirect waste pipe.

I. Delete section 918, Air Admittance Valves in its entirety and all referring sections of the 2012 IPC.

J. Amend Chapter 10: Traps, Interceptors and Separators.

1. Amend section 1002.1, Fixture Traps.

a. Each plumbing fixture shall be separately trapped by a liquid-seal trap, except as otherwise permitted by this code. The vertical distance from the fixture outlet to the trap

weir shall not exceed 24 inches (610 mm), and the horizontal distance shall not exceed 30 inches (610 mm) measured from the centerline of the fixture outlet to the centerline of the inlet of the trap. The height of a clothes washer standpipe above a trap shall conform to section 802.4. A fixture shall not be double trapped.

i. Exceptions

(a). This Section shall not apply to fixtures with integral traps.

(b). A combination plumbing fixture is permitted to be installed on one trap, provided that one compartment is not more than 6 inches (152 mm) deeper than the other compartment and the waste outlets are not more than 30 inches (762 mm) apart.

(c). A grease interceptor intended to serve as a fixture trap in accordance with the manufacturer's installation instructions shall be permitted to serve as the trap for a single fixture or a combination sink of not more than three compartments where the vertical distance from the fixture outlet to the inlet of the interceptor does not exceed 30 inches (762 mm) and the developed length of the waste pipe from the most upstream fixture outlet to the inlet of the interceptor does not exceed 60 inches (1524 mm).

(d). One trap may be installed for a set of not more than three single-compartment sinks or laundry trays or three lavatories immediately adjacent to each other in the same room, if the waste outlets are not more than 30 inches (762 mm) apart and the trap is centrally located when three compartments are installed.

2. Amend section 1002, Prohibited traps.

a. The following types of traps are prohibited:

i. traps that depend on moving parts to maintain the seal;

ii. bell traps;

iii. crown-vented traps;

iv. traps not integral with a fixture and that depend on interior partitions for the seal, except those traps constructed of an approved material that is resistant to corrosion and degradation;

v. "S" traps;

vi. drum traps;

(a). exception:

(i). drum traps used as solids interceptors and drum traps serving chemical waste systems shall not be prohibited.

vii. running traps;

(a). exceptions:

(i). a running trap with cleanout may be allowed on condensate waste lines and for certain floor level fixtures installed on a combination waste and vent system.

3. Amend section 1002.4, Trap Seals.

a. Each fixture trap shall have a liquid seal of not less than 2 inches (51 mm) and not more than 4 inches (102 mm), or deeper for special designs relating to accessible fixtures. Where a trap seal is subject to loss by evaporation, (i.e., floor drains or similar traps where the water seal is not replenished regularly and automatically) a trap seal primer valve shall be installed. Trap seal primer valves shall connect to the trap at a point above the level of the trap seal. A trap seal primer valve shall conform to ASSE 1018 or ASSE 1044.

4. Add section 1002.4.2, Drainage type trap seal primer valves.

a. Drainage-type trap seal primers meeting ASSE 1044 shall capture liquid wastes only from:

i. the tail piece of a lavatory;

ii. the discharge side of the atmospheric vacuum breaker located downstream of a flushometer valve servicing a water closet or a clinical sink (the takeoff point on the discharge pipe must be at least 4" below the critical level of the vacuum breaker); or,

iii. the refill/hush tube of ballcocks

5. Amend section 1003.2, Approval.

a. Interceptors and separators shall be designed and installed in accordance with the manufacturer's instructions and the requirements of this section based on the anticipated conditions of use. Wastes that do not require treatment or separation shall not be discharged into any interceptor or separator. No interceptor or separator shall be installed until its design, size, location and venting has been approved by the local jurisdictional code official. The local jurisdictional code official shall have the authority to require a grease interceptor to be serviced, repaired, or replaced with a larger unit when it is determined that a unit is not working or being maintained properly, the unit is damaged, or the mode of operation of the facility no longer meets the anticipated conditions of use (i.e., offensive odors, sewage backups or overflows, or when it is determined that grease is bypassing the grease interceptor and causing downstream blockages or interfering with sewage treatment.)

6. Amend section 1003.3, Grease interceptors.

a. Grease interceptors shall comply with the requirements of sections 1003.3.1 through 1003.3.5.

7. Amend section 1003.3.1, Grease interceptors and automatic grease removal devices required.

a. A grease interceptor or automatic grease removal device, sized in accordance with section 1003.3.5 of this code, shall be required to receive the drainage from fixtures and equipment with grease-laden waste located in food preparation areas, such as in restaurants, hotel kitchens, hospitals, school kitchens, bars, factory cafeterias and clubs. Fixtures and equipment shall include pot sinks, prerinse sinks; soup kettles or similar devices; work stations; floor drains or sinks into which kettles are drained; automatic hood wash units and dishwashers. Grease interceptors and automatic grease removal devices shall receive waste only from fixtures and equipment that allow fats, oils or grease to be discharged. Other than standard detergents associated with dishwashing; emulsifiers, chemicals, enzymes or bacteria shall not discharge into a grease interceptor or automatic grease removal device. A grease interceptor or an automatic grease removal device shall not be required for individual detached one- and two-family dwelling units or any private living quarters.

8. Amend section 1003.3.2, Hydromechanical grease interceptors.

a. Hydromechanical grease interceptors shall be evaluated, tested, and certified for conformance with ASME A 112.14.3, PDI-G101, or PDI-G102. Hydromechanical grease interceptors shall be equipped with devices to control the rate of water flow so that the water flow does not exceed the rated flow. The flow-control device shall be vented and

terminate not less than 6 inches (152 mm) above the flood rim level or be installed in accordance with the manufacturer's instructions. To prevent odors in the kitchen or occupied space, such vent shall be directly connected to the building vent system. Hydromechanical grease interceptors shall be sized in accordance with section 1003.3.5 of this code.

9. Amend section 1003.3.3, Automatic grease removal devices.

a. Automatic grease removal devices shall be evaluated, tested, and certified for conformance with ASME A112.14.4. Where automatic grease removal devices are installed, such devices shall be located downstream of each fixture or multiple fixtures in accordance with the manufacturer's instructions. Ready access shall be provided for inspection and maintenance. Automatic grease removal devices shall be sized in accordance with section 1003.3.5 of this code.

10. Amend section 1003.3.4, Gravity grease interceptors.

a. Gravity grease interceptors shall comply with the requirements of sections 1003.3.4.1 through 1003.3.4.8 and shall be sized in accordance with section 1003.3.5 of this code.

11. Amend 1003.3.4.1, Indoor installations.

a. If a gravity grease interceptor must be installed within an enclosed building, any access covers shall be gasketed to prevent the intrusion of odors into the building.

12. Amend section 1003.3.4.2, Distance.

a. The grease interceptor shall be placed as close to the plumbing fixture(s) discharging greasy waste as possible, but preferably on the outside of the building when feasible.

13. Add section 1003.3.4.3, Outlet pipe.

a. The minimum diameter of the outlet pipe shall not be less than 4 inches. The invert of the gravity grease interceptor outlet opening (i.e., lowest portion of the outlet pipe where it draws waste near the bottom of the grease interceptor), shall be located at a maximum of 6 inches and a minimum of 4 inches from the floor of the grease interceptor. This requirement also applies to any intermediate outlets in multi-compartment gravity grease interceptors.

14. Add section 1003.3.4.4, Air space.

a. A minimum of one foot of air space shall be provided above the static water level.

15. Add section 1003.3.4.5, Venting.

a. A gravity grease interceptor outlet shall be properly vented in accordance with this section to prevent it from siphoning itself out. Any internally vented outlet line shall have the vent terminal extended to within 2 inches of the bottom of the access cover to prevent grease from escaping the gravity grease interceptor through the open vent terminal. For those gravity grease interceptors having a gasketed cover, the gravity grease interceptor outlet line shall not be allowed to be internally vented. In this case, the outlet line itself shall be vented with a minimum 2-inch vent installed in accordance with Chapter 9 of this code.

16. Add section 1003.3.4.6, Water seal.

a. On un baffled single compartment gravity grease interceptors, a 90° ell shall be used on the inlet and shall terminate 6 inches below the static water level. On baffled

single compartment gravity grease interceptors, a baffle wall shall be placed between the inlet and outlet. The inlet shall discharge into the gravity grease interceptor at a level at least 6 inches below the top of the baffle wall.

17. Add section 1003.3.4.7, Minimum horizontal distance.

a. The minimum horizontal distance between the inlet and outlet piping in the gravity grease interceptor shall be 24 inches.

18. Add section 1003.3.4.8, Access/Covers.

a. Access from the top of the gravity grease interceptor shall be provided by an easily removable cover above an access opening for proper maintenance. Additional access opening/covers shall be provided as necessary to provide accessibility to each compartment in multi-compartment or multi-baffled arrangements as well as access to both the inlet and outlet. Access opening covers shall be above or at grade (G) to provide ready accessibility. Each access cover shall be designed so that it cannot slide, rotate, or flip when properly installed in order that the opening is not unintentionally exposed. Especially for lightweight covers, mechanical fasteners are recommended to augment the safety of and ensure positive closure of the cover.

19. Amend section 1003.3.5, Minimum required liquid holding capacity.

a. In all instances of new construction, change of occupancy classification or use of the property, a gravity grease interceptor or hydro-mechanical grease interceptor meeting the minimum capacity as required by this Section of the Code shall be installed. The minimum required capacity (volume) of the grease interceptor shall be determined based upon the maximum number of persons served during the largest meal period in accordance section 1003.3.5.1 or 1003.3.5.2 of this code.

20. Add section 1003.3.5.1, Without garbage grinder.

a. The minimum capacity for applications without a garbage grinder shall not be less than 125 gallons below the static water level. This capacity is sufficient to hold the flow from one meal long enough to accomplish proper grease separation when serving up to 50 people during a single meal period. When over 50 people are served during a single meal period, the minimum capacity shall be increased beyond 125 gallons based upon at least an additional 2 1/2 gallons per person beginning with the 51st person served and greater.

21. Add section 1003.3.5.2, With garbage grinder.

a. When a garbage grinder is connected, the minimum capacity shall not be less than 500 gallons below the static water level. This capacity is sufficient to hold the flow from one meal long enough to accomplish proper grease separation when serving up to 50 people during a single meal period. When a garbage grinder is connected and over 50 people are served during a single meal period, the minimum capacity shall be increased beyond 500 gallons based upon at least an additional 2 1/2 gallons per person beginning with the 51st person served and greater.

i. Exception:

(a). At the discretion of the local jurisdictional code official, a smaller, point of use type hydro-mechanical grease interceptor or automatic grease removal device may be permissible when:

(i). a concrete slab would have to be broken at an existing building or facility for the proper installation of a grease interceptor; or

(ii). an outside, unpaved area surrounding an existing building where a grease interceptor could be installed is available; however, it is determined that the area is located further than 75 feet from the plumbing fixtures that the grease interceptor would be servicing; or

(iii). the local jurisdictional code official determines that the installation is unfeasible such as when servicing a kitchen located on the upper floors of a multistoried building; or

(iv). the local jurisdictional code official determines that minimal fat, oil and grease will be produced or introduced into the sanitary drainage system based on the menu and mode of operation of the facility (i.e., snowball stands, sandwich shops, or other similar facilities with low grease production and which utilize single-service tableware and hollowware including forks, knives, spoons, plates, bowls, cups, and other serving dishes).

(b). In these instances, listed under the exception, the minimum required size of the hydromechanical grease interceptor shall be determined based upon fixture discharge rate (gpm) and grease retention capacity (pounds) in accordance with PDI G101 or ASME A 112.14.3. Automatic grease removal devices shall be sized in accordance with ASME A112.14.4. In no case shall a grease interceptor or automatic grease removal device be installed which has an approved rate of flow of less than 20 gallons per minute.

22. Amend section 1003.10, Access and maintenance of interceptors and separators.

a. Access shall be provided to each interceptor and separator for service and maintenance. A two-way cleanout shall be provided on the discharge waste line immediately downstream of all interceptors and separators. Interceptors and separators shall be maintained by periodic removal of accumulated grease, scum, oil, or other floating substances and solids deposited in the interceptor or separator.

K. Amend Chapter 11, Storm Drainage.

1. Amend section 1101.2, Where required.

a. All roofs, paved areas, yards, courts and courtyards shall drain into a separate storm sewer system or to an approved place of disposal. For one- and two-family dwellings, and where approved, storm water is permitted to discharge onto flat areas, such as streets or lawns, provided that the storm water flows away from the building.

2. Amend section 1101.3, Prohibited drainage.

a. Storm water shall not be drained into sewers intended for sewage only.

i. Exception:

(a). Liquid waste from the cleaning operation and from the leakage of garbage containers and dumpsters holding putrescible wastes shall be disposed of as sewage. Methods used for this disposal shall prevent rainwater and runoff from adjacent areas from entering the sanitary sewerage system (i.e., dumpster pads may be elevated or curbed, enclosed or covered). When determined by the code official that liquid wastes or putrescible wastes contain fats, oils or grease (or, for new establishments, will likely contain fats, oils, or grease in the future), an approved grease interceptor shall be installed in the waste line in accordance with section 1003 of this code.

3. Amend section 1102.2, Inside storm drainage conductors.

a. Inside storm drainage conductors installed above ground shall conform to one of the standards listed in Table 702.1. Plastic piping shall be schedule 40.

4. Amend section 1102.3, Underground building storm drain pipe.

a. Underground building storm drain pipe shall conform to one of the standards listed in Table 702.2. Plastic piping shall be schedule 40.

5. Delete section 1103.1.

6. Delete section 1103.2.

7. Delete section 1103.3.

8. Delete section 1103.4.

9. Amend section 1104.2, Combining storm with sanitary drainage prohibited.

a. The sanitary and storm drainage systems of a structure shall be entirely separate.

10. Amend section 1106.2, Vertical conductors and leaders.

a. Vertical conductors and leaders shall be sized for the maximum projected roof area, in accordance with Table 1106.2(1) and Table 1106.2(2). If a vertical offset is 45 degrees or less, the leader can be sized as a vertical pipe. If the offset is greater than 45 degrees, the pipe must be sized as a horizontal pipe.

11. Delete section 1109.1.

12. Amend section 1113.1, Building subdrains.

a. Building subdrains located below the public storm sewer level shall discharge into a sump or receiving tank, the contents of which shall be automatically lifted and discharged into the gravity storm drainage system as required for building sumps. The sump and pumping equipment shall comply with section 1114.1.

L. Amend Chapter 13, Gray Water Recycling Systems.

1. Amend section 1301.1, Scope.

a. Gray water recycling systems shall only be considered on an individual basis and plans and specifications for any proposed gray water recycling system shall be submitted to the local jurisdictional code official for review and approval prior to construction. Such plans and specifications shall be appropriately sealed and signed by a Louisiana Registered Professional Engineer. Potable makeup water supply lines shall be protected against backflow by an air gap or reduced pressure principal backflow prevention assembly. The provisions of Chapter 13 shall govern the materials, design, construction and installation of gray water systems for flushing of water closets and urinals and for subsurface landscape irrigation. See Figures 1301.1(1) and 1301.1(2).

M. Amend Chapter 14, Referenced Standards.

1. Amend CSA Referenced Standard.

a. B64.10.1-07 Maintenance and Field testing of Backflow Prevention devices section 312.10.2

b. B64.10-94 Manual for the Selection, Installation, Maintenance and Field testing of Backflow Prevention Devices (not including Part 6 (Maintenance and Field Testing) section 608.16 and section 618.2

N. Add and reserve Chapter 15 for future use.

O. Add Chapter 16, Travel Trailer and Mobile/Manufactured Home Parks.

1. Add the following definitions:

Dependent Travel Trailer—a travel trailer not equipped with a water closet.

Drain Hose—the approved type hose, flexible and easily detachable, used for connecting the drain outlet on a travel trailer to a sewer inlet connection.

Drain Outlet—the lowest end of the main drain of a travel trailer itself to which a drain hose is connected.

Independent Travel Trailer—a travel trailer equipped with a water closet and a bath or shower.

Inlet Coupling—the terminal end of the branch water line to which the mobile/manufactured home or travel trailer's water service connection is made. It may be a swivel fitting or threaded pipe end.

Intermediate Waste Holding Tank (travel trailers only)—an enclosed tank for the temporary retention of water-borne waste.

Mobile/Manufactured Home—a prefabricated home built on a permanent chassis which can be transported in one or more sections and is typically used as a permanent dwelling. Manufactured homes built since 1976 are built to the Manufactured Home Construction and Safety Standards (HUD Code) and display a HUD certification label on the exterior of each transportable section.

Park or Mobile/Manufactured Home Park or Travel Trailer Park—any lot, tract, parcel or plot of land upon which more than one travel trailer and/or mobile/manufactured homes parked for the temporary or permanent use of a person or persons for living, working or congregating.

Park Drainage System—the entire system of drainage piping within the park which is used to convey sewage or other wastes from the mobile/manufactured home or travel trailer drain outlet connection, beginning at its sewer inlet connection at the mobile/manufactured home or travel trailer site, to a community sewerage system, a commercial treatment facility, or an individual sewerage system.

Park Water Distribution System—all of the water distribution piping within the park, extending from the water supply system or other source of supply to, but not including, the mobile/manufactured home or travel trailer's water service connection, and including branch service lines, fixture devices, service buildings and appurtenances thereto.

Service Building—a building housing toilet and bathing facilities for men and women, with laundry facilities.

Sewer Inlet—a sewer pipe connection permanently provided at the travel trailer or mobile/manufactured home site which is designed to receive sewage when a travel trailer or a mobile/manufactured home is parked on such site. It is considered the upstream terminus of the park drainage system.

Travel Trailer—a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use.

Travel Trailer Sanitary Service Station—a sewage inlet with cover, surrounded by a concrete apron sloped inward to the drain, and watering facilities to permit periodic wash down of the immediately adjacent area, to be used as a disposal point for the contents of intermediate waste holding tanks of travel trailers.

Water Service Connection—as used in conjunction with mobile/manufactured homes and travel trailers, the water pipe connected between the inlet coupling of the park water distribution system and the water supply fitting provided on the mobile/manufactured home or travel trailer itself.

2. Add section 1601, General.

a. Add section 1601.1, Scope.

i. The requirements set forth in this Chapter shall apply specifically to all new travel trailer and mobile/manufactured home parks, and to additions to existing parks as herein defined, and are to provide minimum standards for sanitation and plumbing installation within these parks, for the accommodations, use and parking of travel trailers and/or mobile/manufactured homes.

b. Add section 1601.2, Governing Provisions.

i. Other general provisions of this code shall govern the installation of plumbing systems in travel trailer and mobile/manufactured home parks, except where special conditions or construction are specifically defined in this Chapter.

c. Add section 1601.3, Sewage collection, disposal, treatment.

i. Travel trailers or mobile/manufactured homes shall not hereafter be parked in any park unless there are provided plumbing and sanitation facilities installed and maintained in conformity with this code. Every travel trailer and mobile/manufactured home shall provide a gastight and watertight connection for sewage disposal which shall be connected to an underground sewage collection system discharging into a community sewerage system, a commercial treatment facility, or an individual sewerage system which has been approved by the state health officer.

d. Add section 1601.4, Travel trailer sanitary service station.

i. At least one travel trailer sanitary service station shall be provided in all travel trailer parks that accept any travel trailers having an intermediate waste holding tank. The water supply serving the sanitary service station shall be protected against backflow by a reduced pressure principle backflow prevention assembly meeting the requirements of section 608 of this code.

e. Add section 1601.5, Materials.

i. Unless otherwise provided for in this Chapter, all piping fixtures or devices used in the installation of drainage and water distribution systems for travel trailer parks and mobile/manufactured home parks shall conform to the quality and weights of materials prescribed by this code.

f. Add section 1601.6, Installation.

i. Unless otherwise provided for in this Chapter, all plumbing fixtures, piping drains, appurtenances and appliances designed and used in the park drainage, water distribution system, and service connections shall be installed in conformance with the requirements of this code.

g. Add section 1601.7, Maintenance.

i. All devices or safeguards required by this Chapter shall be maintained in good working order by the owner, operator, or lessee of the travel trailer park or his designated agent.

3. Add section 1602, Service Buildings.

a. Add section 1602.1, Service buildings for independent travel trailers.

i. Each travel trailer park which serves only independent travel trailers shall have at least one service building to provide necessary sanitation and laundry facilities. Each mobile/manufactured home park which also serves one or more independent travel trailers (in addition to mobile/manufactured homes) shall have at least one service building to provide necessary sanitation and laundry facilities. When a service building is required under this Section, it shall have a minimum of one water closet, one lavatory, one shower or bathtub for females and one water closet, one lavatory, and one shower or bathtub for males. In addition, at least one laundry tray or clothes washing machine and one drinking fountain located in a common area shall be provided.

(a). Exception:

(i). Temporary (6 months) travel trailers residing in mobile home parks and or where more than one travel trailer resides for the purpose of employment and or hardships, may be exempted by the local jurisdiction building official from 1602.1.

b. Add section 1602.2, Service building for dependent travel trailers.

i. The service building(s) in travel trailer or mobile/manufactured home parks that also accommodate dependent travel trailers shall have a minimum of two water closets, one lavatory, one shower or bathtub for females, and one water closet, one lavatory, one urinal, and one shower or bathtub for males. In addition, at least one laundry tray or clothes washing machine and one drinking fountain located in a common area shall be provided. The above facilities are for a maximum of ten dependent travel trailers. For every ten additional dependent travel trailers (or any fraction thereof) the following additional fixtures shall be provided: One laundry tray or clothes washing machine, one shower or bathtub for each sex, and one water closet for females. Also, one additional water closet for males shall be provided for every 15 additional dependent travel trailers (or any fraction thereof).

c. Add section 1602.3, Service building design requirements.

i. Each service building shall conform to sections 1302.3.1 through 1302.3.3 of this code.

d. Add section 1302.3.1, Construction.

i. Every service building shall be of permanent construction with an interior finish of moisture resistant material which will stand frequent washing and cleaning and the building shall be well-lighted and ventilated at all times.

e. Add section 1602.3.2, Fixture separation.

i. The laundry tray(s) and/or clothes washing machine(s) and drinking fountain(s) shall be located in a common area. None of these fixtures shall be located within any toilet room. Each water closet, tub and/or shower shall be in separate compartments with self-closing doors on all water closet compartments. The shower stall shall be a minimum of 3 x 3 feet (914 x 914 mm) in area, with a dressing compartment.

f. Add section 1602.3.3, Floor drains.

i. A minimum 2-inch floor drain protected by and approved trap primer shall be installed in each toilet room and laundry room.

4. Add section 1603, Park Drainage System.

a. Add section 1603.1, Separation of water and sewer lines.

i. The sewer main and sewer laterals shall be separated from the park water service and distribution system in accordance with section 603.2 of this code.

b. Add section 1603.2, Minimum size pipe.

i. The minimum size pipe in any mobile/manufactured home park or travel trailer park drainage system shall be 4 inches. This includes branch lines or sewer laterals to individual travel trailers and mobile/manufactured homes.

c. Add section 1603.3, Fixture units.

i. Each mobile/manufactured home and travel trailer shall be considered as 6 fixture units in determining discharge requirements in the design of park drainage and sewage disposal systems.

d. Add section 1603.4, Sewage disposal/treatment.

i. The discharge of a park drainage system shall be connected to a community sewerage system. Where a community sewerage system is not available, an approved commercial treatment facility or individual sewerage system shall be installed in accord with the requirements of LAC 51:XIII (Sewage Disposal).

e. Add section 1603.5, Manholes and cleanouts. Manholes and/or cleanouts shall be provided and constructed as required in Chapter 7 of this code. Manholes and/or cleanouts shall be accessible and brought to grade.

f. Add section 1603.6, Sewer inlets.

i. Sewer inlets shall be 4-inch diameter and extend above grade (G) 3 to 6 inches (76 to 152 mm). Each inlet shall be provided with a gas-tight seal when connected to a travel trailer or mobile/manufactured home and have a gas-tight seal plug for use when not in service.

g. Add section 1603.7, Drain connections.

i. Drain connections shall slope continuously downward and form no traps. All pipe joints and connections shall be installed and maintained gastight and watertight.

h. Add section 1603.8, Waste.

i. No sewage, waste water, or any other effluent shall be allowed to be deposited on the surface of the ground.

i. Add section 1603.9, Testing the park drainage system.

i. Upon completion and before covering, the park drainage system shall be subjected to a static water test performed in accordance with section 312 of this code.

5. Add section 1604, Water Supply and Distribution System.

a. Add section 1604.1, General.

i. Every mobile/manufactured home and travel trailer site shall be provided with an individual branch water service line delivering potable water.

b. Add section 1604.2, Water service lines.

i. Water service lines to each travel trailer site shall be sized to provide a minimum of 8 gpm (0.505 L/s) at the point of connection with the trailer's water distribution system. Water service lines to each mobile/manufactured home site shall be sized to provide a minimum of 17 gpm (1.1 L/s) at the point of connection with the

mobile/manufactured home's water distribution system. All water service lines shall be a minimum of ¾ inch. A separate service shutoff valve shall be installed on each water service line. In instances where a backflow prevention device or assembly is installed on the water service line (see section 608.16.23), the shutoff valve shall be located on the supply side of the device or assembly.

c. Add section 1604.3, Water Service Connections.

i. The water service connection from the water service line to the mobile/manufactured home or travel trailer site shall be not less than 1/2-inch diameter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1) and Act836 of the 2014 of the Regular Louisiana Legislative Session. .

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), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2386 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:

Jason Starnes
Chief Administrative Officer

1610#007

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Gray Triggerfish Recreational Closure

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use 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 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, the secretary hereby declares:

The recreational fishery for gray triggerfish in Louisiana waters will close at 12:01 a.m. on September 29, 2016 and shall remain closed until 12:01 a.m. on January 1, 2017, at which time the recreational fishery for gray triggerfish will reopen. Effective with this closure, no person shall recreationally harvest or possess gray triggerfish whether within or without Louisiana waters.

The secretary has been notified by NOAA Fisheries that the recreational season for gray triggerfish in federal waters

of the Gulf of Mexico off of Louisiana will remain closed until 12:01 a.m. January 1, 2017. Compatible season regulations in state waters are preferable to provide effective rules and efficient enforcement for the fishery, and to prevent overfishing of the species in the long term.

Charles J. Melancon
Secretary

1610#049

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Greater Amberjack Recreational Closure

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use 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 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, the secretary hereby declares:

The recreational fishery for greater amberjack in Louisiana waters will close on 12:01 a.m. on September 29, 2016 but shall remain closed until 12:01 a.m. on January 1, 2017, at which time the recreational fishery for greater amberjack will reopen. Effective with this closure, no person shall recreationally harvest or possess greater amberjack whether within or without Louisiana waters.

The secretary has been notified by NOAA Fisheries that the season in federal waters of the Gulf of Mexico off of Louisiana will remain closed until 12:01 a.m. January 1, 2017. Compatible season regulations in state waters are preferable to provide effective rules and efficient enforcement for the fishery, and to prevent overfishing of the species in the long term.

Charles J. Melancon
Secretary

1610#050

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Season (2016/2017) Calcasieu Lake, Chenier Reef, and Sabine Lake

In accordance with the emergency provisions of the Administrative Procedure Act, *Louisiana Revised Statutes* (R.S.) 49:953, and under the authority of R.S. 56:435.1 and R.S. 56:435.1.1, notice is hereby given that the Wildlife and Fisheries Commission hereby declares the 2016/2017 oyster season in Calcasieu Lake and Sabine Lake as follows:

Both the East Side and West Cove portions of the Calcasieu Lake public oyster area as described in R.S. 56:435.1.1 shall open one-half hour before sunrise on November 1, 2016. However, this action shall not supersede public health closures. The following areas shall remain closed for the entire 2016/2017 oyster season:

1. the 2015 Calcasieu Lake West Cove Cultch Plant within the following coordinates:
 - a. 29 degrees 52 minutes 39.66 seconds, 93 degrees 23 minutes 42.14 seconds;
 - b. 29 degrees 52 minutes 28.94 seconds, 93 degrees 23 minutes 42.20 seconds;
 - c. 29 degrees 52 minutes 39.60 seconds, 93 degrees 23 minutes 31.92 seconds;
 - d. 29 degrees 52 minutes 29.01 seconds, 93 degrees 23 minutes 31.92 seconds;
2. the 2015 Calcasieu Lake Southeast Side Cultch Plant within the following coordinates:
 - a. 29 degrees 50 minutes 25.46 seconds, 93 degrees 17 minutes 05.83 seconds;
 - b. 29 degrees 50 minutes 19.83 seconds, 93 degrees 17 minutes 04.64 seconds;
 - c. 29 degrees 50 minutes 28.52 seconds, 93 degrees 16 minutes 51.37 seconds;
 - d. 29 degrees 50 minutes 22.86 seconds, 93 degrees 16 minutes 50.19 seconds;
3. the Cheniere Reef artificial reef planning area within the following coordinates:
 - a. 29 degrees 51 minutes 09.10 seconds, 93 degrees 17 minutes 06.96 seconds;
 - b. 29 degrees 51 minutes 09.35 seconds, 93 degrees 16 minutes 50.20 seconds;
 - c. 29 degrees 51 minutes 05.33 seconds, 93 degrees 16 minutes 46.06 seconds;
 - d. 29 degrees 50 minutes 50.72 seconds, 93 degrees 16 minutes 45.78 seconds;
 - e. 29 degrees 50 minutes 50.96 seconds, 93 degrees 17 minutes 09.62 seconds;
 - f. 29 degrees 51 minutes 05.56 seconds, 93 degrees 17 minutes 09.90 seconds;
4. the Sabine Lake public oyster area (as described in R.S. 56:435.1).

During the 2016/2017 Calcasieu Lake oyster season, the following provisions shall be in effect.

1. Any vessel from which any person(s) takes or attempts to take oysters from the Calcasieu Lake public oyster area described above shall be limited to a daily take and possession limit not to exceed 7 sacks of oysters per vessel as provided for in R.S. 56:435.1.1. A sack of oysters for the purposes of this declaration of emergency shall be defined as the size described in R.S. 56:440.
2. If any person on a vessel takes or attempts to take oysters from the Calcasieu Lake public oyster area described above, all oysters contained on that vessel shall be deemed to have been taken from said public oyster area from the time harvest begins until all oysters are off-loaded dockside.
3. Prior to leaving the Calcasieu Lake public oyster area with oysters harvested from said oyster area: all oysters must be sacked, the number of sacks shall be recorded in a log book, and each sack shall be properly tagged.

4. All vessels located in the Calcasieu Lake public oyster area during those times between one-half hour after sunset and one-half hour before sunrise shall have all oyster dredges unshackled.

The secretary of the Department of Wildlife and Fisheries is authorized to take emergency action as necessary to:

1. close areas if oyster mortalities are occurring or to delay the season or close areas where significant spat catch has occurred with good probability of survival, or if oyster resources and/or reefs are being adversely impacted, or if enforcement problems are encountered; and
2. adjust daily take and/or possession limits as biological or enforcement data indicate a need; and
3. reopen an area previously closed if the threat to the resource has ended, or may open areas if substantial oyster resources are located.

Prior to any action, the secretary shall notify the chairman of the Wildlife and Fisheries Commission of his intention to make any or all of the changes indicated above.

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

Bart R. Yakupzack
Chairman

1610#047

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Reef Fish Harvest—Recreational Red Snapper Season Re-Opening

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use 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 LAC 76:VII.335.G.5 to modify opening and closing dates of recreational red snapper harvest seasons in Louisiana state waters, the commission hereby declares:

The season for the recreational harvest of red snapper in Louisiana state waters, previously closed on September 6, 2016, shall re-open at 12:01 a.m. on October 7, 2016. Effective with this action, the season shall be open on weekends only, with a weekend defined as Friday, Saturday, and Sunday, with a bag and possession limit of 2 fish per person per day at the currently established minimum size limit in LAC 76:VII.335 of 16 inches total length. The season shall remain open until further notice.

The commission further declares that the secretary of the Department of Wildlife and Fisheries is authorized to modify the recreational season for the harvest of red snapper, upon notification to the chairman of the Louisiana Wildlife and Fisheries Commission, if monitoring data indicate that

the self-imposed state allocation of red snapper is projected to be met or is met.

Preliminary estimates of recreational red snapper landings in Louisiana from the La Creel program indicate that the department's self-imposed quota for the recreational harvest

of red snapper has not been met and there is additional opportunity for recreational harvest.

Bart R. Yakupzack
Chairman

1610#048

Rules

RULE

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

Maintenance and Inspection Fees (LAC 7:XV.Chapter 3)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of enabling statutes, R.S. 3:1604.1, R.S. 3:1652, and R.S. 3:1655, the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences and the Boll Weevil Eradication Commission have amended LAC 7:XV.301, 303 and 321 to reduce the fee paid by cotton producers for the inspection and certification of cotton for the presence of the boll weevil from \$6 per acre to \$5 per acre. Current cotton commodity prices are the lowest seen in over 10 years, thus significantly reducing farm income for cotton producers. The reduction in the maintenance inspection fee, while not affecting the quality of inspection and certification for the presence of the boll weevil, will provide some relief in input costs for cotton producers in this state.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantines

Chapter 3. Boll Weevil

§301. Maintenance Inspection Fee

A. In accordance with R.S. 3:1655(D), the state entomologist is authorized to assess fees to defray the costs of inspections or the issuance of certificates or permits for the shipment of agricultural products, commodities, packaging, or equipment. There is hereby established a fee for the inspection and certification of cotton for the presence of the boll weevil to ensure the marketability of cotton in commerce and maintain Louisiana's boll weevil-free status. The fee shall be \$5 per acre for each acre of cotton planted in the state.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 40:1517 (August 2014), LR 42:1644 (October 2016).

§303. Definitions Applicable to Boll Weevil

A. The words and terms defined in R.S. 3:1603 are applicable to this Chapter.

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

* * *

Maintenance Inspection Fee—the fee paid by cotton producers to finance, in whole or in part, a program to inspect cotton for the presence of the boll weevil in the state and to issue certificates or permits in accordance with R.S. 3:1655(D). The charge to the producer is calculated at the rate of \$5 per acre for each acre of cotton planted in the state.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:17 (January 1995), amended LR 23:195 (February 1997), LR 37:2583 (September 2011), LR 40:1517 (August 2014), LR 42:1644 (October 2016).

§321. Maintenance Inspection Fees, Payment and Penalties

A. The annual maintenance inspection fee on cotton producers in the Louisiana eradication zone shall be \$5 per acre for each acre of cotton planted in the state. Each cotton producer shall pay his annual maintenance inspection fee directly to the department no later than July 15 or final certification with the FSA for that growing season, whichever is later. The signed and completed cotton acreage reporting and payment form with FSA Form 578 attached shall be submitted with the annual payment of the maintenance inspection fee.

B. - H. ...

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Boll Weevil Eradication Commission, LR 21:20 (January 1995), amended LR 21:669 (July 1995), LR 23:195 (February 1997), LR 24:2231 (December 1998), LR 25:829 (May 1999), LR 29:859 (June 2003), LR 30:1142 (June 2004), LR 30:2443 (November 2004), LR 37:2583 (September 2011), LR 40:1519 (August 2014), LR 42:1644 (October 2016).

Mike Strain, DVM
Commissioner

1610#052

RULE

Department of Agriculture Forestry Office of Agricultural and Environmental Sciences Horticulture Commission

Arborists, Utility Arborists, and Landscape Irrigation Contractors—Insurance Coverage (LAC 7:XXIX.117)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry (“department”) and the Horticulture Commission have amended LAC 7:XXIX.117 to clarify that an arborist, utility arborist and landscape irrigation contractor must maintain insurance coverage while operating in their professions. Current regulation requires an arborist, utility arborist and landscape irrigation contractor to obtain insurance prior to licensure and to show proof of insurance prior to license renewal. Although the department and Horticulture Commission have consistently interpreted the current laws and rules to require continued insurance coverage, the amendment expressly states the requirement and removes

any confusion over the requirement for ongoing, continuous insurance coverage in these professions. In addition, the Rule changes the word “must” to “shall” throughout §117 for consistency.

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 1. Horticulture

§117. Professional and Occupational Standards and Requirements

A. Retail Florist

1. Professional Standards

a. All cut flowers, ornamental plants, and living or freshly cut plant materials sold or offered for sale shall be fresh, of high quality, and free from injurious insects, diseases, and other pests. No plant material of low quality and no wilted or dead plant materials may be offered for sale to the general public or sold to a consumer except when specifically requested by the consumer.

b. Floral designs, cut flowers, ornamental plants, and living or freshly cut plant materials shall be cared for in a manner that, to the extent reasonably possible, maintains their freshness and increases their longevity.

c. Coolers where floral designs, cut flowers, ornamental plants, or living or freshly cut plant materials, are kept or stored shall be clean and maintained at a temperature conducive to prolonging the freshness of the said products kept or stored in the coolers.

d. Containers holding cut flowers or living or freshly cut plant materials shall be maintained in a manner that does not adversely affect the cut flowers or plant material. Water in containers shall be changed periodically so as to remain clean at all times.

e. Floral designs shall be prepared in a good and workmanlike manner and shall satisfy the consumer's requests that are objective in nature. All reasonable efforts should be made to satisfy the consumer's requests that are subjective in nature. All floral designs shall be constructed in such a manner as to remain intact during transportation.

f. All wires, steel picks, corsage pins, and other sharp objects employed in the construction of a floral design shall be used in a manner that will maintain the integrity of the floral design while minimizing the risk of injury to any person handling the floral design.

g. Compliance with equivalent procedures and techniques set forth in James L. Johnson, William J. McKinley, Jr. and M. Buddy Benz, *Flowers: Creative Design* (San Jacinto Publishing Co., 7th ed., 2001; distributed by Texas A and M Univ. Press) will establish a rebuttable presumption of compliance by the licensee with these professional standards.

2. Requirements

a. Retail florist shops that lose their licensed florist will be granted a grace period of 90 days of operating without the services of a full-time licensed florist. This grace period shall end 90 days from that date. The purpose of this grace period is to provide the florist shop an opportunity to employ a licensed person. This grace period can only be used once in a 12-month period. Retail florist shops shall cease to engage in the profession of retail florist after the grace period has been exhausted. In the event a retail florist shop, despite reasonable prevention efforts, loses its only or

only remaining regularly employed licensed retail florist, the florist shop shall replace the regularly employed licensed retail florist as soon as possible but in no event more than 90 days from the first day the retail florist shop operated without a regularly employed licensed retail florist. Notwithstanding the foregoing, no retail florist shop shall operate without a regularly licensed retail florist for more than a total of 90 days in any 12-month period that follows the first day of operation without a regularly employed licensed retail florist.

b. Retail florists may rent potted ornamental plants for special events such as weddings, conventions, trade shows, etc., if such plants are normally and customarily sold by florists and such plants do not require maintenance, other than normal watering. Plants rented by retail florists for a special event shall be rented only for the duration of that special event.

B. Landscape Architect

1. Without good cause, all designs shall make use of plant materials commonly found growing in Louisiana or which are suitable for growth in Louisiana's growing conditions.

2. Licensees shall meet the standards established by the Council of Landscape Architects Registration Board.

3. Each landscape architect shall obtain a seal of the design authorized by the commission. The seal shall be placed on all professional documents, including contracts, maps, plans, designs, drawings, specifications, estimates and reports, issued by a licensed landscape architect for use in this state.

a. The seal required shall be circular and 1 5/8 inches in diameter. The words “State of Louisiana” shall be along the top circumference and the words “Licensed Landscape Architect” shall be along the bottom circumference. The individual's name shall be placed horizontally in the center of the field with his registration number below. Letters and figures shall be as shown on the example printed herein to insure uniformity.



b. A rubber stamp facsimile, which conforms to the official design of the seal described in §117.B.3.a of this Part, may be obtained and used in place of the seal by a licensed landscape architect.

c. The licensee shall sign his or her legal name on each document and shall then affix his or her seal over that signature. The presence of one's seal over the signature on any document constitutes proof that he or she accepts all legal and professional responsibility for the work accomplished. The seal shall be used only by the licensee responsible to this commission for authorship of the documents thus identified. No person other than the licensee represented shall use or attempt to use the prescribed seal, and no unlicensed person shall be authorized to use the prescribed seal. Authorized use of the prescribed seal is an individual act whereby the licensee shall personally inscribe

the seal over his or her signature. The licensee is responsible for the security of the seal when not in use.

4. All designs and specifications utilizing sod shall specify the type and class of sod to be used as provided in §115.D of this Part and accompanied by the sod classification form specified by the commission.

5. Continuing Education Requirements

a. Compliance with these continuing education requirements is necessary for a landscape architect ("licensee") to maintain a landscape architect license in this state.

b. The commission shall administer the continuing education requirements through a standing continuing education committee consisting of not more than two staff members and at least three licensed Louisiana landscape architects elected by mail ballot. The landscape architects on the committee will each serve a term of two years. The call for nominations and balloting for committee service will be conducted concurrent with annual balloting for members of the Louisiana Landscape Architects Selection Board.

c. A licensee shall attend, or complete an approved substitute for attendance, a minimum of 8 credit hours of continuing education within each calendar year. If more than 8 credit hours are obtained during a calendar year, a licensee may carry over a maximum of 4 credit hours from one calendar year to the next. Any credit hours carried over into a following calendar year shall apply to that year only and may not be carried forward into subsequent years. A credit hour shall contain at least 50 minutes of actual instruction or education.

d. Activities that may be approved for continuing education credits shall contain instructional or educational components. Such activities include annual professional meetings, lectures, seminars, workshops, conferences, university or college courses, in-house training, and self-directed activities. The commission's staff shall make the initial determination as to whether an activity qualifies for continuing education credit. If the commission's staff determines that an activity may not qualify, that activity request will be automatically forwarded to the continuing education committee for review and the committee's determination. Any licensee or other applicant for approval of an activity may appeal any committee rejection of an activity for continuing education credit to the commission. However, the commission retains the right to review and approve or disapprove any activity as a qualifying continuing education activity and the number of credit hours arising from such activity, even if there is no appeal. Any appeal from any decision of the commission shall be taken in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.).

e. A licensee shall keep all records showing attendance, or completions of an approved substitute for attendance, at continuing education activities for three years following the year in which attendance or completion was done.

f. Each licensee shall annually submit a written certification signed by the licensee that the licensee has, during that calendar year, attended, or completed an approved substitute for attendance, the number of credit hours stated in the certification. If credit hours carried over from the previous year are being used as a substitute for

attendance then the certification shall state the number of carried over credit hours that are being used. The certifications shall be attached to the licensee's annual license renewal application. Any renewal application received without this certification shall not be processed for license renewal and the license fees submitted with the application shall be refunded to the licensee.

g. The commission shall cause an annual audit of licensees to be conducted. Licensees shall be selected for audit either by cross-section of licensees or by random audit. The provisions of this subsection notwithstanding, an investigation of a licensee for possible violation of these continuing education requirements may be conducted if there is reason to believe that a violation may have occurred. Licensees selected for audit will be required to provide documented proof of their having obtained the continuing education credits for the year being audited. A licensee's failure to provide documented proof of having attended, or completed an approved substitute for attendance, for each credit hours certified for the year being audited shall be a violation of this Part. In the event that a licensee provides documented proof of having attended, or undertaken an approved substitute for attendance, any credit hour certified for the year being audited and such credit hour is disallowed then the licensee shall have six months from date of notification of the disallowance to attend, or complete an approved substitute for attendance, a sufficient number of approved credit hours to make up for the disallowed credits. The credit hours attended to make up for any disallowed credit hours shall not count toward the minimum credit hours needed for any other year. Failure to timely make up for the disallowed credit hours shall be deemed a violation of this Part. An appeal from a disallowance of any credit hour may be taken as provided in Subparagraph d of this Paragraph.

h. A licensee may submit a written request for an approved substitute for attendance or for a hardship exemption or extension of time in which to obtain the minimum credit hours for the year in which the request is made. The licensee shall detail the reason for the request, such as the benefit of any substitution, any physical disability, illness, or extenuating circumstance, and a specification of the requested substitute for attendance, including number of credit hours, course of study, etc. The licensee shall also provide any additional information asked for in consideration of the request.

C. Wholesale Florist

1. All flowers or greenery sold or offered for sale shall be fresh and of high quality. No wilted or dead plant materials may be offered for sale to persons holding the proper license or permits.

2. All nursery stock sold or offered for sale shall be fresh and of high quality and free from injurious insects, diseases, and other pests. No low quality plant materials may be offered for sale.

3. Coolers from which cut flowers or greenery are sold, or in which cut flowers or greenery are stored prior to sale, shall be kept clean at all times. Water in containers shall be changed regularly and kept clean at all times.

D. Landscape Horticulturist

1. Any nursery stock used in landscaping, leased, or sold, or offered for use in landscaping, lease, or sale, shall be

of high quality and free from injurious insects, diseases, and other pests. Nursery stock which is leased shall be maintained in high quality and free from injurious insects, diseases, and other pests.

2. All plant beds shall be properly prepared and shall allow for proper drainage.

3. All recommendations and maintenance and planting practices shall incorporate sound horticultural practices.

4. All sod installed, sold, or recommended shall be classified as provided in §115.D of this Part.

5. Recommendations and maintenance and planting practices shall meet the standards outlined in *The Louisiana Manual for the Environmental Horticulture Industry (April 2014 ed.)* published by the Louisiana Nursery and Landscape Association.

6. Landscape horticulturists who prepare drawings to indicate the planting and location and arrangement of plant materials by that landscape horticulturist shall place his name, the words "Landscape Horticulturist," and his license number on each drawing prepared by him. Drawings prepared by a landscape horticulturist may be used only by that landscape horticulturist and no one else in connection with the submission of a bid proposal.

7. Licensees shall display their license at all times in a location accessible to the general public or any representative of the commission.

E. Arborist

1. Licensees may not use climbing irons in any trees which are not to be removed except as provided §117.E.3 of this Part hereof.

2. Before the commission issues an arborist's license, the person to be licensed shall first furnish to the commission the following:

a. a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant for personal injuries and property damages, providing for not less than \$25,000 per person for personal injuries and not less than \$50,000 for property damages, both limits applicable to each separate accident, provided that the commission may waive the requirement for the stated insurance coverages for any licensed arborist who does not physically work on trees or accept responsibility for work on trees but only provides consultation with respect to work on trees. The certificate of insurance shall provide for 30 days' written notice to the commission prior to cancellation.

b. Failure to maintain the required insurance may constitute a violation of this Part.

3. When the characteristics of a tree require the use of climbing irons, the licensee may use climbing irons but only with the prior written permission of the owner of the tree.

4. Licensees shall enter into a written contract with the property owner employing him for arboricultural work, which contract shall specify the services to be performed and the sum to be paid for the services. Both parties shall receive a copy of the contract.

5. Licensees may apply pesticides only for the purposes of retarding decay or disease. See also §119.A of this Part relative to application of pesticides.

6. Licensees engaged in the feeding of trees shall follow proper fertilizer schedules and rates according to label directions. Representatives of the commission may

take a sample of the nutrients applied during any tree feeding operation for the purpose of verifying its chemical analysis.

7. Licensees shall display their license at all times in a location accessible to the general public or any representative of the commission.

8. Prior to renewal of an arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.

9. Recommendations and pruning practices shall meet the standards outlined in the *Arborists' Certification Study Guide (3rd ed. 2010)* published by the International Society of Arboriculture.

F. Nursery Stock Dealer

1. All nursery stock sold or offered for sale shall be fresh and of high quality and shall be free from injurious insects, diseases, and other pests. No low quality plant materials may be offered for sale to the general public.

2. All indoor nursery stock offered for sale shall be displayed or offered for sale under the protection of some type of covering, such as inside a building or under a carport, tent, or canopy, which will protect such plant material from exposure to sun, wind, or rain.

3. A clean source of water shall be provided at all times when plants are offered for sale.

4. Nursery stock dealers operating from a mobile unit shall not sell nursery stock within 300 feet of a place of business that holds a nursery stock dealer's permit, nursery certificate permit, horticulture service license, retail florist license or a wholesale florist license.

5. The permit holder shall display his permit at all times in a location accessible to the general public or any representative of the commission.

6. All sod sold shall be classified as provided in §115.D of this Part.

G. Cut Flower Dealer

1. All flowers or greenery offered for sale shall be fresh and of high quality. No wilted or dead plant materials may be offered for sale to the general public, save and except when specifically requested by consumer.

2. A clean source of water shall be provided for all flowers or greenery that are offered for sale. Water in containers shall be changed regularly and kept clean at all times.

3. The permit holder shall display his decal and/or permit at all times in a location accessible to the general public or any representative of the commission.

4. The restriction against a cut flower dealer locating within 300 feet of an established retail florist shall not apply to cut flower dealers in permanent locations. In addition, cut flower dealers operating from a mobile unit shall not sell cut flowers, within 300 feet of place of business that holds a cut flower dealer's permit.

H. Utility Arborist

1. Licensees may not use climbing irons in any trees which are not to be removed except in remote utility rights-of-way that are inaccessible to tree trimming equipment where no other practical means of trimming the tree is available or as provided in §117.E.3 of this Part.

2. Before the commission issues a utility arborist license, the person to be licensed shall first furnish to the

commission a certificate of insurance as provided in §117.E.2 of this Part.

a. Failure to maintain the required insurance may constitute a violation of this Part.

3. Licensees shall make their license available to the public or any representative of the commission at all times.

4. Prior to renewal of a utility arborist license, the licensee shall provide the commission with certifiable evidence of completion of a continuing training seminar which was previously approved by the commission.

5. Recommendations and pruning practices shall meet the standards outlined in the International Society of Arboriculture Certification Manual (3rd ed. 2010) and Best Management Practices—Utility Pruning of Trees (rev. or copyright date 2004), a publication by the International Society of Arboriculture.

I. Landscape Irrigation Contractor

1. Before the commission issues a landscape irrigation contractor license the person to be licensed shall first furnish to the commission a certificate of insurance, written by an insurance company authorized to do business in Louisiana, covering the public liability of the applicant, as a licensee, for personal injuries and property damages. The insurance policy shall provide for not less than \$25,000 per personal injuries and not less than \$50,000 for property damages, both limits applicable to each separate accident. The certificate of insurance shall provide for 30 days' written notice to the commission prior to cancellation. The commission may, however, waive the requirement for the stated insurance coverage for any licensed landscape irrigation contractor who does not physically work on landscape irrigation systems or accept responsibility for work on landscape irrigation systems but only provides consultation or other associated services with respect to landscape irrigation systems or the work performed on such systems.

2. Failure to maintain the required insurance may constitute a violation of this Part.

3. Licensees are required to attend and complete a commission approved continuing training seminar at least once every three years. Each licensee, prior to renewal of his or her license, shall provide the commission with certifiable evidence that the licensee has timely and successfully completed such a seminar.

4. Licensed landscape irrigation contractors shall enter into a written contract with the property owner, specifying the landscape irrigation services to be performed and the sum to be paid for the services. The contract shall include the following statement: "Any complaints regarding landscape irrigation installation should be directed to the Louisiana Horticulture Commission at (225) 952-8100." Both parties shall receive a copy of the contract.

5. Licensees shall display their license at all times in a location accessible to the general public or any representative of the commission.

6. The following clarifications apply to licensed landscape irrigation contractors.

a. A licensed landscape irrigation contractor is not required to have a water supply protection specialist endorsement from the state Plumbing Board in order to install an irrigation system up to the point of connecting the irrigation system to a public or private water supply system or installing a backflow prevention device.

b. A licensed landscape irrigation contractor shall also have a water supply protection specialist endorsement from the state Plumbing Board before connecting any irrigation system to a public or private water supply system or installing a backflow prevention device, pursuant to R.S. 3:3808(P)(4) and (5).

c. A governing authority, such as a parish or municipality, shall issue all necessary permits, including necessary electrical permits, to a licensed landscape irrigation contractor who does not hold a water supply protection specialist endorsement for the installation of an irrigation system, except for those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.

d. A governing authority, such as a parish or municipality shall issue all necessary permits to a licensed landscape irrigation contractor who holds a water supply protection specialist endorsement from the state Plumbing Board for the installation of an irrigation system, including necessary electrical permits and those permits that would allow such a licensed landscape irrigation contractor to connect the irrigation system to a public or private water supply system or install a backflow prevention device.

e. A licensed landscape irrigation contractor who also holds a water supply protection specialist endorsement from the state Plumbing Board is required by R.S. 3:3816(6) to install backflow prevention devices in accordance with ordinances adopted by local governing authorities, such as parishes and municipalities, regulating the installation of backflow prevention devices. If a local governing authority does not have an ordinance regulating the installation of backflow prevention devices, such devices shall be installed in accordance with the requirements of LAC 51, Part XIV (Plumbing) of the *Sanitary Code*, state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended LR 9:410 (June 1983), LR 11:317 (April 1985), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:8 (January 1988), LR 20:640 (June 1994), LR 27:1832 (November 2001), LR 31:1054 (May 2005), LR 32:78 (January 2006), LR 32:1010 (June 2006), LR 33:1854 (September 2007), LR 53:1228 (July 2009), LR 36:2520 (November 2010), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Horticulture Commission, LR 42:1645 (October 2016).

Mike Strain, DVM
Commissioner

1610#054

RULE

**Department of Agriculture and Forestry
Office of Agro-Consumer Services
Division of Weights and Measures**

**Weights and Measures Fee Structure and Registration
(LAC 7:XXXV.125 and 127)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry (“department”), through the Office of Agro-Consumer Services and the Division of Weights and Measures has amended LAC 7:XXXV.125 and 127. The rules create a new category of devices called “mass flow meters.” Mass flow meters were registered with the department as a class 3 scale and the fee for registering the device was \$185. Mass flow meters are not actually scales and should have their own category. The amendment to LAC 7:XXXV.125 has created a new fee for registration of mass flow meters based on the internal diameter of the meter tube. Under the Rule, mass flow meters will be separated into two classes: those with tubes whose internal diameter is 2 inches or more and those with tubes that are less than 2 inches.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 1. Weights and Measures

§125. Weights and Measures Fee Structure

A. - G. ...

H. The annual fee for registration of mass flow meters will be based on the internal diameter of the meter tube.

Class	Internal Tube Diameter	Fee
1	Less than 2 inches	\$80
2	2 inches or greater	\$185

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4608 and 3:4622.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 19:1534 (December 1993), amended LR 23:857 (July 1997), LR 30:1142 (June 2004), LR 42:218 (February 2016), LR 42:1649 (October 2016).

§127. Registration

A. - D.4. ...

E. Mass flow meters shall be registered according to the following criteria:

1. make;
2. model;
3. serial number;
4. internal tube diameter in inches; and
5. intended use.

F. A late fee of \$25 will be assessed for each device, the maximum penalty of \$100 per outlet, when the application is submitted after December 31.

G. A late fee of \$25 will be assessed for each new device not registered within 30 days from the date it is put into service.

H. A compound weighing device shall be considered one or more devices for the purpose of registration in accordance with the following.

1. A compound weighing device that consists of a single load receiving element and more than one indicating element shall be considered a single device when all indicating elements may be tested during the same test for the purpose of sealing the device as correct. Said device shall be considered separate devices for each separate test necessary for sealing.

2. A compound weighing device that consists of one indicating element and more than one load receiving element shall for the purpose of registration be considered a separate device for each load receiving element.

I. Applicants for registration may request application forms, verbally or in writing, from the Division of Weights and Measures of the Department of Agriculture and Forestry.

J. Each application for annual registration shall be accompanied by payment of the required fee and said registration shall be valid until December 31. To remain valid, each annual registration must be renewed before January 1. This Subsection shall not apply to the registration of taxicab meters.

K. Taxicab meters shall be registered annually with the division. Each registration shall be valid for one year from the date of issuance. Taxi meters may only be registered with the division upon completion of an inspection of the taxi meter by the department and payment of the required registration fee. The inspection period for taxicab meters for registration purposes shall occur from January 1 through June 30 each year. After June 30, inspections for registration purposes will be done by appointment only.

1. If a taxicab operates in a municipality or parish which requires a local inspection, the inspection required under this Part shall be completed no later than the month in which the taxicab’s parish, municipal, or airport inspection is due.

2. Taxicab meters inspected after June 30 will be charged a late fee of \$25 unless the late inspection is due to a meter being new, repaired, replaced, or being placed in a different vehicle.

L. Any registration obtained without complying with all of the requirements of these regulations may be voided by the division.

M. Before a device may be sealed to certify the accuracy and correctness of a device, that device must be registered with the Division of Weights and Measures of the Louisiana Department of Agriculture and Forestry.

N. In accordance with R.S. 3:4611, no one shall use a weight, measure or weighing or measuring device which has not been sealed by the division, its director, or its inspectors, at its direction, within the year prior thereto, unless written notice has been given to the division to the effect that the weight, measure or weighing or measuring device is available for examination or is due for re-examination.

O. Application for registration or renewal of registration shall fulfill the requirement of notification in Subsection L of this Section.

P. Applications for annual renewal of registration shall be mailed by the Division of Weights and Measures of the Department of Agriculture and Forestry to all registrants, at the last address provided by the registrant, on or before November 15 and must be returned before January 1.

Q. The record of all registrations shall be maintained by the Division of Weights and Measures and the director of the Division of Weights and Measures in its office in Baton Rouge.

R. Any registrant having a device registered under provisions of this regulation, and that is taken out of commercial use at the location shown on the application for registration, shall notify the commission's office in writing to remove said device from its records.

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

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

Mike Strain, DVM
Commissioner

1610#053

RULE

Department of Children and Family Services Economic Stability Section

Community Supervision Program (LAC 67:III.5573)

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 15, Temporary Assistance for Needy Families (TANF) Initiatives, Chapter 55, TANF Initiatives, Section 5573, Community Supervision Program.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) block grant, amendment of Section 5577 is necessary to clarify the program's service period and financial eligibility criteria, which must mirror eligibility rules in effect as of August 21, 1996 under the Louisiana Aid to Families with Dependent Children (AFDC) Emergency Assistance Program.

This action was made effective by an Emergency Rule effective July 1, 2016.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5573. Community Supervision Program

A. The department has an agreement with the Department of Public Safety and Corrections, Office of Juvenile Justice (DPSC-OJJ), to provide services to youth and their families as a result of an adjudication and disposition by a court that orders (DPSC-OJJ) to supervise youth in their communities in an effort to prevent removal from the home.

B. OJJ will complete an intake/assessment and develop a case plan for addressing the needs of the youth. The case plan will contain goals for all need areas and when indicated,

include referrals to community programs for both youth and parents. These referrals may include, but are not limited to:

1. case management, counseling, and in-home services;

2. parenting education and training, either in-home or out-of-home;

3. diagnostic and evaluation services provided in an attempt to make the most appropriate out-of-home placement;

4. supervision or non-residential programs for youth who remain in the home.

C. TANF eligibility is limited within any 12-month period to a single episode of need with a maximum duration of 12 months. TANF eligibility is also limited to families with income less than twice the state median income (SMI).

D. These services are TANF-eligible based on inclusion in the state's approved AFDC Emergency Assistance Program that was in effect as of August 21, 1996.

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq., R.S. 46:231, and R.S. 36:474, amended Act 18, 2007 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 29:2511 (November 2003), amended LR 31:487 (February 2005), LR 34:697 (April 2008), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:1650 (October 2016).

Marketa Garner Walters
Secretary

1610#025

RULE

Department of Children and Family Services Economic Stability Section

Income Exclusions for Public Assistance Programs (LAC 67:III.1229 and Chapter 19)

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, Section, 1229 Income; Subpart 3, Supplemental Nutritional Assistance Program (SNAP), Section 1938, Work Registration Requirements and Section 1940, Work Participation Requirements for Able-Bodied Adults without Dependents; and Subchapter I, Income and Deductions, Section 1980, Income Exclusions.

Amendment of Sections 1229 and 1980 is necessary to include grant-funded research payments as non-countable income for SNAP and cash assistance programs and to add clarification regarding the alignment of countable income across programs. Amendment of Section 1938 is necessary to comply with 7 CFR 273.7. Amendment of Section 1940 is necessary to clarify the individuals who are exempt from work participation requirements.

Pursuant to Louisiana's Temporary Assistance for Needy Families (TANF) block grant and to the authority granted to the department by the Food and Nutrition Services (FNS), the department considers these amendments necessary to clarify the programs' eligibility rules regarding income exclusions and work participation requirements. Excluding

grant-funded research payments as countable income allows families to participate in studies without negatively impacting their public assistance benefits. Excluding some types of income not countable by cash assistance programs ensures fairness in eligibility determinations for SNAP applicants and recipients. Aligning countable income across programs also allows for consistency and aids staff in making accurate eligibility determinations.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 2. Family Independence Temporary Assistance Program

Chapter 12. Application, Eligibility, and Furnishing Assistance

Subchapter B. Conditions of Eligibility

§1229. Income

A. Income is any gain or benefit to a household that has monetary value and is not considered a resource. Count all income in determining pretest eligibility except income from:

1. adoption assistance;
2. earned income of a child, including a minor unmarried parent, who is in school and working toward a high school diploma, GED, or special education certificate;
3. disaster payments;
4. Domestic Volunteer Service Act;
5. earned income credits (EIC);
6. education assistance;
7. energy assistance;
8. foster care payments;
9. monetary gifts up to \$30 per calendar quarter;
10. agent orange settlement payments;
11. HUD payments or subsidies other than those paid as wages or stipends under the HUD Family Investment Centers Program;
12. income in-kind;
13. Indian and native claims and lands;
14. irregular and unpredictable sources;
15. lump sum payments;
16. nutrition programs;
17. job training income that is not earned;
18. relocation assistance;
19. loans;
20. supplemental security income;
21. wartime relocation of civilians payments;
22. developmental disability payments;
23. Delta Service Corps post-service benefits paid to participants upon completion of the term of service if the benefits are used as intended for higher education, repayment of a student loan, or for closing costs or down payment on a home;
24. Americorps VISTA payments to participants (unless the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage);
25. radiation exposure compensation payments;
26. payment to victims of Nazi persecution;
27. restricted income received for a person not in the assistance unit or not in the income unit. Restricted income is income which is designated specifically for a person's use

by federal statute or court order and may include RSDI, VA benefits and court ordered-support payments;

28. crime victim compensation program payments to an applicant/recipient whose assistance is necessary, in full or in part, because of the commission of a crime against the applicant, and to the extent it is sufficient to fully compensate the applicant for losses suffered as a result of the crime;

29. effective October 1, 2004 additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone;

30. effective March 1, 2006, interest income;

31. effective March 1, 2006, dividend income;

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income.

32. any payments other than wages received as a result of the Mississippi Canyon 252 well incident in the Gulf of Mexico on April 20, 2010; or

33. grant funded research payments.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 42 USC 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, and 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), LR 42:1651 (October 2016).

Subpart 3. Supplemental Nutritional Assistance Program (SNAP)

Chapter 19. Certification of Eligible Households

Subchapter G. Work Requirements

§1938. Work Registration Requirements

A. - A.4. ...

B. Determining Whether a Work Requirement Violation Occurred

1. When a household files an application for participation, or when a participating household reports the loss of a source of income, the DCFS shall determine whether any household member:

a. refused without good cause to provide sufficient information to allow a determination of his/her employment status or job availability;

b. voluntarily and without good cause quit a job;

c. voluntarily and without good cause reduced his/her work effort (and, after the reduction, is working less than 30 hours a week);

d. refused, at the time of application and every 12 months thereafter, to register for employment;

e. refused without good cause to participate in an employment and training program;

f. refused without good cause to accept an offer of employment.

2. Benefits shall not be delayed beyond the normal processing times pending the outcome of this determination. This provision applies only if the employment involved 30

hours or more per week or provided weekly earnings equivalent to the federal minimum wage multiplied by 30 hours; the violation occurred within 60 days prior to the date of application or anytime thereafter, and was without good cause. Terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered a violation for purpose of this Section. An employee of the federal government, or of a state or local government who participates in a strike against such government, and is dismissed from his or her job because of participation in the strike, shall be considered to have violated the work requirements without good cause.

3. If an application for participation is filed in the last month of the disqualification period, the eligibility worker shall use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

4. Upon a determination that a violation of the work requirements occurred, the DCFS shall determine if the violation was with good cause. If it is determined that good cause does not exist, the sanction will be imposed. The DCFS shall provide the household with a notice of ineligibility. The notice shall inform the household of the proposed period of disqualification; its right to reapply at the end of the disqualification; and of its right to a fair hearing.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:80 (January 1997), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:1651 (October 2016).

§1940. Work Participation Requirements for Able-Bodied Adults without Dependents [Effective 10/1/97 by Emergency Rule]

A. Individuals are ineligible to continue to receive SNAP benefits if, during the preceding 36-month period they received SNAP benefits for at least 3 months (consecutive or otherwise) while that individual did not either:

1. work an average of 20 hours per week;
2. participate in and comply with a Job Training Partnership Act program, Trade Adjustment Act program, or employment and training program (other than a job search or job search training program) for 20 hours or more per week; or
3. participate in and comply with a workfare program.

B. An individual is exempt from this requirement if the individual is:

1. under age 18, or 50 years of age or older;
2. medically certified as physically or mentally unfit for employment;
3. residing in a SNAP household where a household member is under age 18, even if the household member who is under age 18 is not eligible to receive SNAP benefits;
4. pregnant; or
5. otherwise exempt from work registration requirements.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, 7 CFR 273.24, and P.L. 110-246.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:81 (January 1997) amended LR 34:885 (May 2008), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2528 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:1652 (October 2016).

Subchapter I. Income and Deductions

§1980. Income Exclusions

A. In addition to those income exclusions previously adopted and codified in Chapter 19, Certification of Eligible Households, the following income types will be excluded from countable income for the Supplemental Nutrition Assistance Program (SNAP):

1. payments or allowances to provide energy assistance under any federal law, including the Department of Housing and Urban Development and the Farmers Home Administration, except that provided under title IV-A;

2. earnings of an elementary or secondary student through age 17 who is the child of, or under parental control of, a member of the household;

3. legally obligated child support payments to non-household members are excluded when determining eligibility based on gross income standards;

4. effective October 1, 2004, additional pay received and made available to the household by a member of the United States Armed Forces deployed to a designated combat zone;

5. agent orange settlement payments income (retroactive to 01-01-89);

6. agriculture and stabilization and conservation service payments received as a result of a presidentially-declared disaster or emergency;

7. assistance payments income that is being recouped for overpayment of non-fraud overpayments;

8. bonus income that is non-recurring or cannot be anticipated to recur;

9. child care food program payments received for the client's own children;

10. child support income received by FITAP/KCSP recipients, which must be transferred to IV-D to maintain eligibility;

11. child support arrearage payments that were previously counted as income or payment that is a one-time non-recurring lump-sum payment;

12. deposits made into joint accounts when the joint account is considered a convenience account, the income deposited into the account is verified to be a loan, or the account is considered inaccessible to the household;

13. disaster payments provided to rebuild a home or replace personal possessions damaged in a disaster if the household is subject to legal sanction if the funds are not used as intended. This includes individual and family grant payments or small business administration loans;

14. disaster relief income funded under national emergency grants or disaster unemployment assistance paid to an individual who is unemployed as a result of a major disaster;

15. the prorated portion of the income for persons disqualified for SSNs, for ineligible aliens, or for persons who failed to attest to citizenship/alien status;

16. Delta Service Corps income if the allowances, earnings, and payments to individuals participating in the

programs are received under title I of the National and Community Service Act;

17. Domestic Volunteer Service Act income received by volunteers for services performed in programs stipulated in title II of the amended Domestic Volunteer Service Act of 1973 (P.L. 93-118), which include Foster Grandparents and Retired Senior Volunteer Program; or payments received by volunteers for services in programs under title I (VISTA) if the person was receiving food stamps or public assistance when he joined VISTA or the household was receiving an income exclusion for a title I subsistence allowance at the time of conversion to the Food Stamp Act of 1977;

18. Indian and native claims and lands income received:

a. under Public Law 94-189, (Sac and Fox Indian Claims Agreement);

b. under Public Law 94-540, (Grand River Band of Ottawa Indians);

c. under Public Law 95-433, section 2, Confederated Tribes and Bands of the Yakima Nation and the Apache Tribe of the Mescalero Reservation received from the Indian Claims Commission;

d. by certain Indian tribal members under Public Law 94-114, section 6, regarding submarginal lands held in trust by the United States;

e. under Public Law 93-531 (Navajo and Hopi Tribes);

f. tax-exempt portions made pursuant to Public Law 92-203, The Alaska Native Claims Settlement Act; or

g. under Public Law 96-420 (Passamaquoddy Tribe and Penobscot Nation, or the Houlton Band of Maliseet Indians pursuant to the Maine Indian Claims Settlement Act of 1980);

19. Indian gambling operations income paid to children under 18 when the household is not given a choice and the money is deposited in an inaccessible trust fund;

20. in-kind income not in the form of money payable directly to the household except earned income vendor payments made by the employer instead of all or part of the salary;

21. irregular and unpredictable income when the anticipated income will be less than \$30 in a three-month period, and the income is received too infrequently and irregularly to be reasonably anticipated;

22. strategies to empower people (STEP) payments for supportive services;

23. loans;

24. non-recurring lump-sum payments;

25. crime victim compensation payments made to a client whose assistance is necessary, in full or in part, because of the commission of a crime against the client, and to the extent it is sufficient to fully compensate the client for losses suffered as a result of the crime;

26. National and Community Service Corporation payments for living allowance (stipend) and child care received by participants as well as in-kind benefits provided to the participants;

27. non-household member's portion of income that is received by a household member which is intended and used for care and maintenance of a third-party beneficiary who is not a household member;

28. nutrition programs income—the value of supplemental food assistance under the Child Nutrition Act of 1966 and under the Special Food Service Program for Children (the National School Lunch Act) or benefits received under title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965;

29. payments made to victims of Nazi persecution;

30. payments made to persons through the Radiation Exposure Compensation Act, which was enacted October 15, 1990;

31. railroad retirement income that is being recouped for a prior overpayment;

32. reimbursement income which:

a. is not a gain or benefit to the household;

b. is not provided specifically for normal living expenses; or

c. does not exceed the actual expenses for which the reimbursement was paid;

33. relocation assistance income if received under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970;

34. Senior Community Service Employment Program (SCSEP) income received by individuals 55 or older;

35. supplemental security income that is being recouped for non-fraud SSI overpayment;

36. unemployment compensation benefits that are paid as the result of unemployment due to a major disaster and funded through the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

37. vendor payments made by a person or organization outside the household/assistance unit directly to the client's creditor or to a person or organization providing the service unless:

a. the vendor payment is made by an employer instead of all or part of the salary;

b. it is a local GA vendor payment provided to cover housing expenses exclusive of energy or utility expenses; or

c. the vendor payment is made in lieu of payments which are legally obligated to the household;

38. severance pay received in a single lump-sum payment;

39. payments made through the wartime relocation of civilians law:

a. payments of \$20,000 made to eligible persons of Japanese ancestry who were interned during World War II, or such payments made to the spouse, children or parents if the eligible individual is deceased;

b. payments of \$12,000 made to eligible Aleuts who were relocated from their home on the Pribilof or Aleutian Islands to an internment camp during World War II, or such payments made to an individual who was born while his mother was relocated;

40. effective March 1, 2006, dividend income;

Exception: Dividends received from a resource-exempt trust fund will not be excluded as income.

41. effective March 1, 2006, interest income;

42. effective March 1, 2006, education assistance;

43. any payments other than wages received as a result of the Mississippi Canyon 252 well incident in the Gulf of Mexico on April 20, 2010; or

44. grant-funded research payments.

B. Any type of income excluded when determining eligibility or benefits for cash assistance as defined by 45 CFR 260.31(a)(1) and (a)(2), will be excluded from countable income for SNAP, except for those types determined countable by 7 CFR 273.9(c)(19), such as wages, salaries, etc.

AUTHORITY NOTE: Promulgated in accordance with P.L. 103-66, 7 CFR 273.9(c)(11), P.L. 104-193, P.L. 107-171, P.L. 108-447, and CFR 273.2(j).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 21:188 (February 1995), amended LR 23:82 (January 1997), LR 29:607 (April 2003), LR 31:2956 (November 2005), LR 32:1616 (September 2006), amended by the Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2530 (November 2010), amended by the Department of Children and Family Services, Economic Stability Section, LR 42:1652 (October 2016).

Marketa Garner Walters
Secretary

1610#024

RULE

Department of Civil Service Board of Ethics

Late Filings; Records and Reports
(LAC 52:I.Chapter 12 and 1309)

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 rules for late filing procedures and to correctly reference a statute for certain disclosure forms.

Title 52 ETHICS

Part I. Board of Ethics

Chapter 12. Late Filings

§1201. Late Filing; Notice of Delinquency [Formerly §1202]

A. The staff shall mail, by certified mail, a notice of delinquency within four business days after the due date for any report or statement, of which the staff knows or has reason to know is due by the filer that is due under any law within the board's jurisdiction which has not been timely filed.

B. If the date on which a report is required to be filed occurs on a weekend or federal or state holiday, the report shall be filed no later than the first working day after the date it would otherwise be due that is not a federal or state holiday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:628 (April 2000), LR 30:2669 (December 2004), LR 38:1207 (May 2012), LR 42:1654 (October 2016).

§1203. Late Filing; Assessment of Late Fee

A. The staff of the board shall automatically assess and order the payment of late filing fees for any failure to timely file any report or statement due under any law within the

board's jurisdiction in accordance with the law on the assessment of late fees.

B. The assessment and order of the late fee shall be mailed by certified mail to the late filer. If the assessment and order is not claimed by the late filer, the assessment and order shall be served on the late filer via a subpoena of notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 38:1208 (May 2012), LR 42:1654 (October 2016).

§1205. Late Filing

[Formerly §1204]

A. Definitions. For purposes of §1205, the following definitions shall apply.

Amount of Activity—the total amount of receipts or expenditures, whichever is greater.

Person Regularly Responsible—the person designated by the person required to file a report, in accordance with any law under the jurisdiction of the board, who is responsible for keeping the records and filing the reports on behalf of the required filer.

B. An automatic late fee shall not be assessed, and if one is assessed shall be rescinded by the staff, if the person required to file the report did not file the report for any of the following reasons which occurred on the due date or during the 14 days prior to the date the report was due:

1. death of the person required to file or the person regularly responsible, or a death in their immediate family, as defined in R.S. 42:1102(13);

2. serious medical condition, in the considered judgment of the staff, which prevented the person required to file or the person regularly responsible from filing the report timely;

3. a natural disaster, an act of God, force majeure, a catastrophe, or such other similar occurrence.

C. If a report is filed more than 10 days late and the amount of activity on the report is less than the amount of the late fee to be assessed, the staff may reduce the late fee to the amount of activity or 10 times the per-day penalty, whichever is greater.

D. An automatic late fee for a candidate's campaign finance disclosure report shall not be assessed, and if one is assessed, shall be rescinded by the staff, if the candidate officially withdrew with the Secretary of State from the election and received no contributions or loans and/or made any expenditures, excluding his qualifying fee.

E. An automatic late fee for a candidate personal financial disclosure statement shall not be assessed, and if one is assessed, shall be rescinded by the staff, if the candidate officially withdrew with the Secretary of State from the election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 26:628 (April 2000), LR 31:1227 (June 2005), LR 38:1208 (May 2012), LR 42:1654 (October 2016).

§1207. Late Filing; Waiver

[Formerly §1205]

A. Any person assessed with automatic late filing fees may request a waiver of the late fee, in writing, to the board

within 20 days after the receipt of the assessment requiring the payment of late filing fees, setting forth the facts which tend to prove that the late filer had good cause for filing late.

B. The executive secretary shall place all such requests for a waiver on the board's agenda for consideration. If a late filer requests to make an appearance, the executive secretary shall schedule the appearance.

C. At the time of submission of his request for a waiver, the late filer shall submit all information and documentation to support his request.

D. If the board affirms the order assessing the late fee, notice shall be mailed by certified mail to the late filer, notifying him that the order was affirmed.

E. If the board waives the late fee, notice of the board's decision shall be issued by regular mail.

F. If the board alters in any way the assessment of the late fee after consideration of a waiver request, a new order shall be issued by the staff of the board consistent with the decision of the board after consideration of the waiver request. The new order shall be sent to the late filer in the manner set forth in §1203.B.

G. Within 20 days of receipt of the notice of the board's decision on the waiver request, the late filer may seek reconsideration of the board's decision only upon submission of information not provided or available to the board during its initial consideration of the matter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1298 (October 1997), amended LR 30:2669 (December 2004), LR 38:1208 (May 2012), LR 42:1654 (October 2016).

§1209. Late Filing; Appeal

A. Any person ordered to pay late filing fees pursuant to §1203 may appeal the order to the Ethics Adjudicatory Board.

B. Notice of the person's intent to appeal should be submitted in writing to the executive secretary of the board within 20 days of the receipt of the order.

C. The notice of intent to appeal shall include all grounds for which the late filer is seeking an appeal, along with any documentation and evidence to be considered by the Ethics Adjudicatory Board.

D. The executive secretary shall forward the notice of appeal, along with the order assessing the late fee and any correspondence concerning the assessment of the late fee to the Ethics Adjudicatory Board. The notice from the executive secretary shall include the name of the attorney for the board and contact information for the late filer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1208 (May 2012), amended LR 42:1655 (October 2016).

Chapter 13. Records and Reports

§1309. Disclosure Forms Filed Pursuant to

R.S. 42:1119(B)(2) of the Code

A. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(a) of the code shall:

1. be on a form approved by the board or a form which is substantially the same as the form approved by the board;

2. be filed no later than 30 days after the beginning of the school year;

3. be signed by the school board member or superintendent and contain:

a. the name, address, and position of the school board member or superintendent;

b. the name, relationship, and position of the immediate family member and the date of the family member's employment;

c. the parish in which the school board member or superintendent serves and the date of the commencement of such service; and

d. which of the following exceptions applies to the immediate family member:

i. classroom teacher certified to teach;

ii. employed by school board for more than one year prior to the school board member or the superintendent becoming a member of the school board or the superintendent; or

iii. served in public employment on April 1, 1980, the effective date of the code.

B. Disclosure forms filed pursuant to R.S. 42:1119(B)(2)(b) of the code shall:

1. be in writing and on a form approved by the board or a form which is substantially the same as the form approved by the board;

2. be filed no later than January 30 of each year;

3. be signed by the chief executive or member of the board of a hospital service district or hospital public trust authority and contain:

a. the name, address, and position of the chief executive or member of the board of a hospital service district or hospital public trust authority;

b. the calendar year for which the disclosure statement is being filed;

c. the name, relationship, and position of the immediate family member and the date of the family member's employment;

d. the name of the hospital service district or public trust authority that the chief executive or member of the board of a hospital service district or hospital public trust authority serves and the date of the commencement of such service; and

e. which of the following exceptions applies to the immediate family member:

i. employed by the hospital service district or public trust authority for more than one year prior to the chief executive or member of a board of a hospital service district or hospital public trust authority becoming the chief executive or board member for the hospital service district or hospital public trust authority;

ii. served in public employment on April 1, 1980, the effective date of the code; or

iii. the hospital service district or public trust authority is located in a parish with a population of 100,000 or less and the family member is employed as a licensed physician or registered nurse.

C. The executive secretary shall maintain these forms suitably indexed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1300 (October 1997), amended LR 26:629 (April 2000), LR 42:1655 (October 2016).

Kathleen M. Allen
Ethics Administrator

1610#043

RULE

Department of Economic Development Office of Business Development Office of Entertainment Industry Development

Motion Picture Investor Program (LAC 61:I.1617 and 1619)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has amended the rules for the motion picture tax credit program.

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

§1617. Louisiana Music

A. For state certified productions initially certified on or after July 1, 2015, with expenditures occurring on or after July 1, 2015, to be eligible for an additional 15 percent tax credit for music expenditures, an applicant company must meet the following criteria:

1. services performed in Louisiana—music expenditures were for services performed in Louisiana, with job titles such as composer, songwriter, performer, musician, sound designer, arranger, producer. The purchase of a pre-existing musical work from a procurement company will not qualify; and

2. Louisiana copyright ownership—must be able to prove that the sound recording copyright or musical copyright is either:

a. owned in whole or in no part less than 25 percent by a Louisiana resident or residents, or

b. owned by a company headquartered in the state, with a majority ownership (51 percent+) of Louisiana residents;

c. the purchase of a copyright from a procurement company will not qualify.

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 42:1656 (October 2016).

§1619. Louisiana Promotional Graphic

A. For state-certified productions initially certified on or after August 1, 2015, to be eligible for the entire 30 base investment tax credit, motion picture production applicants with base investments in excess of \$300,000 must be able to demonstrate, at time of request for final certification, that

either that they have complied with the Louisiana promotional graphic requirements set forth below, or that an alternative marketing opportunity has been approved in writing by LED.

1. Approved Louisiana promotional graphic requirements:

a. a five-second long static or animated graphical brand or logo promoting Louisiana, that has been approved in writing by LED;

b. for feature films, or other production types with a customary end credit crawl, the approved logo is to be placed in the end credits, before the below-the line crawl for the life of the production;

i. LED shall deem “life of the production” to mean that the approved logo is permanently embedded within the subject of the state certified production; and

c. the production company includes an approved Louisiana promotional link or prominent credit to Louisiana on its own website, or that of an approved affiliated company.

2.a. Alternative marketing opportunities shall be proposed to LED at the time of application for initial certification, setting forth the details and estimated value of the proposed opportunity or justification of value taking into consideration the additional five percent credit being sought. LED shall either approve or deny such options in writing at time of initial certification.

b. Acceptable examples of alternative marketing opportunities may include, but not be limited to a combination of the following:

i. a produced in Louisiana card featuring an approved version of the logo during the opening credits of a feature film;

ii. an approved promotional featurette highlighting Louisiana as a tourist destination included on the DVD release of the production;

iii. an approved version of the logo placed in the opening title sequence or as a bumper into or out of commercial breaks for Television productions;

iv. significant community service projects in Louisiana;

v. red carpet screening event in Louisiana;

vi. sponsorship of a film festival or other approved event in Louisiana;

vii. an official advertising poster for the state-certified production and a still frame from the production, or, at the discretion of LED, a significant set piece, prop, or costume from the production may be donated on the condition that they may be used for unlimited marketing purposes by the state;

viii. access to a standard or electronic press kit, clip from the motion picture or special interview with the principles involved in the production (actors, directors, producers, etc) promoting Louisiana as a business destination for unlimited use for marketing purposes by LED;

ix. other alternatives as proposed by production companies and approved by LED.

B. Failure to demonstrate such compliance at time of final certification shall result in a reduced base investment credit amount of 25 percent.

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 42:1656 (October 2016).

Anne G. Villa
Undersecretary

1610#057

RULE
Board of Regents
Office of Student Financial Assistance

Scholarship/Grant Programs—TOPS Core Curriculum
Equivalents: AP Computer Science A (LAC 28:IV.703)

The Board of Regents, in accordance with the Administrative Procedure Act [R.S. 49:950 et seq.], has amended and re-promulgated the rules of the scholarship/grant programs [R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1.1-3042.8, R.S. 17:5001 et seq., and R.S. 56:797(D)(2)].

This rulemaking adds AP computer science A as an equivalent to advanced mathematics in the TOPS core curriculum for students who graduate from high school beginning in the 2013-2014 academic year (high school). (SG16171R)

Title 28
EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§703. Establishing Eligibility

A. - A.5.a.ii.(d).(ii). ...
* * *

(iii). For students graduating in academic years (high school) 2013-2014 through 2016-2017, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, in addition to the equivalent courses identified in §703.A.5.a.ii.(d).(i) above, the following course shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Algebra III; Advanced Math-Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL	AP Computer Science A

(e). For students graduating in academic year (high school) 2017-2018 and after, for purposes of satisfying

the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III
Art	Media Arts I-IV; Photography I, Photography II, and Digital Photography
Algebra III; Advanced Math- Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL	AP Computer Science A
Any listed core course or its equivalent.	Any core curriculum course taken by a student who has been deemed to be gifted and talented pursuant to R.S. 17:1941 et. seq. as implemented in State Board of Elementary and Secondary Education policy and in fulfillment of the student's Individualized Education Program shall be considered a gifted and talented course and shall fulfill the core curriculum requirement in its given subject area.

A.5.a.ii.(f). - J.4.b.ii. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 42:1657 (October 2016).

Robyn Rhea Lively
Senior Attorney

1610#016

RULE

**Tuition Trust Authority
Office of Student Financial Assistance**

START Saving Program and 2015 Interest Rate
(LAC 28:VI.305 and 315)

The Louisiana Tuition Trust Authority has amended its START Saving Program rules (R.S. 17:3091 et seq.), (ST16170R)

**Title 28
EDUCATION**

**Part VI. Student Financial Assistance—Higher
Education Savings**

Chapter 3. Education Savings Account

§305. Deposits to Education Savings Accounts

A. - D.4.d. ...

e. Beginning the 2015 calendar year and thereafter, the investment option may be changed two times each calendar year.

D.5. - E.4. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:715 (June 1997), amended LR 24:1270 (July 1998), LR 26:2263 (October 2000), LR 27:1880 (November 2001), LR 30:788 (April 2004), LR 30:1169 (June 2004), LR 30:2302 (October 2004), LR 32:1433 (August 2006), LR 32:2240 (December 2006), LR 35:236 (February 2009), LR 35:1234 (July 2009), LR 36:492 (March 2010), LR 36:2550 (November 2010), LR 42:1076 (July 2016), LR 42:1658 (October 2016).

§315. Miscellaneous Provisions

A. - B.32. ...

33. For the year ending December 31, 2015, the Louisiana Education Tuition and Savings Fund earned an interest rate of 1.67 percent.

34. For the year ending December 31, 2015, the Savings Enhancement Fund earned an interest rate of 1.15 percent.

C. - S.2. ...

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

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:1487 (August 2015), LR 42:1082 (July 2016), LR 42:1658 (October 2016).

Robyn Rhea Lively
Senior Attorney

1610#014

RULE

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

Control of Emissions for the Nitric Acid Industry
(LAC 33:III.2307)(AQ363)

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.2307.C (Log #AQ363).

This Rule repeals LAC 33:III.2307.C. LAC 33:III.2307.C applies to nitric acid plants that are not subject to 40 CFR 60 Subpart G (standards of performance for nitric acid plants).

LAC 33:III.2307.C.1.a states, in relevant part, that a “four-hour start-up exemption from [NOX] emission regulations may be authorized by the administrative authority for plants not subject to 40 CFR Part 60, Subpart G. LAC 33:III.2307.C.2.a provides a similar exemption “where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition.” These provisions were approved by EPA into Louisiana’s state implementation plan (SIP) on July 5, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a Rule* finding that several Louisiana air quality regulations, including LAC 33:III.2307.C, are “substantially inadequate to meet [Clean Air Act] requirements” because they provide “impermissible discretionary exemptions” from “otherwise applicable SIP emission limitations.” Consequently, EPA issued a “SIP call” directing affected states to submit corrective SIP revisions by November 22, 2016.

Based on a review of effective permits, LDEQ identified only one nitric acid plant that is not subject to 40 CFR 60 subpart G, that being nitric acid train 4 (NNA4-1, EQT 0007), located at PCS Nitrogen Fertilizer’s (PCS’s) Geismar Agricultural Nitrogen and Phosphate Plant (agency interest no. 3732). Nitric acid train 4 is currently operating under permit no. 2240-V8, issued February 6, 2015.

A consent decree between EPA, LDEQ, and PCS (civil action no. 14-707-BAJ-SCR), entered February 26, 2014, requires PCS to install NOx control equipment (i.e., selective catalytic reduction, or SCR) on nitric acid train 4 as a supplemental environmental project. Based on conversations with representatives of PCS, LDEQ understands that the SCR control device will be installed in summer 2016 and, after that time, the exemptions provided by LAC 33:III.2307.C will no longer be needed. Therefore, in response to EPA’s SIP call, LDEQ has repealed LAC 33:III.2307.C.

*State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA’s SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction [80 FR 33840]

This Rule is also a revision to the Louisiana state implementation plan for air quality. The basis and rationale for this Rule are to repeal the exemptions provided by LAC

33:III.2307.C in order to comply with EPA's SIP call. 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 23. Control of Emissions for Specific Industries¹

¹ Regulation of emissions of volatile organic compounds for certain industries are presented in Chapter 21.

Subchapter D. Nitric Acid Industry

§2307. Emission Standards for the Nitric Acid Industry

A. - B. ...

C. Reserved.

1. - 2.c. Repealed.

D. - H.2. ...

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 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2455 (November 2000), LR 30:1672 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2442 (October 2005), LR 33:2088 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:1659 (October 2016).

Herman Robinson
General Counsel

1610#021

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Control of Emissions of Smoke
(LAC 33:III.1105 and 1107)(AQ361)

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.1105.A and 1107.A (AQ361).

This Rule repeals LAC 33:III.1107.A. The relevant part of LAC 33:III.1105 (Smoke from Flaring Shall not Exceed 20 Percent Opacity) provides that the, "emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity...for a combined total of 6 hours in any 10 consecutive days."

LAC 33:III.1107.A allows LDEQ to grant an exemption from the provisions of LAC 33:III.1105 "during start-up and shutdown periods if the flaring was not the result of failure to maintain or repair equipment." This exemption was approved by EPA into Louisiana's state implementation plan (SIP) on July 5, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a Rule* finding that several Louisiana air quality regulations, including LAC 33:III.1107.A, are "substantially inadequate to meet [Clean Air Act] requirements" because they provide "impermissible discretionary exemptions" from "otherwise applicable SIP emission limitations." Consequently, EPA issued a "SIP call" directing affected states to submit corrective SIP revisions by November 22, 2016.

In response to EPA's SIP call, LDEQ has repealed LAC 33:III.1107.A for two primary reasons. One, there is incongruity between the provisions of LAC 33:III.1105 and LAC 33:III.1107.A. LAC 33:III.1105 applies to flaring in connection with process upsets, whereas §1107.A addresses startup and shutdown periods (not malfunctions or upsets). Two, other standards for flares that are commonly applicable, such as 40 CFR 63.11(b)(4), require the control device to "be designed for and operated with no visible emissions, except for periods not to exceed a total of 5 minutes during any 2 consecutive hours."

* State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction [80 FR 33840]

The basis and rationale for this Rule are to repeal the exemption provided by LAC 33:III.1107.A in order to comply with EPA's SIP call. 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 11. Control of Emissions of Smoke

§1105. Smoke from Flaring Shall not Exceed 20 Percent Opacity

A. The emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity (LAC 33:III.1503.D.4, Table 4) for a combined total of 6 hours in any 10 consecutive days. If it appears the emergency cannot be controlled in 6 hours, SPOC shall be notified by the emitter in accordance with LAC 33:I.3923 as soon as possible after the start of the upset period.

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 25:656 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2450 (November 2000), LR 30:1671 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:1659 (October 2016).

§1107. Exemptions

A. Reserved.

B. - B.6. ...

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 Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2438 (October 2005), LR 33:2084 (October 2007), LR 37:1144 (April 2011), amended by the Office of the Secretary, Legal Division, LR 42:1659 (October 2016).

Herman Robinson
General Counsel

1610#019

RULE

Department of Environmental Quality Office of Secretary Legal Division

Emission Standards for Sulfur Dioxide—Exemptions (LAC 33:III.1507)(AQ360)

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.1507.A and B (Log #AQ360).

This Rule repeals LAC 33:III.1507.A and B. LAC 33:III.1507.A and B apply to existing sulfuric acid plants (i.e., those constructed or last modified on or before August 17, 1971, and therefore not subject to 40 CFR 60 Subpart H).

LAC 33:III.1507.A states, in relevant part, that a “four-hour (continuous) start-up exemption from the [SO₂ and sulfuric acid mist] emission limitations of LAC 33:III.1503.A will be authorized by the administrative authority for facilities not subject to 40 CFR 60.82 and 60.83 [of Subpart H].” LAC 33:III.1507.B provides a similar exemption “where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition.” These provisions were approved by EPA into Louisiana’s state implementation plan (SIP) on July 15, 1993 (58 FR 38060).

However, on June 12, 2015, EPA promulgated a Rule* finding that several Louisiana air quality regulations, including LAC 33:III.1507.A and B, are “substantially inadequate to meet [Clean Air Act] requirements” because they provide “impermissible discretionary exemptions” from “otherwise applicable SIP emission limitations.” Consequently, EPA issued a “SIP call” directing affected states to submit corrective SIP revisions by November 22, 2016.

Based on a review of effective permits, LDEQ has determined that no sulfuric acid plants are eligible for the aforementioned exemptions because each is subject to 40 CFR 60.82 and 60.83. Therefore, in response to EPA’s SIP call, LDEQ has repealed LAC 33:III.1507.A and B.

*State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA’s SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction. [80 FR 33840]

This Rule is also a revision to the Louisiana state implementation plan for air quality. The basis and rationale for this Rule are to repeal the exemptions provided by LAC 33:III.1507.A and B in order to comply with EPA’s SIP call. 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 15. Emission Standards for Sulfur Dioxide

§1507. Exemptions

- A. Reserved.
 - 1. - 2. Repealed.
- B. Reserved.
 - 1. - 2. Repealed.
- 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 Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:375 (April 1992), LR 23:1678 (December 1997), LR 24:1284 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2451 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:1011 (June 2007), LR 33:2085 (October 2007), amended by the Office of the Secretary, Legal Division, LR 42:1660 (October 2016).

Herman Robinson
General Counsel

1610#018

RULE

Department of Environmental Quality Office of the Secretary Legal Division

VOC Emissions—Industrial Wastewater (LAC 33:III.2153)(AQ362)

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.2153.B.1.i (AQ362).

This Rule repeals LAC 33:III.2153.B.1.i. Due to LAC 33:III.2153 (Limiting VOC Emissions from Industrial Wastewater), “affected VOC wastewater streams” are required to be controlled. More specifically, LAC 33:III.2153.B.1.d.i requires vents on covers and certain junction box covers to be, “equipped with either a control device or a vapor recovery system that maintains a minimum control efficiency of 90 percent VOC removal or a VOC concentration of less than or equal to 50 parts per million by volume.”

LAC 33:III.2153.B.1.i provides that the aforementioned control device or recovery device is “not... required to meet the 90 percent removal efficiency or 50 ppmv concentration

during periods of malfunction or maintenance on the devices for periods not to exceed 336 hours per year.” This exemption was approved by EPA into Louisiana’s state implementation plan (SIP) on July 5, 2011 (76 FR 38977).

However, on June 12, 2015, EPA promulgated a Rule* finding that several Louisiana air quality regulations, including LAC 33:III.2153.B.1.i, are “substantially inadequate to meet [Clean Air Act] requirements” because they provide “automatic exemptions for excess emissions from otherwise applicable SIP emission limitations.” Consequently, EPA issued a “SIP call” directing affected states to submit corrective SIP revisions by November 22, 2016.

An LDEQ query of effective air permits returned no documents identifying LAC 33:III.2153.B.1.i as an applicable requirement. Moreover, LDEQ reached out to the regulated community, inquiring if any affected source relied upon this exemption as a means to comply with LAC 33:III.2153. No affirmative responses were received. Therefore, in response to EPA’s SIP call, LDEQ has repealed LAC 33:III.2153.B.1.i.

* State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA’s SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction [80 FR 33840]

The basis and rationale for this Rule are to repeal the exemption provided by LAC 33:III.2153.B.1.i in order to comply with EPA’s SIP call. 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 21. Control of Emission of Organic Compounds

Subchapter M. Limiting Volatile Organic Compound (VOC) Emissions from Industrial Wastewater

§2153. Limiting VOC Emissions from Industrial Wastewater

A. - B. ...

1. The wastewater component shall meet the following requirements:

a. - h.iii. ...

i. Repealed.

B.2. - I. ...

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:936 (September 1995), amended LR 22:1212 (December 1996), LR 24:26 (January 1998), LR 25:850 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2453 (November 2000), LR 28:1765 (August 2002), LR 30:747 (April 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2441 (October 2005), LR 33:2087 (October 2007),

LR 37:3232 (November 2011), amended by the Office of the Secretary, Legal Division, LR 38:2752 (November 2012), LR 42:1661 (October 2016).

Herman Robinson
General Counsel

1610#020

RULE

Department of Health Board of Dentistry

Dentists and Dental Hygienists Licensure Examination (LAC 46:XXXIII.1709 and 1711)

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, Board of Dentistry has amended LAC 46:XXXIII.1709 and 1711.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 17. Licensure Examination

§1709. Examination of Dentists

A. An applicant shall be entitled to take the examinations required in this Section to practice dentistry in this state if such applicant:

1. is 18 years of age or older;
2. is of good moral character;
3. is a graduate of a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or its successor agency, if any, or any other nationally-recognized accrediting agency; and
4. has successfully completed the National Board of Dental Examiners dental examination.

B. To be licensed as a dentist in this state, an applicant for initial licensure must successfully complete the following:

1. a written examination on the jurisprudence and ethics of the state regulating the practice of dentistry; and
2. the Louisiana state Board of Dentistry approved clinical examination. This examination will be named by the board and this approval may be changed or amended as deemed necessary by the board.

C. Examination scores are valid for initial licensure for three years following the candidate’s successful completion of an accepted licensing examination. The examinations accepted by the Louisiana state Board of Dentistry for initial licensure by examination are as follows:

1. examinations conducted prior to January 1, 2012, by Council of Interstate Testing Agencies (CITA), Central Regional Dental Testing Service (CRDTS), Northeast Regional Examining Board (NERB), Southern Regional Testing Agency (SRTA), and Western Regional Examining Board (WREB);

2. examinations conducted after January 1, 2012, by Council of Interstate Testing Agencies (CITA);

3. the American Board of Dental Examiners (ADEX) dental examination.

D. The board is expressly authorized to utilize the services of other licensed dentists to facilitate the examination.

E. No clinical licensing examination may be conducted in the state of Louisiana without the written permission from the Louisiana state Board of Dentistry. For permission to be granted, the agency conducting the examination must have at least four current members of the Louisiana state Board of Dentistry participating in the clinical licensing examination.

F. Notwithstanding any other law to the contrary or any examination manual of any of the testing agencies listed in Subsection C of this Section, no candidate for licensure in the state of Louisiana will be granted same if said candidate has failed any clinical licensing examination for a total of three times. This number includes the accumulation of all examinations taken regardless of the testing agency. This number excludes failures of clinical examinations taken prior to an applicant's final year of dental school. A make-up examination counts as an examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:2513 (December 2002), LR 33:2654 (December 2007), LR 37:1407 (May 2011), LR 37:2151 (July 2011), LR 37:3516 (December 2011), repromulgated LR 38:356 (February 2012), amended LR 38:1959 (August 2012), LR 39:86 (January 2013), LR 39:1282 (May 2013), LR 40:783 (April 2014), amended by the Board of Dentistry, LR 42:1622 (October 2016).

§1711. Examination of Dental Hygienists

A. An applicant shall be entitled to take the examinations required in this Section to practice dental hygiene in this state if such applicant:

1. is 18 years of age or older;
2. is of good moral character;
3. is a graduate of a dental hygiene college or school approved by the board or accredited by the Commission on Accreditation of the American Dental Association or its successor agency; and

4. has successfully completed the national board dental hygiene examination as administered by the American Dental Association.

B. To be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

1. a written examination on the jurisprudence and ethics of the state regulating the practice of dental hygiene; and

2. the clinical examination administered by the Louisiana state Board of Dentistry approved testing agency. This agency will be named by the board and this relationship may be changed or amended as deemed necessary by the board.

C. Examination scores are valid for initial licensure for three years following the candidate's successful completion of an accepted licensing examination. The examinations accepted by the Louisiana state Board of Dentistry for initial licensure by examination are as follows:

1. examinations conducted by Council of Interstate Testing Agencies (CITA);

2. the American Board of Dental Examiners (ADEX) dental hygiene examination.

D. The board is expressly authorized to utilize the services of other licensed dentists to facilitate the examination.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(1) and (8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 24:1119 (June 1998), amended LR 28:1779 (August 2002), LR 33:2654 (December 2007), LR 37:1407 (May 2011), LR 37:2151 (July 2011), LR 37:3516 (December 2011), repromulgated LR 38:356 (February 2012), amended LR 38:1960 (August 2012), amended by the Department of Health, Board of Dentistry, LR 42:1662 (October 2016).

Arthur Hickham, Jr.
Executive Director

1610#073

RULE

Department of Health Board of Examiners of Psychologists

Continuing Education and Licenses
(LAC 46:LXIII.Chapters 8 and 9)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Psychologists has amended LAC 46:LXIII.801, 803, 805, 807, 809, 811, 815, 903; repealed §808; adopted §901; and renumbered former §§901, 902, and 903.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXIII. Psychologists

Subpart 1. General Provisions

Chapter 8. Continuing Education

§801. Preface

A. Pursuant to R.S. 37:2357(B), each licensed psychologist is required to complete continuing education hours, also referred to as continuing professional development (CPD) within biennial reporting periods. Continuing education is an ongoing process consisting of learning activities that increase professional development. Continuing professional development activities:

1. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:769 (September 1990), amended LR 19:46 (January 1993), LR 32:1228 (July 2006), LR 36:1007 (May 2010), LR 39:2754 (October 2013), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1662 (October 2016).

§803. Requirements

A. For the reporting periods that begin July 2014 and July 2015, each psychologist is required to complete 30 hours or credits of continuing professional development within the biennial reporting period. The CPD credits must conform to the distribution requirements listed below in Subsection C. For the reporting periods that begin July 2016 and July 2017 and henceforth, 40 credits of continuing

professional development will be required in the biennial reporting period and the hours must conform to the distribution listed below in Subsection C.

B. ...

C. Within each reporting period, licensees must earn credits in at least two of the subcategories listed under Subsection D of this Section.

D. Licensees can accumulate continuing professional development credits in the categories defined.

1. Professional

a. Peer Consultation—interacting with colleagues in a structured and organized format. Examples include case consultation groups, journal clubs, regional research groups, mentoring, and shadowing a colleague. One hour of peer consultation equals one credit.

i. If requested, documentation required to earn credit shall be a verification form providing evidence that it is a structured program of consultation with regularly scheduled meetings and showing the nature of the consultation. Additionally, the person providing the consultation, or facilitating the case consultation group, must attest, by signature, to the description of the program, number of hours met and that the verification form has been completed.

b. Practice Outcome Monitoring—assessing patient/client outcomes via questionnaire(s) that is appropriate to the practice endeavor. One client equals one credit per reporting period.

i. If requested, documentation required to earn credit shall be a verification form and a de-identified copy of the patient/client questionnaire.

c. Professional Activities—serving on a national, regional, or state psychological association board or committee; or board member of regulatory body related to the field of psychology. Professional activities shall not include lobbying activities. One year equals 10 credits.

i. If requested, documentation required to earn credit shall be a verification form and documentation from the professional organization confirming the service.

d. Conferences/Conventions—attendance at a conference related to the field of psychology or a conference, which aids in the licensee's professional development. One conference day equals one credit.

i. If requested, documentation required to earn credit shall include a copy of registration materials. This credit is separate from traditional continuing education units that may be awarded at said conference.

2. Academic

a. Academic Courses—graduate-level course related to psychologist's discipline and practice taken for credit from a regionally accredited university or one pre-approved by the board. One three-hour course or equivalent equals 20 credits; or, one registered audit, documented by the university, equals five credits.

i. If requested, documentation required to earn credit shall include course transcript.

b. Instruction—preparation and teaching a semester long graduate or undergraduate course, related to psychology, in a regionally accredited institution; or continuing education workshop presentation. Credit can only

be received the first time teaching or presenting the material. Credit for preparing and teaching a workshop shall be equal to four times the credit granted attendees divided by the number of presenters. Credit for teaching a university course shall be 10 times the number of credit hours awarded the students.

i. If requested, documentation required to earn credit shall be the course syllabus or brochure.

c. Publications—author of an article for peer-reviewed publications or author, editor or co-editor of a book/book chapter related to the field of psychology. One article equals 10 credits; one book/book chapter equals 10 credits.

i. If requested, documentation required to earn credit shall include a copy of journal abstract or a copy of the publication.

3. Traditional Continuing Education

a. Approved Sponsored CE—workshops from a recognized approved sponsor under Subsection 805.A of this Chapter. One hour equals one credit.

i. If requested, documentation required to earn credit shall be the certificate or award of completion from sponsor.

b. Self-directed Learning—examples include reading, Internet, videos, and/or other unsponsored activities. All self-directed learning activities shall be limited to 10 credits. One hour equals one credit.

i. If requested, documentation required to earn credit shall include the completion of the continuing professional development verification form provided by the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 32:1228 (July 2006), LR 39:2754 (October 2013), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1662 (October 2016).

§805. Acceptable Sponsorship, Offerings and Activities

A. The board will recognize the following as acceptable sponsors of the continuing education requirements:

1. accredited institutions of higher education;
2. hospitals which have approved regional medical continuing education centers;
3. hospitals which have APA approved doctoral internship training programs;
4. national, regional, or state professional associations, or divisions of such associations, which specifically offer or approve graduate or post doctoral continuing education training;
5. American Psychological Association (APA) approved sponsors and activities offered by APA (including home study courses);
6. activities sponsored by the Board of Examiners of Psychologists; and
7. activities sponsored by the Louisiana Department of Health or its subordinate units and approved by the chief psychologist of the sponsoring state office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR 19:46 (January 1993), LR 22:1131 (November 1996), LR 25:1098 (June 1999), LR 32:1228 (July 2006), LR 36:1007 (May 2010), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1663 (October 2016).

§807. Unacceptable Offerings and/or Activities

A. The board will not recognize:

1. activities unrelated to the field of psychology even though such activities may be valuable for other professional purposes;

2. personal psychotherapy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 16:770 (September 1990), amended LR19:47 (January 1993), LR 25:1098 (June 1999), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016).

§808. Calculation of Credits Earned

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists LR 32:1229 (July 2006), repealed by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016).

§809. Reporting Requirements

A. Each psychologist shall complete, at the end of reporting periods, the continuing professional development report and file accordingly with the board.

B. ...

C. Supporting Documentation. Each licensee shall retain corroborative documentation, such as the CPD verification Form, of his or her continuing professional development for six years. Although this documentation is not routinely required as part of the licensee's submission, the board may, at its discretion, request such documentation. Any misrepresentation of continuing professional development will be cause for disciplinary action by the board.

D. ...

E. The board may conduct an annual audit of continuing professional development reports. Psychologists shall be selected randomly and will be required to produce documentation for each item reported to the board. The number of psychologists selected for audit shall be determined by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), amended LR 32:1229 (July 2006), LR 39:2755 (October 2013), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016).

§811. Extensions/Exemptions

A. Licensees on extended active military service outside the state of Louisiana during the applicable reporting period and who do not engage in delivering psychological services within the state of Louisiana may be granted an extension or an exemption if the board receives a timely confirmation of such status.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2354.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), amended LR 32:1229 (July 2006), LR 39:2755 (October 2013), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016).

§815. Reinstatement

A. - B. ...

1. The board may require documentation of continuing professional development prior to reinstating a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 19:47 (January 1993), LR 39:2756 (October 2013), amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016).

Chapter 9. Licensees

§901. Reinstatement of Lapsed Licenses

A. If the licensee is not renewed by the end of July, due notice having been given, the license shall be regarded as lapsed for the year beginning with that August. Such lapsed license shall not be listed in the directory.

B. The person shall not practice psychology in Louisiana while the license is lapsed.

C. Within two years of the lapsing of such license, the licensee may submit an application for reinstatement for board review along with the payment of a reinstatement fee equal to the current application fee and the current renewal fee. Applicants who appear for reinstatement after one year of the lapsing of his/her license are required to submit to a criminal background check.

D. After two years of the lapsing of such license, the licensee may submit an application for reinstatement for board review along with the payment of a reinstatement fee equal to the current application fee and the current renewal fee provided that the person is in compliance with R.S. 37:2357(A) and the rules and regulations of the board. Applicants for reinstatement received after two years are required to submit to a criminal background check and oral examination.

E. A lapsed license shall be reinstated as of the date all applicable requirements of R.S. 37:2357 have been met. However, the board retains the right to reinstate licenses retroactively in unusual circumstances as specified in the policy and procedures of the LSBEP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Psychologists, amended by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016).

§902. Provisional License Renewal

[Formerly §901]

A. A psychologist is eligible to renew their provisional license until July 31 of each year upon submission of the required renewal fee, renewal application form and fulfillment of all continuing education requirements as defined in LAC 46:LXIII.Chapter 8.

B. A provisional license may be valid for one year beginning August 1 through July 31 for each renewal period.

C. A person whose provisional license has been suspended is not eligible for renewal. Reinstatement procedures of a suspended provisional license are at the discretion of the board.

D. A person whose provisional license has been revoked is not eligible for renewal.

E. Provisionally licensed psychologists shall be eligible for renewal of provisional licensure no more than three consecutive years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2619 (December 2015), repromulgated by the Department of Health, Board of Examiners of Psychologists, LR 42:1664 (October 2016).

§903. Lapsed Provisional License
[Formerly §902]

A. If a provisional license is not renewed by July 31, due notice having been given, the license shall be regarded as lapsed for the year beginning with that August. Such license is not eligible for reinstatement unless such requirements are satisfied within six months from the date of lapse.

B. If a provisional license lapses for a period longer than six months, one may make a new application to the board. It is at the discretion of the board that any requirements not fulfilled during the year prior to lapse be completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 41:2620 (December 2015), repromulgated by the Department of Health, Board of Examiners of Psychologists, LR 42:1665 (October 2016).

§904. Contact Information
[Formerly §903]

A. A licensed psychologist shall notify the board within 30 days, with documentation, attesting to any change of contact information including mailing address, work address, telephone number and email address. This documentation notice shall include the psychologist's, full name, license number, and the old and new contact information.

B. Should a psychologist be displaced to a temporary location due to an emergency, the psychologist shall notify the board within 30 days, with documentation attesting to the temporary change in contact information. The documented notice shall include the psychologist's full name, license number, old and new temporary contact information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 32:1227 (July 2006), amended LR 39:2754 (October 2013), repromulgated by the Department of Health, Board of Examiners of Psychologists, LR 42:1665 (October 2016).

Jaime T. Monic
Executive Director

1610#001

RULE

Department of Health
Board of Speech-Language Pathology and Audiology

Speech-Pathology and Audiology
(LAC 46:LXXV.103, 107, 109, 119,
121, 123, 130, 131, 501, and 505)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:3085, the Board of Speech-Language Pathology and Audiology has amended its current regulations to make technical changes and clarifications, add definitions for telehealth/telepractice, remove hearing aid dispensing fee from renewal and initial applications, and add telehealth registration fees.

Title 46

PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXXV. Speech Pathology and Audiology

Chapter 1. General Rules

§103. Definitions

A. ...

* * *

Asynchronous Store and Forward Transfer—the transmission of client information in the delivery of telehealth services from an originating site to the provider at the distant site without the client being present.

* * *

Distant Site—the site at which the healthcare provider delivering the service is located at the time the service is provided via a telecommunication system.

* * *

Originating Site—the location of the client at the time the service is furnished via a telecommunications system or when the asynchronous store and forward transfer occurs.

* * *

Synchronous Interaction—communication through interactive technology in the delivery of telehealth services that enable an audiologist or speech-language pathologist and a client at two locations separated by distance to interact via two-way video and audio transmissions simultaneously.

Telehealth—a mode of delivering audiology and speech-language pathology services that utilizes information and communication technologies to enable the diagnosis, consultation, treatment, education care management, and self-management of clients at a distance from the audiologist or speech-language pathologist provider. Telehealth allows services to be accessed when providers are in a distant site and patients are in the originating site. Telehealth facilitates self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

Telehealth Registration—limited to out-of-state residents whose out-of-state audiology or speech-language pathology license does not require supervision, is an unrestricted and unencumbered license in good standing to perform audiology or speech-language pathology in the state in which the provider is located, and the license is comparable to the license in Louisiana as determined by this board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:705 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), LR 28:1781 (August 2002), LR 30:2307 (October 2004), LR 33:2192 (October 2007), LR 37:2392 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1665 (October 2016).

§107. Qualifications for Licensure

A. - J.2. ...

K. Examination Requirement—Speech-Language Pathology License, Provisional Speech-Language Pathology License, Audiology License, Provisional Audiology License

1. The board recognizes only the Educational Testing Service's specialty area examinations for speech-language pathology and audiology as the licensure examination for speech-language pathology and/or audiology. Scores received directly from the applicant are not acceptable for licensing purposes.

2. The passing score for the audiology area examination is a minimum score of 170.

3. The passing score for the speech-language pathology area examination is a minimum score of 162.

4. If an individual has never held a license to practice audiology or speech-language pathology in another state, and if the degree program was completed greater than 10 years from the date of application, the passing score on the specialty area examination for speech/language pathology or audiology must have been obtained within the last 5 years.

L. - L.I.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:346 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1690 (October 2001), amended LR 28:1781 (August 2002), LR 30:2308 (October 2004), LR 33:2192 (October 2007), LR 37:2393 (August 2011), LR 39:1042 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1666 (October 2016).

§109. Application Procedures

A. - P. ...

Q. Licensing Military Members and Military Spouses

1. Expedited application for licensure shall be granted to military members and military spouses in the area of audiology or speech-language pathology, licensed, certified or registered in another jurisdiction, while the individual is satisfying the requirement for licensure.

a. ...

b. Military members shall submit with the application a copy of current military-issued identification and military orders.

c. ...

2. In accordance with the 60-day grace period, military applicants shall submit:

a. military members—official, primary-source documentation verifying requirements met in accordance with §107 and §111.

b. ...

3. Active and retired military members and military spouses shall be given a 60-day grace period for submission

of official documentation from the date their notarized application and license fee are received by the board office, regardless of lapsed license status. The board may consider an extension of this grace period as per House Concurrent Resolution 74 of the 2015 Regular Session of the Louisiana Legislature.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:352 (May 1996), LR 27:199 (February 2001), LR 28:1974 (September 2002), LR 30:2311 (October 2004), LR 33:2193 (October 2007), LR 37:2393 (August 2011), repromulgated LR 37:2623 (September 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1666 (October 2016).

§119. Fees

A. The board collects the following fees, which are non-refundable:

1. initial Louisiana license application—\$125;

2. dual license application (to include hearing aid dispensing)—\$225;

3. renewal of license submitted on or before June 30, of each year (including hearing aid dispensing)—\$65:

a. dual licensure renewal (including hearing aid dispensing)—\$90;

4. delinquent renewal fee submitted between July 1 and July 31, of each year (including hearing aid dispensing)—\$130;

a. dual licensure (including hearing aid dispensing)—\$180;

5. delinquent renewal fee submitted between August 1 and October 31, of each year (including hearing aid dispensing)—\$260:

a. dual licensure (including hearing aid dispensing)—\$360;

6. registration fee for audiologists to dispense hearing aids—\$25;

7. initial telehealth registration fee—\$50;

8. renewal of telehealth registration submitted on or before June 30, of each year—\$25;

9. renewal of telehealth registration submitted between July 1 and July 31, of each year—\$50;

10. licensure upgrade—\$30;

11. continuing education pre-approval fee for corporations or individuals who are not LBESPA licensees—\$50;

12. mailing list—\$0.05 per name and address plus postage and handling;

13. NSF or returned check—\$40;

14. open book test fee—\$30:

a. open book retest fee, per section—\$10;

15. publications to include law, rules, etc.—\$5 ea. plus postage and handling;

16. re-issuance of license certificate—\$25;

17. subpoena within East Baton Rouge Parish—\$50:

a. subpoena plus state-allowed travel rate per mile outside East Baton Rouge Parish—\$50;

18. verification of license (written)—\$10;

19. an additional fee may be charged for credit card transactions in accordance with state treasury rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:706 (October 1988), amended LR 22:350 (May 1996), LR 27:197 (February 2001), repromulgated LR 27:1691 (October 2001) amended LR 30:2313 (October 2004), LR 33:2195 (October 2007), LR 37:2395 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1666 (October 2016).

§121. License Renewals

A. - E. ...

F. Inactive status is granted to licensees who are retired or who do not practice audiology or speech-language pathology during the fiscal year, July 1-June 30.

1. Licensees on inactive status may retain their license by payment of the annual renewal fee.

2. These licensees shall complete the affidavit on the continuing education report and submit it at the time of licensure renewal.

3. The licensee may submit the required five hours of continuing education each year he/she is on inactive status or submit all of the hours the year he/she returns to work in the profession.

4. Licensees on inactive status or who are retired shall not supervise individuals or otherwise engage in the practice of audiology or speech-language pathology.

5. In order to resume the practice of audiology or speech-language pathology, licensees on inactive status shall demonstrate completion of 5 clock hours of continuing education in the area of licensure for each year that inactive status was maintained (maximum of 25 hours). In addition, a letter requesting a change to active status must be submitted to the board office prior to resuming the practice of audiology or speech-language pathology.

G. - J.4. ...

5. Licensees who have allowed their license to lapse for a period of 5 years or greater, and do not hold a current audiology or speech-language pathology license in another state, must submit evidence of 25 continuing education hours directly related to the clinical practice of the license being sought and must have been obtained within the past 18 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 14:707 (October 1988), amended LR 22:351 (May 1996), LR 27:198 (February 2001), LR 28:1972 (September 2002), LR 30:2314 (October 2004), LR 33:2195 (October 2007), LR 37:2395 (August 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1667 (October 2016).

§123. Continuing Education Requirements

A. - B. ...

C. Audiologists who register as dispensing audiologists shall ensure that at least 3 of the total 10 hours are in areas directly related to hearing aid dispensing, such as business/practice management, marketing, aural habilitation/rehabilitation, diagnostic assessment, characteristics of hearing aids and their application, etc.

D. ...

E. Out-of-state audiologists and speech-language pathologists who hold telehealth registration shall complete the continuing education requirements consistent with the license the individual possesses for the state in which the provider is located. Telehealth registrants residing in states which do not require continuing education for audiologists and/or speech-language pathologists shall complete the annual continuing education requirements specified in this Section and may be audited.

F. Continuing education events occurring in the month of June will be accepted for the collection period in which they occur or they may be counted in the following collection period which begins on July 1. Hours from one event may not be divided between two collection periods.

G. The graduated scale for the collection of continuing education hours is based on the date an applicant receives his/her initial license.

License Received	Hours Required
April, May, June	0
January, February, March	3
October, November, December	6
July, August, September	10

H. In the case of extenuating circumstances, when the licensee does not fulfill the continuing education requirements, the licensee shall submit a written request for extension to the board for consideration.

I. Continuing education hours accrued during the applicant's grace period will be accepted.

J. Acceptable continuing education sponsors and activities that are directly related to the practice of audiology and/or speech-language pathology:

1. board-sponsored activities;
2. presentations in the area of communication disorders sponsored by professional organizations such as American Academy of Audiology (AAA), American Speech-Language-Hearing Association (ASHA), Louisiana Academy of Audiology (LAA), Louisiana Speech-Language-Hearing Association (LSHA), Speech Pathologists and Audiologists in Louisiana Schools (SPALS), Louisiana Society for Hearing Aid Specialists, etc.;
3. activities provided by ASHA-approved continuing education providers or AAA-approved continuing education activities;
4. meetings of related professional organizations (e.g., Council for Exceptional Children, Orton Dyslexia Society);
5. college courses in the area of licensure taken for credit or official audit (3 semester hours or 6 quarter hours=10 hours of continuing education);
6. distance learning (video conferences, telephone seminars and internet courses sponsored by universities, schools, clinics, state agencies, hospitals, professional organizations, or related professional organizations);
7. workshops and in-services that are university, school, clinic, hospital or state agency sponsored (maximum of five hours in a related area);
8. publication of an article in a peer-reviewed journal for the year in which it was published;

9. digital media (e.g. CD, DVD, online webinars, etc.) which is ASHA-approved and AAA-approved continuing education media;

10. the presenting licensee may count 1 1/2 times the value of an activity the first time it is presented to allow for preparation time (example: a 3 hour workshop=4 1/2 hours). The activity will count for the actual hour value for each subsequent presentation of the same activity;

11. teaching at the college level in the area of communication disorders is not acceptable.

K. Pre-Approval Policy

1. Pre-approval is required for continuing education events that do not meet the requirements as listed under §123.I.1-11, and pre-approval of continuing education events is required in those situations where it is unclear whether or not the topic is relevant to the profession or will further a professional's expertise in a particular area.

2. The licensee shall request pre-approval (minimum of 30 days in advance) of self-study activities, or other appropriate activities.

3. Individuals not licensed by LBESPA as well as corporations offering continuing education not addressed under §123.I, must submit a \$50 continuing education review fee along with the pre-approval request.

4. Licensees who elect to attend university classes/courses in speech-language pathology and/or audiology without payment of the university fee shall submit a self-study plan for pre-approval from the Louisiana Board of Examiners for Speech-Language Pathology and Audiology to receive continuing education credits.

5. Self-study activities in the area of communication disorders:

a. digital media (maximum of 5 hours);

b. reading of journal articles that contain self-examination questions at the end. Articles shall be submitted for pre-approval (maximum of 5 hours).

6. Publication of diagnostic and/or therapeutic materials (maximum of 5 hours).

L. Recording of Continuing Education Activities

1. Licensees shall record all continuing education activities as prescribed by the board and submitted at the time of renewal.

2. The board may request, through random audit, verification of clock hours submitted, including information regarding content and attendance. A percentage will be audited each year as a means of evaluating compliance with the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:351 (May 1996), amended LR 27:199 (February 2001), LR 28:1973 (September 2002), LR 30:2314 (October 2004), LR 33:2196 (October 2007), LR 37:2395 (August 2011), LR 39:1043 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1667 (October 2016).

§130. Telepractice

A. Telepractice, regardless of where the service is rendered or delivered, constitutes the practice of audiology or speech-language pathology and shall require Louisiana

licensure for in-state practitioners and telehealth registration for out-of-state licensed practitioners.

B. A provider of telehealth services shall be competent in both the type of services provided and the methodology and equipment used to provide the services.

C. A provider of telehealth services must use methods for protecting client information that include authentication and encryption technology.

D. The standard of care shall be the same as if the audiology or speech-language pathology services were delivered face-to-face. It is the responsibility of the provider to determine candidacy and to ensure that the client is comfortable with the technology being utilized.

E. The client shall be notified of telehealth services including but not limited to the right to refuse telehealth services, options for service delivery, and instructions on filing and resolving complaints, in all applicable jurisdictions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 39:1044 (April 2013), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1668 (October 2016).

§131. Hearing Aid Dispensing

A. Audiologists who dispense hearing aids shall meet the coursework and practicum requirements for dispensing as specified in R.S. 37:2650 et seq., and shall indicate their intent to do so at the time of each license renewal.

1. - 2. Repealed.

B. - D. ...

E. Repealed.

F. Audiologists who dispense hearing aids shall comply with the following.

1. - 1.b....

c. a basic audiological test battery conducted within the preceding six-month period in a sound-treated environment unless the patient's physical condition prohibits accomplishment of these procedures. The battery shall include:

F.1.c.i. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 22:353 (May 1996), amended LR 27:201 (February 2001), LR 28:1975 (September 2002), LR 30:2317 (October 2004), LR 33:2198 (October 2007), LR 37:2398 (August 2011), repromulgated LR 37:2624 (September 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1668 (October 2016).

Chapter 5. Procedural Rules

§501. Investigation of Complaints

A. - C. ...

D. Once a written complaint is received, the board shall initiate a review of the allegations contained therein. The board may dispose of the complaint informally through correspondence or conference with the licensee and/or the complainant, which may result in a private letter of concern or a consent order. If the licensee stipulates to the complaint and waives her/his right to a formal hearing, the board may

impose appropriate sanctions without delay. If the board finds that a complaint cannot be resolved informally, the written complaint shall be forwarded to the board's designated investigator for investigation. The board shall at that time notify the licensee, by certified mail, return receipt requested, of the investigation.

E. - I. ...

J. A complaint may be resolved by:

1. a private letter of concern to the licensee or other appropriate parties.

2. a consent agreement and order approved by the board and entered into by the licensee.

K. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:373 (April 1991), amended LR 22:356 (May 1996), LR 30:2320 (October 2004), LR 33:2200 (October 2007), LR 37:2398 (August 2011), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1668 (October 2016).

§505. Formal Disciplinary Hearings

A. If, after completion of the investigation, the board determines that the circumstances may warrant the withholding, denial, suspension, or revocation of a license, or other disciplinary action, the board shall initiate a formal disciplinary hearing. The board shall promptly notify the attorney general who is authorized and directed to appear on behalf of the state. The hearing shall convene in the parish in which the board is domiciled. The hearing shall be held before the board only after the involved licensee is given at least 30-days' notice by certified mail, return receipt requested. The notice shall include the following:

A.1. - K.2. ...

3. Repealed.

4. issue a public letter of reprimand or concern;

5. require restitution of costs and expenses incurred by the board related to the enforcement of R.S. 37:2650 et seq.;

6. impose probationary conditions;

7. impose a fine for each violation not to exceed \$1,000 per violation;

8. suspend a license;

9. revoke a license;

10. restrict the license by limiting or reducing the scope of practice; and/or

11. otherwise discipline a licensee.

L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2650 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners for Speech-Language Pathology and Audiology, LR 17:374 (April 1991), amended LR 22:357 (May 1996), LR 30:2321 (October 2004), amended by the Department of Health, Board of Speech-Language Pathology and Audiology, LR 42:1669 (October 2016).

Jolie Jones
Executive Director

1610#028

RULE

Department of Health Office of Aging and Adult Services

Spinal Cord Injury (LAC 48:I.1905)

The Louisiana Department of Health, Office of Aging and Adult Services has amended the language included in the definition of *spinal cord injury* to comply with the definition as set forth in R.S. 46:2632. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Louisiana Department of Health, Office of Aging and Adult Services, assumed the Traumatic Head and Spinal Cord Injury Trust Fund and its functions as promulgated in LR 40:84.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 1. General

Chapter 19. Traumatic Head and Spinal Cord Injury

§1905. Definitions

[Formerly LAC 67:VII.1905]

* * *

Spinal Cord Injury—an insult to the spinal cord, not of a degenerative or congenital nature but caused by an external physical force resulting in paraplegia or quadriplegia.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2631-2635 and R.S. 36:259(T).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 21:1253 (November 1995), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 40:84 (January 2014), amended by the Department of Health, Office of Aging and Adult Services, LR 42:1669 (October 2016).

Rebekah E. Gee MD, MPH
Secretary

1610#031

RULE

Department of Natural Resources Office of Conservation

Carbon Dioxide Enhanced Oil Recovery (LAC 43:XIX.Chapter 4)

The Department of Natural Resources, Office of Conservation has amended LAC 43:XIX.Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The amendment was made to implement application requirements for carbon dioxide enhanced oil recovery.

Title 43
NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 4. Pollution Control (Class II Injection/Disposal Well Regulations)

§401. Definitions

Confining Zone—a geological formation, group of formations, or part of a formation that is capable of limiting fluid or gas movement above an injection zone.

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 42:1670 (October 2016).

§405. Application Requirements for New Enhanced Recovery Injection and New Saltwater Disposal Wells

A. - B.5.f. ...

C. Area of Review for Enhanced Oil Recovery Wells Injecting Carbon Dioxide

1. The area of review (AOR) will be the approved enhanced oil recovery (EOR) project area plus the surrounding region where USDWs may be endangered by the carbon dioxide (CO₂) injection activities, at a minimum, no less than 1/4 mile beyond the project area. The AOR shall extend no closer than 1/2 mile, at a minimum, to any EOR well injecting or permitted to inject CO₂. For EOR projects injecting CO₂ that are permitted as of the effective date of these regulations, the owner or operator of the project has 30 days from the effective date of these regulations to submit a plan to the commissioner to come into compliance with §405.C, D, and E.

2. If it is determined at any time that the injected CO₂ and associated reservoir fluids have migrated beyond the boundary of the approved EOR project area, the AOR shall be redefined to extend, at a minimum, no less than an additional 1/4 mile beyond the migrating front.

3. The owner or operator of a class II EOR CO₂ injection well must submit a plan acceptable to the commissioner to periodically reevaluate the AOR for the proposed CO₂ EOR project and perform corrective action for any identified deficient wells. The AOR must be reevaluated on a frequency not to exceed five years.

4. The owner or operator of the class II EOR CO₂ injection well must identify all penetrations within the defined AOR including active and abandoned wells, underground mines, and any other man-made penetrations that penetrate the confining zone above the permitted EOR injection zone.

5. The owner or operator must determine which wells within the AOR have been constructed and/or plugged in a manner that prevents movement of CO₂ or other fluids that may endanger USDWs, and any wells which may require corrective action to ensure protection of USDWs.

6. For phased implementation of an EOR project injecting CO₂, the commissioner may allow injection operations to commence prior to a complete evaluation of all wellbores within the AOR if the operator presents a plan acceptable to the commissioner to complete the evaluation and perform any required corrective action in advance of the injected carbon dioxide and associated reservoir fluids

migration to the area. The plan must include a method to monitor the injected carbon dioxide and associated reservoir fluids to ensure that the AOR review and any corrective action is performed at least 1/2 mile ahead of the boundary of the migrating front.

D. Corrective Action for Enhanced Oil Recovery Projects Injecting Carbon Dioxide

1. Owners or operators of class II EOR CO₂ injection wells must perform corrective action on all wells in the area of review that the commissioner has determined to require corrective action.

2. Owners or operators of class II EOR CO₂ injection wells shall submit a corrective action plan acceptable to the commissioner addressing all identified deficiencies within a time specified by the commissioner.

E. Emergency and Remedial Response for Enhanced Oil Recovery Projects Injecting Carbon Dioxide

1. As part of the permit application for a class II EOR CO₂ well, the owner or operator must provide the commissioner with an emergency and remedial response plan that outlines the actions the owner or operator must take to address movement of the injection or formation fluids that may cause an endangerment to a USDW during construction and operational periods.

2. If the owner or operator obtains evidence that the injected carbon dioxide and/or associated reservoir fluids are no longer confined to the permitted EOR injection zone or may cause an endangerment to a USDW, the owner or operator must:

- a. take all steps reasonably necessary to identify, characterize, and control any release;
- b. notify the commissioner within 24 hours; and
- c. implement the emergency and remedial response plan approved by the commissioner.

3. The owner or operator shall review the emergency and remedial response plan developed under §405.E.1 periodically, but at least once every five years. Based on this review, the owner or operator shall submit an amended emergency and remedial response plan or demonstrate to the commissioner that no amendment to the emergency and remedial response plan is needed. Any amendments to the emergency and remedial response plan must be approved by the commissioner and are subject to the permit modification requirements at §411, as appropriate. Amended plans or demonstrations shall be submitted to the commissioner as follows:

- a. within one year of an AOR reevaluation;
- b. following any significant changes to the EOR project, such as the addition of injection wells or the reclassification of wells; or
- c. when required by the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2807 (December 2000), amended LR 42:1670 (October 2016).

§423. Plugging Requirements

A. ...

B. Enhanced Oil Recovery Projects Injecting Carbon Dioxide. Prior to the conclusion of the enhanced oil recovery (EOR) project, the operator shall present a plan of project abandonment (the "plan"). The commissioner shall assess

the plan to ensure that it meets all applicable legal requirements and will protect the underground sources of drinking water (USDW) and the health, safety, and welfare of the public. After reviewing the plan, the commissioner may require additional information before approval of such plan, or impose additional requirements for the EOR project abandonment to assure protection of the USDW.

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 26:2810 (December 2000), amended LR 42:1670 (October 2016).

Richard P. Ieyoub
Commissioner

1610#023

RULE

Department of Public Safety and Corrections Liquefied Petroleum Gas Commission

Permit Fees (LAC 55:IX.107)

The Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, in accordance with R.S. 40:1846 and with the Administrative Procedure Act, R.S. 49:950 et seq., has amended §107 with regard to general requirements of permit holders to include a change to permit fees.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§107. Requirements

A. - A.5.c. ...

6. Applicants shall have paid a permit fee in the amount of \$150, except for class VII-E, which shall be \$100, and R-1, R-2 registrations, which shall be \$37.50 and class VI-X shall be in the amount of \$150 for each location. For fiscal year 2014-2015, and for each subsequent fiscal year, the permit fee shall be 0.1369 of 1 percent of annual gross sales of liquefied petroleum gas with a minimum of \$150 for each location. For classes not selling liquefied petroleum gases in succeeding years the permit fee shall be \$150, except registrations shall be \$37.50 per year.

a. Each class I and class IV dealer shall prepare and submit reports to the commission of each three month period within their annual permit fee calculation period, by the end of the month following each three-month period, in a form acceptable to the commission, the previous three month's purchases and sales. An additional five calendar days shall be granted for mail delays before a violation is issued.

6.b. - 15. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR

24:461 (March 1998), LR 24:2311 (December 1998), LR 25:1262 (July 1999), LR 25:2410 (December 1999), LR 26:1487 (July 2000), LR 27:2256 (December 2001), LR 28:2553 (December 2002), LR 29:2509 (November 2003), LR 31:2567 (October 2005), LR 33:1140 (June 2007), effective July 1, 2007, LR 35:2201 (October 2009), LR 35:2465 (November 2009), LR 38:1256 (May 2012), LR 41:395 (February 2015), LR 42:427 (March 2016), LR 42:1671 (October 2016).

John W. Alario
Executive Director

1610#029

RULE

Department of Public Safety and Corrections Office of the State Fire Marshal Uniform Construction Code Council

Uniform Construction Code (LAC 17:I.Chapter 1)

The Department of Public Safety and Corrections, Office of the State Fire Marshal, Louisiana State Uniform Construction Code Council (LSUCCC) has exercised the final rulemaking provision in accordance with R.S. 49:950 et seq., of the Administrative Procedure Act, to amend, supplement and expand portions of and readopt LAC 17:I.Chapter 1 in the state Uniform Construction Code as authorized by R.S. 40:1730.26 and R.S. 40:1730.28. Furthermore, the LSUCCC has adopted amendments of the current plumbing provisions in the *International Building Code*, *International Residential Code*, and the *International Plumbing Code* regarding health and safety for the public.

This Rule adoption provides greater health and safety for the public and those providing installation and maintenance on plumbing systems. This Rule was first adopted by Emergency Rule on December 9, 2015 and published in the December 2015 edition of the *Louisiana Register* (Vol. 41, No. 12). The Emergency Rule first became effective on January 1, 2016.

The Emergency Rule was readopted on May 10, 2016 to continue those provisions and was published in the May 2016 edition of the *Louisiana Register* (Vol. 41, No. 12), along with a Notice of Intent. The Rule was amended to add standards for repairs to drainage systems via reroutes and trap seals. It also amended definitions and made technical changes within the aforementioned international codes.

A notice for a public hearing was published in the "Potpourri" section of the *Louisiana Register* on July 20, 2016 (Vol. 42, No. 07). The notice included proposed substantial changes to the Rule. The public hearing was held August 23, 2016 at 10 am at the Office of the State Fire Marshal. There were no comments to the proposed changes. Therefore, the changes were adopted and the Emergency Rule became effective September 12, 2016.

Act 836 of the 2014 Regular Session of the Louisiana Legislature mandates the adoption of the plumbing provisions in the *International Plumbing Code*, *International Building Code* and the *International Residential Code*. This Rule addresses this mandate by providing for necessary amendments to the codes. These amendments also allow new technology and methods to be used that were not allowed in the previous Louisiana state *Plumbing Code*.

Title 17
CONSTRUCTION

Part I. Uniform Construction Code

Chapter 1. Uniform Construction Code

**§101. Louisiana State Uniform Construction Code
(Formerly LAC 55:VI.301.A)**

A. In accordance with the requirements set forth in R.S. 40:1730.28, effective January 1, 2016 the following is hereby adopted as an amendment to the Louisiana state Uniform Construction Code.

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), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2380 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:1672 (October 2016).

**§107. International Residential Code
(Formerly LAC 55:VI.301.A.3.a)**

A. - A.8.d. ...

i. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric vacuum breaker, a pressure vacuum breaker assembly or a reduced pressure principle backflow prevention assembly. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. When an irrigation/lawn sprinkler system is provided with separate zones, the potable water supply shall be protected by a pressure vacuum breaker or reduced pressure principal backflow prevention assembly. Atmospheric vacuum breakers shall be installed at least 6 inches (152 mm) above the highest point of usage (i.e., 6 inches (152 mm) above all downstream piping and highest sprinkler head). Pressure type vacuum breakers shall be installed at least 12 inches (305 mm) above the highest point of usage (i.e., 12 inches (305 mm) above all downstream piping and the highest sprinkler head). Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow prevention assembly.

8.e. - 9.r. ...

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, 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), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform

Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2383 (November 2015), amended LR 42:1672 (October 2016).

**§111. The International Plumbing Code
(Formerly LAC 55:VI.301.A.5)**

A. The *International Plumbing Code*, 2012 Edition. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption. (per R.S. 40:1730.28 eff. 1/1/16)

1. Amend Chapter One.

a. Amend Section [A] 101.2, Scope.

i. Section [A] 101.2 Scope. The provisions of this code shall apply to the erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing systems within this jurisdiction. This code shall also regulate nonflammable medical gas, inhalation anesthetic, vacuum piping, nonmedical oxygen systems and sanitary and condensate vacuum collection systems. The installation of fuel gas distribution piping and equipment, fuel-gas-fired water heaters and water heater venting systems shall be regulated by the *International Fuel Gas Code*. Provisions in the appendices shall not apply unless specifically adopted.

(a). Nothing in this Part or any provision adopted pursuant to this Part shall prohibit the Department of Health and Hospitals from the following:

(i). Regulating stored water temperatures through enforcement of the *Sanitary Code*.

(ii). Regulating medical gas and medical vacuum systems.

[a]. Exception

[i]. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the International Residential Code.

B. Amend Chapter Two Definitions.

Adult Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of 10 or more people 18 years and older, not related to the caregiver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven day week in a place other than the person's home.

Air Break (Drainage System)—a piping arrangement in which a drain from a fixture, appliance or device discharges indirectly into another fixture, or receptacle at a point below the flood level rim and above the trap seal. An unobstructed horizontal distance of free atmosphere between the outside of the indirect waste pipe and the inside of the waster receptor must exist so as to allow a back-flow of sewage to spill over the flood level rim of the receiving sink or other receptor to prevent such back-flow from reaching the fixture, device, appliance or apparatus served by the indirect waste pipe.

Barometric Loop—a fabricated piping arrangement rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage backflow.

Building Drain—that part of the lowest piping of a drainage system that receives the discharge from soil, waste and other drainage pipes in side and that extends 30 inches (762 mm) in developed length of pipe beyond the exterior walls of the building and conveys the drainage to the building sewer.

NOTE: Delete definition *Combined*—a building drain that conveys both sewage and storm water or other drainage.

a. **Sanitary**—a *building drain* that conveys sewage only.

b. **Storm**—a *building drain* that conveys storm water or other drainage, but not sewage.

Building Sewer—That part of the drainage system that extends from the end of the building drain and conveys the discharge to a community sewerage system, commercial treatment facility, or individual sewerage system or other point of disposal.

NOTE: Delete definition *Combined*—a building sewer that conveys both sewage and storm water or other drainage.

a. **Sanitary**—a *building drain* that conveys sewage only.

b. **Storm**—a *building drain* that conveys storm water or other drainage, but not sewage.

By-Pass—Any system of piping or other arrangement whereby the water may be diverted around any part or portion of the water supply system including, but not limited to, around an installed backflow preventer.

Child Day Care Center—any place or facility, operated by any person for the primary purpose of providing care, supervision and guidance of seven or more children under the age of 18, not related to the care giver and supervision and guidance of seven or more children under the age of 18, not related to the care giver and unaccompanied by parent or guardian, on a regular basis, for a total of at least 20 hours in a continuous seven day week in a place other than the children's home. A day care center that remains open for more than 20 hours in a continuous seven day week, and in which no individual child remains for more than 24 hours in one continuous stay shall be known as a full-time day care center.

NOTE: Delete definition *Combined Building Drain*—“see building drain, combined”

NOTE: Delete definition *Combined Building Sewer*—“see Building sewer, combined”

Commercial Treatment Facility—any treatment facility which is required by the state health officer whenever the use of an individual sewerage system is unfeasible or not authorized.

Community Sewerage System—any sewerage system which serves multiple connections and consists of a collection and/or pumping system/transport system and treatment facility.

Containment—a method of backflow prevention which requires a backflow prevention device or method on the water service pipe to isolate the customer from the water main.

Continuous Water Pressure—a condition when a backflow preventer is continuously subjected to the spill over the flood level rim of the receiving sink or

other receptor to prevent such back-flow from reaching the fixture, device, appliance or apparatus served by the indirect waste pipe.

NOTE: Delete definition *Lead Free Pipe and Fittings*—Containing not more than 8.0 percent lead.

NOTE: Delete definition *Lead Free Solder and Flux*—Containing not more than 0.2 percent lead.

Day Care Centers—includes adult and child day care centers.

Degree of Hazard—an evaluation of the potential risk to public health if the public were to be exposed to contaminated water caused by an unprotected or inadequately protected cross connection.

Domestic Well—a water well used exclusively to supply the household needs of the owner/lessee and his family. Uses may include human consumption, sanitary purposes, lawn and garden watering and caring for pets.

Dual Check Valve—a device having two spring loaded, independently operated check valves without tightly closing shut-off valves and test cocks. Generally employed immediately downstream of the water meter. Not an approved backflow prevention device.

Fixture Isolation—a method of backflow prevention in which a backflow preventer is located to protect the potable water of a water supply system against a cross connection at a fixture located within the structure or premises itself.

Human Consumption—the use of water by humans for drinking, cooking, bathing, showering, hand washing, dishwashing, or maintaining oral hygiene.

Indirect Waste Pipe—a waste pipe that does not connect directly with the drainage system, but that discharges into the drainage system through an *air break* or *air gap* into a trap, fixture, or *waste receptor*.

NOTE: Delete definition *Individual Water Supply*—a water supply that serves one or more families, and that is not an approved public water supply.

Individual Sewerage System—any system of piping (excluding the building drain and building sewer), and/or collection and/or transport system which serves one or more connections, and/or pumping facility, and treatment facility, all located on the property where the sewage originates; and which utilizes the individual sewerage system technology which is set forth in LAC 51:XIII.Chapter 7, Subchapter B, or a commercial treatment facility which is specifically authorized for use by the state health officer.

Infant—any child under the age of 12 months.

Lead Free—

a. in general:

i. not containing more than 0.2 percent lead when used with respect to solder and flux; and

ii. not more than a weighted average of 0.25 percent lead when used with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings, and fixtures;

b. calculation:

i. the weighted average lead content of a pipe, pipe fitting, plumbing fitting, or fixture shall be calculated by using the following formula:

(a). for each wetted component, the percentage of lead in the component shall be multiplied by the ratio of

the wetted surface area of that component to the total wetted surface area of the entire product to arrive at the weighted percentage of lead of the component. The weighted percentage of lead of each wetted component shall be added together, and the sum of these weighted percentages shall constitute the weighted average lead content of the product. The lead content of the material used to produce wetted components shall be used to determine compliance with Clause a.ii above. For lead content of materials that are provided as a range, the maximum content of the range shall be used.

NOTE: Delete definition *Lead Free Pipe and Fittings*—containing not more than 8.0 percent lead.

NOTE: Delete definition *Lead Free Solder and Flux*—containing not more than 0.2 percent lead.

Master Meter—a water meter serving multiple residential dwelling units or multiple commercial units. Individual units may or may not be sub-metered.

Plumbing—the practice, materials and fixtures utilized in the installation, maintenance, extension and alteration of all piping, fixtures, plumbing appliances and plumbing appurtenances, within or adjacent to any structure, in connection with sanitary drainage or storm drainage facilities; venting systems; and public or private water supply systems. Plumbing includes yard piping connecting sanitary or storm drainage with any point of disposal or other acceptable terminal as well as the water service piping connecting to a water main or other source of water supply. Plumbing does not include the installation, alteration, repair or maintenance of automatic fire sprinklers and including the underground or overhead water supply beginning at the outlet of an approved backflow prevention device installed under the plumbing provisions of this code where water is to be used or is intended to be used exclusively for fire protection purposes.

Potable Water—water free from impurities present in amount sufficient to cause disease or harmful physiological effects and conforming to the bacteriological, physical, radiological, and chemical quality requirements of the federal Safe Drinking Water Act or the regulations of the Department of Health and Hospitals, Office of Public Health.

Potable Water Supply—a publicly owned or privately owned water supply system which purveys potable water.

Preschool—any child less than five years of age.

Private Water Supply—a potable water supply that does not meet the criteria for a public water supply including, but not limited to a domestic well.

Public or Public Utilization—in the classification of plumbing fixtures, "public" applies to fixtures in general toilet rooms of schools, gymnasiums, hotels, hotel/motel rooms, airports, bus and railroad stations, public buildings, bars, public comfort stations, office buildings, stadiums, stores, restaurants, patient rooms and other installations where a number of fixtures are installed so that their utilization is similarly unrestricted.

NOTE: Delete definition *Public Water Main*—a water supply pipe for public use controlled by public authority.

Public Water Supply—public water system.

Public Water System—a particular type of water supply system intended to provide potable water to the public having at least 15 service connections or regularly serving an

average of at least 25 individuals daily at least 60 days out of the year.

Putrescible Waste—waste which is subject to spoilage, rot, or decomposition and may give rise to foul smelling, offensive odors and/or is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies. It includes wastes from the preparation and consumption of food, vegetable matter, and animal offal and carcasses.

Residential Facility—any place, facility, or home operated by any person who receives therein four or more people who are not related to such person for supervision, care, lodging and maintenance with or without transfer of custody. This shall include, but not be limited to group homes, community homes, maternity homes, juvenile detention centers, emergency shelters, halfway homes and schools for the mentally retarded.

Sanitary Sewage—see *sewage*.

Sewer—a pipe or other constructed conveyance which conveys sewage, rainwater, surface water, subsurface water, or similar liquid wastes.

a. *Building Sewer*—see "building sewer."

b. *Public Sewer*—a common sewer directly controlled by a public authority or utilized by the public

c. *Sanitary Sewer*—a sewer that carries sewage and excludes storm, surface and ground water.

d. *Storm Sewer*—a sewer that conveys rainwater, surface water, subsurface water and similar liquid wastes.

Sewerage System—any system of piping (excluding the building drain and building sewer) and/or collection and/or transport system and/or pumping facility and/or treatment facility, all for the purpose of collecting, transporting, pumping, treating and/or disposing of sanitary sewage.

Waste Receptor—a *plumbing fixture* designed specifically to collect and dispose of liquid waste received from an indirect waste pipe which is connected to other *plumbing fixtures*, plumbing equipment or appliances which are required to discharge to the drainage system through either an air gap (drainage system) or air break (drainage system). The following type fixtures fall within the classification of indirect waste receptors: floor sinks, curbed cleaning facilities with floor drain, and standpipe drains with integral air gaps (drainage system) or air breaks (drainage system), and may include others when approved as such by the code official.

Water Main—a water supply pipe or system of pipes installed and maintained by a city, township, county, Public Utility Company or other public entity, on public property, in the street or in an approved dedicated easement of public or community use. This term shall also mean the principal artery (or arteries) used for the distribution of potable water to consumers by any water supplier including, but not limited to, those public water systems which are not owned by the public and which may not be on public property.

Water Supplier—a person who owns or operates a water supply system including, but not limited to, a person who owns or operates a public water system.

Water Supply System—the water service pipe, water distribution pipes, and the necessary connecting pipes, fittings, control valves and all appurtenances in or adjacent to the structure or premise. This term shall also mean the

system of pipes or other constructed conveyances, structures and facilities through which water is obtained, treated to make it potable (if necessary) and then distributed (with or without charge) for human consumption or other use.

NOTE: Delete definition *Well*—

Bored—a well constructed by boring a hole in the ground with an auger and installing a casing.

Drilled—a well constructed by making a hole in the ground with a drilling machine of any type and installing casing and screen.

Driven—a well constructed by driving a pipe in the ground. The drive pipe is usually fitted with a well point and screen.

Dug—a well constructed by excavating a large-diameter shaft and installing a casing.

C. Amend Chapter 3, General Regulations.

1. Add Section 303.5, Water Piping Quality.

a. All potable water pipes, fittings, valves, and fixtures shall be lead free and shall be evaluated and listed as conforming with NSF/ANSI 372. Any solder or flux which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead free.

i. Exception. The lead free requirement above shall not apply to:

(a). leaded joints necessary for the repair of existing cast iron pipes;

(b). fire hydrants, pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or

(c). toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.

2. Amend Section [B] 309.2, Flood Hazard.

a. For structures located in flood hazard areas, the following systems and equipment shall be located and installed as required by Section 1612 of the *International Building Code*.

NOTE: Where a private water supply is used it must meet the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (Water Wells) shall be utilized.

i. Exception

(a). The following systems are permitted to be located below the elevation required by Section 1612 of the *International Building Code* for utilities and attendant equipment provided that the systems are designed and installed to prevent water from entering or accumulating within their components and the systems are constructed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to up to such elevation;

(i). all water service pipes;

(ii). all sanitary drainage piping;

(iii). storm drainage piping;

(iv). manhole covers shall be sealed, except where elevated to or above the design flood elevation;

(v). all other plumbing fixtures, faucets, fixture fittings, piping systems and equipment;

(vi). water heaters;

(vii). vents and vent systems.

3. Amend Section 312.1, Required Tests.

a. The permit holder shall make the applicable tests prescribed in Sections 312.2 through 312.10 to determine compliance with the provisions of this code. The permit holder shall give reasonable advance notice to the code official when the plumbing work is ready for tests. The code official shall verify the test results. The equipment, material, power and labor necessary for the inspection and test shall be furnished by the permit holder and the permit holder shall be responsible for determining that the work will withstand the test pressure prescribed in the following tests. All plumbing system piping shall be tested with either water or by air. After the plumbing fixtures have been set and their traps filled with water, the entire drainage system shall be submitted to final tests. The code official shall require the removal of any cleanouts if necessary to ascertain whether the pressure has reached all parts of the system.

4. Amend Section 312.3, Drainage and Vent Test.

a. An air test shall be made by forcing air into the system until there is a uniform gauge pressure of 5 psi (34.5 kPa) or sufficient to balance a 10-inch (254 mm) column of mercury. This pressure shall be held for a test period of not less than 15 minutes. Any adjustments to the test pressure required because of changes in ambient temperatures or the seating of gaskets shall be made prior to the beginning of the test period.

5. Amend Section 312.5, Water Supply System Test.

a. Upon completion of a section of or the entire water supply system, the system, or portion completed, shall be tested and proved tight under a water pressure not less than 1.5 times the working pressure of the system, but not less than 140 psi; or, for piping systems other than plastic, by an air test of not less than 50 psi (344 kPa). This pressure shall be held for not less than 15 minutes. The water utilized for tests shall be obtained from a potable source of supply. The required tests shall be performed in accordance with this section and Section 107.

6. Amend Section 312.10, Installation, Inspection and Testing of Backflow Prevention Assemblies, Barometric Loops and Air Gaps.

a. Installation, inspection and testing shall comply with Sections 312.10.1 through 312.10.3.

7. Amend Section 312.10.1, Inspections.

a. Annual inspections shall be made of all backflow prevention assemblies, barometric loops and air gaps to determine whether they are operable, properly installed and maintained, and meet testing/code requirements. Inspections of backflow prevention devices including barometric loops and air gaps used to protect high degree of hazard cross connections shall be documented in writing and the report provided to the owner of the backflow prevention device.

8. Amend Section 312.10.2, Testing.

a. Reduced pressure principle, double check, pressure vacuum breaker, reduced pressure detector fire protection, double check detector fire protection, and spill-resistant vacuum breaker backflow preventer assemblies shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The testing procedure shall be performed in accordance with one of the following standards: ASSE 5013, ASSE 5015, ASSE 5020, ASSE 5047, ASSE 5048, ASSE 5052, ASSE 5056, CSA

B64.10.1, USC's FCCC and HR's "Manual of Cross-Connection Control", or UFL's TREEO's "Backflow Prevention—Theory and Practice". Any backflow preventer which is found to be defective shall be repaired.

9. Add Section 312.10.3, Owner Responsibilities.

a. The owner of the backflow prevention assemblies shall comply with the following.

i. It shall be the duty of the owner of the backflow prevention assembly to see that these tests are made in a timely manner in accord with the frequency of field testing specified in 312.10.2 of this code.

ii. The owner shall notify the building official, and/or water supplier (for those devices associated with containment) in advance when the tests are to be undertaken so that the building official and/or water supplier may witness the tests if so desired.

iii. Upon completion, the owner shall provide records of such tests, repairs, overhauls, or replacements to the building official or water supplier (for those devices associated with containment). In addition, all records shall be kept by the owner of the backflow prevention device or method for at least 5 years and, upon specific request, shall be made available to the building official or water supplier.

iv. All tests, repairs, overhauls or replacements shall be at the expense of the owner of the backflow preventer.

10. Add Section 314.3, Plenum.

a. No floor drain or other plumbing fixture except electric water heaters shall be installed in a room containing air handling machinery when such room is used as a plenum. When rooms are used as a plenum, equipment drains shall be conveyed through an indirect waste receptor located outside such rooms or other approved point of disposal.

11. Amend Section 316.1.2, Submittal.

a. The registered design professional engineer shall indicate on the permit application that the plumbing system is an alternative engineered design. The permit and permanent permit records shall indicate that an alternative engineered design was part of the approved installation.

D. Amend Chapter 4.

1. Amend Section 403.3.3, Location of Toilet Facilities in Occupancies other than Malls and Educational Buildings.

a. In occupancies other than covered and open mall buildings, and educational buildings, the required public and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m).

2. Add Section 403.3.7, Location of Toilet Facilities in Educational Buildings.

a. For primary schools, and other special types of institutions with classrooms, for children through 12 years of age, separate boys' and girls' toilet room doors shall not be further than 200 feet from any classroom doors. For secondary schools, and other special types of institutions with classrooms, for persons of secondary school age, separate boys' and girls' toilet room doors shall not be further than 400 feet from any classroom door. In multi-storied buildings, there shall be boys' and girls' toilet rooms on each floor, having the number of plumbing fixtures as specified in

Table 403.1 of this Code for the classroom population of that floor. When new educational buildings are added to an existing campus, the restroom facilities and drinking fountains located in the existing building(s) may be used to serve the occupants of the new educational building(s) only when all of the following provisions are met:

i. covered walkways consisting of a roof designed to protect the students and faculty from precipitation having a minimum width of 6 feet and located above a slip-resistant concrete or other acceptable hard surfaces leading to and from the restrooms shall be provided whenever children or faculty have to walk outside to access the toilet room;

ii. the path of travel from the classroom door to the toilet room doors (boys' or girls') does not exceed the applicable distance specified in this Section; and

iii. the number of occupants of the new building does not cause an increase in the school population that would trigger the need for more fixtures per Table 403.1 (Minimum Number of Required Plumbing Fixtures).

3. Add Section 403.6, Other fixture requirements for licensed pre-schools, day care centers, and residential facilities.

a. Additional plumbing fixtures shall be provided in day care centers and residential facilities as required by this Section.

4. Add Section 403.6.1, Food Preparation.

a. The food preparation area in pre-schools, day cares, and residential facilities shall meet the following requirements. The food preparation, storage and handling where six or less individuals are cared for shall provide a two-compartment sink and an approved domestic type dishwasher. Where the number of individuals cared for is between 7 and 15, either a three-compartment sink, or an approved domestic or commercial type dishwashing machine and a two-compartment sink with hot and cold running water shall be provided. Where 16 or more individuals are cared for, a three-compartment sink must be provided. If a dishwasher is also utilized in these instances (16 or more individuals), it must be a commercial type and it shall be in addition to the required three-compartment sink. One laundry tray, service sink, or curbed cleaning facility with floor drain shall also be provided on the premises for cleaning of mops and mop water disposal (for facilities caring for 16 or more individuals).

5. Add Section 403.6.2, Caring for Children between 0 and 4 Years of Age.

a. In child day care facilities, a hand washing sink shall be in or adjacent to each diaper changing area. In addition, one extra laundry tray, service sink, or similar fixture is required to clean and sanitize toilet training potties immediately after each use. Such fixture shall be dedicated solely for this purpose and shall not be in the food preparation/storage, utensil washing, or dining areas. Training potties shall not be counted as toilets in determining the minimum fixture requirements of Table 403.1. Fixtures shall be size appropriate for the age of the children being cared for (toilets 11 inches maximum height and lavatories 22 inches maximum height), or if standard size fixtures are used, safe, cleanable step aids shall be provided.

6. Add Section 410.5, Minimum Required Separation from Contamination.

a. Drinking fountain fixtures shall provide a minimum requirement of 18 inches of separation from its water outlet (spigot) to any source of contamination. Combination sink/drinking fountain units shall provide a minimum of 18 inches between the drinking fountain water outlet (spigot) and the nearest outside rim of the sink bowl [or other source(s) of contamination].

i. Exception

(a). This 18 inch minimum separation may only be reduced by the use of a vertical shield made of a smooth, easily cleaned surface that is attached flush with the top surface of the unit and extends to a distance at least 18 inches in height above the drinking fountain water outlet (spigot) level.

(b). Prohibited Fixture. Combination sink/drinking fountain units which share the same sink bowl are prohibited except in individual prison cells.”

7. Amend Section 412, Floor and Trench Drains.

a. Add Section 412.5, Miscellaneous Areas.

i. A floor drain shall be required in public toilet rooms, excluding hotel/motel guest rooms or patient rooms of a hospital or nursing home.

ii. A floor drain shall be required in the recess room for sterilizers in a medical facility.

iii. Floor drains are not permitted in general food storage areas, for example, a food storage closet or room.

8. Amend Section 417.3, Shower Water Outlet.

a. Waste outlets serving showers shall be not less than 2 inches (50.8 mm) in diameter and, for other than waster outlets in bathtubs, shall have removable strainers not less than 3 inches (76 mm) in diameter with strainer openings not less than 1/4 inch (6.4 mm) in least dimension. Where each shower space is not provided with an individual waste outlet, the waste outlet shall be located and the floor pitched so that waste from one shower does not flow over the floor area serving another shower. Waste outlets shall be fastened to the waste pipe in an approved manner.

9. Add Section 418.4, Handwash Sinks.

a. Dedicated handwash sinks shall be located to permit convenient use by all employees in food processing, food preparation, and other food handling areas.

b. Each commercial body art (tattoo) facility shall provide a hand washing sink to be used solely for hand washing in body art procedure area for the exclusive use of the operator. A separate instrument sink shall also be provided for the sole purpose of cleaning instruments and equipment prior to sterilization.

c. A hand washing sink may not be used for purposes other than hand washing.

d. Sinks used for food preparation or for washing and sanitizing of equipment and utensils shall not be used for hand washing.

10. Add Section 418.5, Manual Warewashing, Sink Requirements.

a. A sink with at least three compartments constructed of smooth, impervious non-corrosive material such as stainless steel or high density food grade polymer plastic shall be provided in slaughter rooms, packing rooms,

retail food establishments, and other food handling areas for manual washing, rinsing and sanitizing equipment and utensils except where there are no utensils or equipment to wash, rinse and sanitize; i.e., such as in a facility with only prepackaged foods.

11. Add Section 422.11, Handwashing Facilities.

a. Medical facilities, including doctor’s office and clinics, shall be provided with hand washing facilities within each patient examination and treatment room. The hand wash facility shall be provided with hot and cold water delivered via a mixing faucet.

12. Amend Section 425.2, Flushometer Valves and Tanks.

a. Flushometer valves and tanks shall comply with ASSE 1037 or CSA B125.3. I Vacuum breakers on flushometer valves shall conform to the performance requirements of ASSE 1001 or CSA B64. 1.1. Flushometer valves shall be equipped with an approved vacuum breaker. The vacuum breaker shall be installed on the discharge side of the flushing valve with the critical level at least 4 inches (102 mm) above the overflow rim of the bowl. Access shall be provided to vacuum breakers. Flushometer valves shall be of the water conservation type and shall not be used where the water pressure is lower than the minimum required for normal operation. When operated, the valve shall automatically complete the cycle of operation, opening fully and closing positively under the water supply pressure. Each flushometer valve shall be provided with a means for regulating the flow through the valve. The trap seal to the fixture shall be automatically refilled after each flushing cycle.

E. Amend Chapter 5, Water Heaters.

1. Amend Section 503.1, Cold Water Line Valve.

a. The cold water branch line from the main water supply line to each hot water storage tank or water heater shall be provided with a full port ball valve, located near the equipment and serving only the hot water storage tank or water heater. The valve shall not interfere or cause a disruption of the cold water supply to the remainder of the cold water system. The valve shall be provided with access on the same floor level as the water heater served.

2. Amend Section 504.7, Required Pan.

a. Where a storage tank-type water heater or a hot water storage tank is installed in a location where water leakage from the tank will cause damage, the tank shall be installed in a galvanized steel pan having a material thickness of not less than 0.0276-inch (0.7 mm), or other pans approved for such use.

i. Exception

(a). Electric water heaters may rest in a high impact plastic pan of at least 1/16-inch (1.6 mm) thickness.

3. Amend Section 504.7.1, Pan Size and Drain.

a. The drain pan shall be a minimum of 2-inches (2”) (50.8 mm) in depth and shall be of sufficient size and shape to receive all dripping or condensate from the tank or water heater. The pan shall be drained by an indirect waste pipe having a diameter of not less than 1-inch (25.4 mm). Piping for safety pan drains shall be of those materials listed in Table 605.4.

F. Amend Chapter 6, Water Supply and Distribution.

1. Amend Section 602.3, Individual Water Supply.

a. Where a potable public water supply is not available, a private water supply meeting the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (Water Wells) shall be utilized.

i. Delete and remove Sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5 and 602.3.5.1, Pump Enclosure.

2. Amend Section 603.2, Separation of Water Service and Sewer Lines.

a. Underground water service pipe and the building drain or building sewer shall be horizontally separated by not less than 5-feet (1524 mm) of undisturbed or compacted earth.

i. Exceptions

(a). The required separation distance shall not apply where the bottom of the water service pipe within 5 feet (1524 mm) of the sewer is not less than 12 inches (305 mm) above the top of the highest point of the sewer and the sewer pipe materials conform to Table 702.3.

(b). Water service pipe is permitted to be located in the same trench with a building drain or building sewer, provided such sewer is constructed of materials listed in Table 702.2 and the water service pipe is placed on a solid shelf excavated at one side of the common trench. The bottom of the water service pipe, at all points, shall be at least 12 inches (305 mm) above the top of the sewer line at its highest point.

(c). Any underground water service pipe which must cross a pipe that conveys sewage (e.g., building drains, building sewers, and other piping conveying sewage) shall have a minimum vertical separation of 12 inches (305 mm) above the top of the sewer. The water service pipe shall be sleeved to a point not less than 5 feet (1524 mm) horizontally from the sewer pipe centerline on both sides of such crossing with pipe materials listed in Table 605.3, 702.2 or 702.3.

3. Add Section 603.3, Potable Water (Pressure) Lines Near Soil Absorption Trenches, Sand Filter Beds, Oxidation Ponds, and any Effluent Reduction Option (Effluent Reduction Fields, Rock Plant Filters, Spray Irrigation Systems, Overland Flow Systems, Mound Systems, or Subsurface Drip Disposal Systems).

a. Underground potable water (pressure) lines shall not be located within 25 feet (7.6 m) of any soil absorption trenches, sand filter beds, oxidation ponds, or any effluent reduction option including, but not limited to effluent reduction fields, rock plant filters, spray irrigation systems (from the edge of the spray and its drainage), overland flow systems (from the discharge point and field of flow), mound systems, or subsurface drip disposal systems which have been installed for either the disposal of septic tank effluent or mechanical treatment plant effluent.

4. Add Section 603.4, Potable Water (Pressure) Lines Near Septic Tanks, Mechanical Sewage Treatment Plants, and Pump Stations.

a. Underground potable water (pressure) lines shall not be located within 10 feet (3.0 m) of any septic tank, mechanical sewage treatment plant, or sewage pump station.

5. Add Section 603.5, Potable Water (Pressure) Lines Near Seepage Pit, Cesspool, or Sanitary Pit Privy.

a. Underground potable water (pressure) lines shall not be located within 50 feet (15.2m) of any seepage pit, cesspool, or sanitary pit privy.

6. Add 603.6, Reclaimed Water Lines.

a. Reclaimed water lines shall be considered and treated as though they are sewerage lines and shall be installed in accord with the spacing requirements of this Section for the protection of potable water lines.

7. Add Section 603.7, Stop and Waste Valves and Devices.

a. Combination stop and waste valves and cocks shall not be installed underground in a water service pipe, water supply system, or a water distribution system. Any fixture or device which incorporates a stop and waste feature is prohibited if the waste opening is underground or in any location that waste water or water-borne contaminants may enter the device or water supply from the ground or other source by reversal of flow.

8. Amend Table 604.5, Minimum Sizes of Fixture Water Supply Lines.

a. Table 604.5—Minimum Sizes of Fixture Water Supply Pipes

Fixture	Minimum Pipe Size (inch)
Bathtubs ^a (60x 32 and smaller)	1/2
Bathtubs ^a (larger than 60x 32)	1/2
Bidet	3/8
Combination sink and tray	1/2
Dishwasher, domestic ^a	1/2
Drinking fountain	1/2
Hose bibbs	1/2
Kitchen sink ^a	1/2
Kitchen sink , Commercial	3/4
Lavatory	1/2
Shower, single head ^a	1/2
Sinks, flushing rim	3/4
Sinks, service	1/2
Urinal, flush tank	1/2
Urinal, flushometer valve	3/4
Wall hydrant	1/2
Water closet, flush tank	3/8
Water closet, flushometer valve	1
Water closet, flushometer tank	1/2
Water closet, one piece ^a	1/2

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm, 1 pound per square inch = 6.895 kPa.

^a Where the developed length of the distribution line is 60 feet or less, and the available pressure at the meter is 35 psi or greater, the minimum size of an individual distribution line supplied from a manifold and installed as part of a parallel water distribution system shall be one nominal tube size smaller than the sizes indicated.

9. Amend Section 605.2, Lead content of water supply pipe and fittings.

a. Water Piping Quality. All potable water pipes, fittings, valves, and fixtures shall be lead free and shall be evaluated and listed as conforming with NSF/ANSI 372. Any solder or flux which is used in the installation or repair of any public water system or any plumbing in a residential or nonresidential facility providing water for human consumption shall be lead free.

i. Exception. The lead free requirement above shall not apply to:

(a). leaded joints necessary for the repair of existing cast iron pipes;

(b). fire hydrants, pipes, pipe fittings, plumbing fittings, or fixtures, including backflow preventers, that are used exclusively for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not anticipated to be used for human consumption; or

(c). toilets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are 2 inches in diameter or larger.604.

10. Amend Section 605.3, Water Service Pipe with Corresponding Table 605.3.

a. Water service pipe shall conform to NSF 61 and shall conform to one of the standards listed in Table 605.3. Water service pipe or tubing, installed underground and outside of the structure, shall have a working pressure rating of not less than 160 psi (1100 kPa) at 73.4°F (23°C). Where the water pressure exceeds 160 psi (1100 kPa) piping material shall have a working pressure rating not less than the highest available pressure. Water service piping materials not third-party certified for water distribution shall terminate at or before the full open valve located at the entrance to the structure. All ductile iron water service piping shall be cement mortar lined in accordance with AWWA C104.

i. Table 605.3—Water Service Pipe

Material	Standard
Acrylonitrile butadiene styrene (ABS) plastic pipe	ASTM D 1527; ASTM D 2282
Brass pipe	ASTM B 43
Chlorinated polyvinyl chloride (CPVC) plastic pipe	ASTM D 2846; ASTM F 441; ASTM F 442; CSA B137.6
Copper or copper-alloy pipe	ASTM B 42; ASTM B 302
Copper or copper-alloy tubing (Type K, WK, L, or WL only. i.e., Type M copper is prohibited.)	ASTM B 75; ASTM B 88; ASTM B 251; ASTM B 447
Cross-linked polyethylene (PEX) plastic pipe and tubing	ASTM F 876; ASTM F 877; AWWA C904; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F 1281; ASTM F 2262; CSA B137.10M
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Ductile iron water pipe	AWWA C151/A21.51; AWWA C115/A21.15
Galvanized steel pipe	ASTM A 53
Polyethylene (PE) plastic pipe	ASTM D 2239; ASTM D 3035; AWWA C901; CSA B137.1
Polyethylene (PE) plastic tubing	ASTM D 2737; AWWA C901; CSA B137.1
Polyethylene/aluminum/polyethylene (PE-AL-PE) pipe	ASTM F 1282; CSA B137.9
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 2769
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11

Material	Standard
Polyvinyl chloride (PVC) plastic pipe	ASTM D 1785; ASTM D 2241; ASTM D 2672; CSA B137.3
Stainless steel pipe (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel pipe (Type 316/316L)	ASTM A 312; ASTM A 778

11. Amend Section 605.3.1, Dual check-valve-type backflow preventer.

a. Dual check-valve backflow preventers installed on the water supply system shall comply with ASSE 1024 or CSA B64.6. These devices, which are commonly installed immediately downstream of water meters by water suppliers, are not approved backflow prevention devices and are only allowed to be installed when no cross connections exist downstream of the device or when all downstream cross connections are properly protected by approved backflow prevention devices, assemblies, or methods in accordance with Section 608 of this code.

12. Amend Table 605.4, Water Distribution Pipe.

a. Table 605.4—Water Distribution Pipe

Material	Standard
Brass pipe	ASTM B 43
Chlorinated polyvinyl chloride (CPVC) plastic pipe and tubing	ASTM D 2846; ASTM F 441; ASTM F 442; CSA B137.6
Copper or copper-alloy pipe	ASTM B 42; ASTM B 302
Copper or copper-alloy tubing (Type K, WK, L, or WL only. i.e., Type M copper is prohibited.)	ASTM B 75; ASTM B 88; ASTM B 251; ASTM B 447
Cross-linked polyethylene (PEX) plastic tubing	ASTM F 876; ASTM F 877; CSA B137.5
Cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe	ASTM F 1281; ASTM F 2262; CSA B137.10M
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Ductile iron pipe	AWWA C151/A21.51; AWWA C115/A21.15
Galvanized steel pipe	ASTM A 53
Polyethylene/aluminum/polyethylene (PE-AL-PE) composite pipe	ASTM F 1282
Polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 2769
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Stainless steel pipe (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel pipe (Type 316/316L)	ASTM A 312; ASTM A 778

13. Amend Section 605.5, Fittings.

a. Pipe fittings shall be approved for installation with the piping material installed and shall comply with the applicable standards listed in Table 605.5. Pipe fittings utilized in water supply systems shall also comply with NSF 61. Ductile and gray iron pipe fittings shall be cement mortar lined in accordance with AWWA C104. For repairs all copper, brass and stainless steel joints below a building slab shall be brazed and/or welded in accordance with the

requirements of this code, as appropriate. With the exception of heat fused polypropylene, all other joints and fittings for plastic pipe below a building slab are prohibited.

14. Amend Table 605.5, Pipe Fittings.

a. Table 605.5—Pipe Fittings

Material	Standard
Acrylonitrile butadiene styrene (ABS) plastic	ASTM D 2468
Cast-iron	ASME B16.4; ASME B16.12
Chlorinated polyvinyl chloride (CPVC) plastic	ASSE 1061; ASTM D 2846; ASTM F 437; ASTM F 438; ASTM F 439; CSA B137.6
Copper or copper alloy	ASSE 1061; ASME B16.15; ASME B16.18; ASME B16.22;
Cross-linked polyethylene/aluminum/high-density polyethylene (PEX-AL-HDPE)	ASTM F 1986
Fittings for cross-linked polyethylene (PEX) plastic tubing	ASSE 1061, ASTM F 877; ASTM F 1807; ASTM F 1960; ASTM F 2080; ASTM F 2098, ASTM F 2159; ASTM F 2434; ASTM F 2735; CSA B137.5
Fittings for polyethylene of raised temperature (PE-RT) plastic tubing	ASTM F 1807; ASTM F 2098; ASTM F 2159; ASTM F 2735
Gray iron and ductile iron	AWWA C110/A21.10; AWWA C153/A21.53
Insert fittings for polyethylene/aluminum/polyethylene (PE-AL-PE) and cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX)	ASTM F 1974; ASTM F 1281; ASTM F 1282; CSA B137.9; CSA B137.10M
Malleable iron	ASME B16.3
Metal (brass) insert fittings for polyethylene/aluminum/polyethylene (PE-AL-PE) and cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX)	ASTM F 1974
Polyethylene (PE) plastic pipe	ASTM D 2683; ASTM D 3261; ASTM F 1055; CSA B137.1
Polypropylene (PP) plastic pipe or tubing	ASTM F 2389; CSA B137.11
Polyvinyl chloride (PVC) plastic	ASTM D 2464; ASTM D 2466; ASTM D 2467; CSA B137.2; CSA B137.3
Stainless steel (Type 304/304L)	ASTM A 312; ASTM A 778
Stainless steel (Type 316/316L)	ASTM A 312; ASTM A 778
Steel	ASME B16.9; ASME B16.11; ASME B16.28

15. Amend Section 606.1, Location of Full-Open Valves.

a. Full-open valves shall be installed in the following locations:

- i. on the building water service pipe from the public water supply near the curb;
- ii. on the water distribution supply pipe at the entrance into the structure;
- iii. on the discharge side of every water meter;
- iv. on the base of every water riser pipe in occupancies other than multiple-family residential occupancies that are two stories or less in height and in one- and two-family residential occupancies;
- v. on the top of every water down-feed pipe in occupancies other than one- and two-family residential occupancies;
- vi. on the entrance to every water supply pipe to a dwelling unit, except where supplying a single fixture equipped with individual stops;
- vii. on the water supply pipe to a gravity or pressurized water tank;
- viii. on the water supply pipe to every water heater;
- ix. on each water supply branch line 1/2 inches or larger so as to isolate all fixtures and all pieces of equipment supplied by the branch line. The shutoff valve shall be installed in a labeled and accessible location as close to the connection to the supply main and/or riser as practical.

b. When such shutoff valve is located in the service pipe outside the building, it shall be located and accessible in a manufactured, approved, valve box with a readily removable access cover which extends to grade (G) level. When drain valves are provided for the distribution piping or other portions of the water distribution system, such drains shall be above grade (G) or otherwise located to prevent the possibility of backflow into the piping system after the system has been drained.

16. Amend Section 606.2, Location of Shutoff Valves.

a. Shutoff valves shall be installed in the following locations:

- i. on the fixture supply to each plumbing fixture other than bathtubs and showers in one- and two-family residential occupancies. Such valves shall permit each fixture to be shutoff without interfering with the water supply to any other fixtures. In all buildings other than one- and two-family residential occupancies, shutoff valves shall be installed which permit the water supply to all fixtures and equipment in each separate room to be shut off without interference with the water supply to any other room or portion of the building or each individual fixture and piece of equipment shall have a shutoff valve which will permit each fixture and piece of equipment to be shut off without interfering with the water supply to other fixtures or equipment;
- ii. on the water supply pipe to each sillcock;
- iii. on the water supply pipe to each appliance or mechanical equipment.

17. Amend Section 606.5.5, Low-Pressure Cutoff Required on Booster Pumps.

a. A low-pressure cutoff shall be installed on all booster pumps in a water pressure booster system to prevent creation of a vacuum or negative pressure on the suction side of the pump when a positive pressure of 20 psi (137.9 kPa) or less occurs on the suction side of the pump.

18. Amend Section 607.3.2, Backflow prevention device or check valve.

a. Where a backflow prevention device, check valve or other device is installed on a water supply system utilizing storage water heating equipment, a device for controlling pressure shall be installed at an accessible location between the checking device and the water heating equipment to limit thermal expansion of the water being heated to not more than 80 psi (552 kPa) static pressure at any fixture on the system. A potable water expansion tank or auxiliary relief valve set at 80 psi (552 kPa) shall be acceptable. The auxiliary relief valve shall be in addition to the water heater safety relief valve. This thermal expansion control device shall be designed and trimmed for repeated operation. The valve shall be a minimum 1/2-inch pipe size, shall be adjustable and calibrated, and shall include a tag describing its function.

19. Amend Section 608.1, General.

a. A potable water supply system shall be designed, installed and maintained in such a manner so as to prevent contamination from non-potable liquids, solids or gases being introduced into the potable water supply through cross-connections or any other piping connections to the system. Backflow preventers shall conform to the applicable Standard referenced in Table 608.1. Backflow preventer applications shall conform to Table 608.1, except as specifically stated in Sections 608.2 through 608.16.27 and Sections 608.18 through 608.18.2.

20. Amend Section 608.4, Water Service Piping/Containment to Protect Potable Water Supplies.

a. Water service piping shall be protected in accordance with Sections 603.2. Containment to protect potable water supplies shall be achieved in accordance with 608.18 through 608.18.2.

21. Amend Section 608.6, Cross-Connection Control.

a. Cross connections shall be prohibited, except where approved backflow prevention devices, assemblies, or methods are installed to protect the potable water supply. A dual check valve type backflow preventer (i.e., device meeting ASSE 1024 or CSA B64.6 with two spring loaded, independently operating check valves without tightly closing shut-off valves or test cocks which is commonly installed immediately downstream of water meters by water suppliers) is not an approved backflow prevention device when a known cross connection exists downstream of the device. These devices are only allowed to be installed when no cross connections exist downstream of the device or when all downstream cross connections are properly protected by approved backflow prevention devices, assemblies, or methods.

22. Amend Section 608.8, Identification of Nonpotable Water.

a. Where nonpotable water systems are installed, the piping conveying the nonpotable water shall be identified either by color marking or metal tags in accordance with Sections 608.8.1 through 608.8.3. All nonpotable water outlets such as hose connections, open

ended pipes, and faucets shall be identified at the point of use for each outlet with the words, "Nonpotable—not safe for drinking." The words shall be indelibly printed on a tag or sign constructed of corrosion-resistant waterproof material or shall be indelibly printed on the fixture. The letters of the words shall be not less than 0.5 inches (12.7 mm) in height and in colors in contrast to the background on which they are applied.

i. Exception

(a). Overall Exception to this Section (§608.8 of this code). Pursuant to R.S. 40:4.12, industrial-type facilities listed therein shall not be required to comply with this section (§608.8 of this code) provided that such facilities have a potable water distribution identification plan in conformity with the requirements of R.S. 40:4.12. The required formal cross-connection control survey of the facility referenced in R.S. 40:4.12 shall be performed by an individual holding a valid cross-connection control surveyor certificate issued under the requirements of ASSE 5120, or other individuals holding a surveyor certificate from a nationally recognized backflow certification organization approved by the state health officer.

23. Amend Section 608.14, Location of Backflow Preventers.

a. Access shall be provided to backflow preventers as specified by the manufacturer's instructions for the required testing, maintenance and repair. A minimum of 1-foot of clearance shall be provided between the lowest portion of the assembly and grade or platform. Elevated installations exceeding 5-feet above grade(g) shall be provided with a suitably located permanent platform capable of supporting the installer, tester, or repairer. Reduced pressure principal type backflow preventers, and other types of backflow preventers with atmospheric ports and/or test cocks (e.g., atmospheric type vacuum breakers, double check valve assemblies, pressure type vacuum breaker assemblies, etc.), shall not be installed below grade (in vaults or pits) where the potential for a relief valve, an atmospheric port, or a test cock being submerged exists.

24. Amend Section 608.14.2, Protection of Backflow Preventers.

a. Backflow preventers subjected to freezing temperatures shall protected from freezing by heat, insulation or both; or as otherwise recommended by the manufacturer.

25. Amend Section 608.15.4, Protection by a Vacuum Breaker.

a. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. The critical level of atmospheric type vacuum breakers shall be installed not less than 6 inches (152 mm) above all downstream piping and not less than 6 inches (152 mm) above the flood-level rim of the fixture receptor or device served. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. Atmospheric vacuum breakers including, but not limited to, hose bibb vacuum breakers shall not be subjected to continuous water pressure. The critical level of pressure type vacuum breakers shall be installed not less than 12 inches (305 mm) above all downstream piping and not less than 12 inches (305 mm) above the flood-level rim of the fixture receptor or device served. Fill valves shall be set in

accordance with Section 425.3.1. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors.

26. Amend Section 608.15.4.2, Hose Connections.

a. Sillcocks, hose bibbs, wall hydrants and other openings with a hose connection shall be protected against backflow by an atmospheric-type or pressure-type vacuum breaker installed in accordance with Section 608.15.4, or by a permanently attached hose connection vacuum breaker in which the highest point of usage is less than 10 feet above the hose connection vacuum breaker. Hose bib vacuum breakers shall not be subjected to continuous water pressure.

27. Amend Section 608.16, Connections to the Potable Water System.

a. Connections to the potable water system shall conform to Sections 608.16.1 through 608.16.27. These Sections (608.16.1-608.16.27) are not inclusive of all potential contamination sources which may need fixture isolation protection. For potential contamination sources not listed in Sections 608.16.1 through 608.16.27, backflow prevention methods or devices shall be utilized in accordance with Table B1 of CAN/CSA B64.10-1994. When a potential contamination source and its associated backflow prevention method or device is not identified in this code or Table B1 of CAN/CSA B64.10-1994, backflow prevention methods or devices shall be utilized as directed by the building official.

28. Amend Section 608.16.5, Connections to Lawn Irrigation Systems.

a. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric vacuum breaker, a pressure vacuum breaker assembly or a reduced pressure principle backflow prevention assembly. Shutoff or control valves shall not be installed downstream from an atmospheric vacuum breaker. When an irrigation/lawn sprinkler system is provided with separate zones, the potable water supply shall be protected by a pressure vacuum breaker or reduced pressure principal backflow prevention assembly. Atmospheric vacuum breakers shall be installed at least 6 inches (152 mm) above the highest point of usage (i.e., 6 inches (152 mm) above all downstream piping or highest sprinkler head). Pressure type vacuum breakers shall be installed at least 12 inches (305 mm) above the highest point of usage (i.e., 12 inches (305 mm) above all downstream piping and the highest sprinkler head). Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow prevention assembly.

29. Amend Section 608.16.8, Portable Cleaning Equipment.

a. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.13.1, 608.13.2, 608.13.3, 608.13.5, 608.13.6, or 608.13.8. The type of backflow preventer shall be selected based upon the application in accordance with Table 608.1.

30. Add Section 608.16.11, Cooling Towers.

a. The potable water supply to cooling towers shall be protected against backflow by an air gap.

31. Add Section 608.16.12, Chemical Tanks.

a. The potable water supply to chemical tanks shall be protected against backflow by an air gap.

32. Add Section 608.16.13, Commercial Dishwashers in Commercial Establishments.

a. The potable water supply to commercial dishwashers in commercial establishments shall be protected against backflow by an air gap, atmospheric vacuum breaker, or pressure vacuum breaker. Vacuum breakers shall meet the requirements of Section 608.15.4.

33. Add Section 608.16.14, Ornamental Fountains.

a. The potable water supply to ornamental fountains shall be protected against backflow by an air gap.

34. Add Section 608.16.15, Swimming Pools, Spas, Hot Tubs.

a. The potable water supply to swimming pools, spas, or hot tubs shall be protected against backflow by an air gap or reduced pressure principal backflow prevention assembly.

35. Add Section 608.16.16, Baptismal Fonts.

a. The potable water supply to baptismal fonts shall be protected against backflow by an air gap.

36. Add Section 608.16.17, Animal Watering Troughs.

a. The potable water supply to animal watering troughs shall be protected against backflow by an air gap.

37. Add Section 608.16.18, Agricultural Chemical Mixing Tanks.

a. The potable water supply to agricultural chemical mixing tanks shall be protected against backflow by an air gap.

38. Add Section 608.16.19, Water Hauling Trucks.

a. The potable water supply to water hauling trucks/tankers shall be protected against backflow by an air gap when filled from above. When allowed to be filled from below, they shall be protected by a reduced pressure principle backflow prevention assembly. When a tanker truck is designated for the hauling of food grade products (and has been cleaned utilizing food grade cleaning procedures) and is allowed to be filled from below, a double check valve assembly shall be acceptable.

39. Add Section 608.16.20, Air Conditioning Chilled Water Systems and/or Condenser Water Systems.

a. The potable water supply to air conditioning chilled water systems and condenser water systems shall be protected against backflow by a reduced pressure principal backflow prevention assembly.

40. Add Section 608.16.21, Pot-Type Chemical Feeders.

a. The potable water supply to pot-type chemical feeders shall be protected against backflow by a reduced pressure principal backflow prevention assembly.

41. Add Section 608.16.22, Food Processing Steam Kettles.

a. The potable water supply to food processing steam kettles shall be protected against backflow by a double check valve backflow prevention assembly.

42. Add Section 608.16.23, Individual Travel Trailer Pads.

a. The potable water supply to individual travel trailer pads shall be protected against backflow by a double check valve backflow prevention assembly.

43. Add Section 608.16.24, Laboratory and/or Medical Aspirators.

a. The potable water supply to laboratory and/or medical aspirators shall be protected against backflow by an atmospheric or pressure vacuum breaker installed in accordance with Sections 608.3.1 and 608.15.4.

44. Add Section 608.16.25, Laboratory or other Sinks with Threaded or Serrated Nozzles.

a. The potable water supply to laboratory sinks or other sinks with threaded or serrated nozzles shall be protected against backflow by an atmospheric or pressure vacuum breaker installed in accordance with Sections 608.3.1 and 608.15.4.

45. Add Section 608.16.26, Mortuary/Embalming Aspirators.

a. The potable water supply to mortuary/embalming aspirators shall be protected against backflow by a pressure vacuum breaker installed in the supply line serving the aspirator. The critical level of the vacuum breaker shall be installed a minimum of 12 inches higher than the aspirator. The aspirator shall be installed at least 6 inches above the highest level at which suction may be taken. An air gap shall be provided between the outlet of the discharge pipe and the overflow rim of the receiving fixture.

46. Add Section 608.16.27, Room(s) or other Sub-Unit(S) of a Premise or Facility Receiving Water where Access is Prohibited.

a. When access is prohibited to particular areas, rooms, or other sub-units of a premise or facility which is receiving water, the potable water supply serving those areas shall be protected against backflow by a reduced pressure principal backflow protection assembly.

47. Amend Section 608.17, Protection of Individual Water Supplies.

a. An individual water supply shall be located and constructed so as to be safeguarded against contamination in accordance with the applicable requirements of LAC 51:XII (Water Supplies) and LAC 56:I (WaterWells).

48. Remove and delete Sections 608.17.1 thru 608.17.8 including Table 608.17.1.

49. Add Section 608.18, Containment Practices.

a. Backflow prevention methods or devices shall be utilized as directed by the water supplier or code official to isolate specific water supply system customers from the water supply system's mains when such action is deemed necessary to protect the water supply system against potential contamination caused by backflow of water from that part of the water system owned and maintained by the customer (for example, the piping downstream of the water meter, if provided). Minimum requirements shall be in accordance with Section 608.18.1 through 608.18.2.

50. Add Section 608.18.1, Containment Requirements.

a. As a minimum, the following types of backflow prevention assemblies or methods shall be installed and maintained by water supply system customers immediately downstream of the water meter (if provided) or on the water

service pipe prior to any branch line or connections serving the listed customer types and categories.

51. Add Table 608.18.1, Containment Requirements.

a. Table 608.18.1—Containment Requirements

Air Gap
1. Fire Protection/Sprinkler System utilizing non-potable water as an alternative or primary source of water
Reduced Pressure Principle Backflow Prevention Assembly
1. Hospitals, Out-Patient Surgical Facilities, Renal Dialysis Facilities, Veterinary Clinics
2. Funeral Homes, Mortuaries
3. Car Wash Systems
4. Sewage Facilities
5. Chemical or Petroleum Processing Plants
6. Animal/Poultry Feedlots or Brooding Facilities
7. Meat Processing Plants
8. Metal Plating Plants
9. Food Processing Plants, Beverage Processing Plants
10. Fire Protection/Sprinkler Systems using antifreeze in such system (a detector type assembly is recommended on unmetereed fire lines)
11. Irrigation/Lawn Sprinkler Systems with Fertilizer Injection
12. Marinas/Docks
13. Radiator Shops
14. Commercial Pesticide/Herbicide Application
15. Photo/X-ray/Film Processing Laboratories
16. Multiple Commercial Units served by a master meter
17. Any type of occupancy type or any other facility having one or more Single-walled Heat Exchangers which uses any chemical, additive, or corrosion inhibitor, etc., in the heating or cooling medium
18. Any type of occupancy type or any other facility having one or more Double-walled Heat Exchangers which use any chemical, additive, or corrosion inhibitor, etc., in the heating or cooling medium and which does not have a path to atmosphere with a readily visible discharge
19. Premises where access/entry is prohibited
Pressure Vacuum Breaker Assembly/Spill Resistant Vacuum Breaker Assembly
1. Irrigation/Lawn Sprinkler Systems
Double Check Valve Assembly
1. Fire Protection/Sprinkler Systems (a detector type double check valve assembly is recommended on unmetereed fire lines)
2. Two residential dwelling units served by a master meter, unless both units are located on a parcel or contiguous parcels of land having the same ownership and neither unit is used for commercial purposes. As used herein, the term "commercial purposes" means any use other than residential.
3. Three or more residential dwelling units served by a master meter
4. Multistoried Office/Commercial Buildings (over 3 floors)
5. Jails, Prisons, and Other Places of Detention or Incarceration

52. Add Section 608.18.2, Other Containment Requirements.

a. Table 608.18.1 of this code above is not inclusive of all potential contamination sources which may need containment protection. For potential contamination sources not listed in this table, backflow prevention methods or devices shall be utilized in accordance with Table B1 of CAN/CSA B64.10-1994. When a potential contamination source and its associated backflow prevention method or device is not identified in Table 608.18.1 of this code above or Table B1 of CAN/CSA B64.10-1994, backflow prevention methods or devices shall be utilized:

- i. as directed by the building code official; or
- ii. as directed by the water supplier.

iii. In cases of a discrepancy regarding the particular backflow prevention assembly or method required,

the assembly or method providing the higher level of protection shall be required.

G. Amend Chapter 7, Sanitary Drainage.

1. Amend Section 701.2, Sewer Required.

a. Buildings in which plumbing fixtures are installed and premises having sanitary drainage system piping shall be connected to a community sewerage system, where available, or an approved commercial treatment facility or individual sewerage meeting the requirements of LAC 51:XIII (Sewage Disposal).

2. Amend Section 701.3, Separate Sewer Connection.

a. A building having plumbing fixtures installed and intended for human habitation, occupancy or use on premises abutting on a street, alley or easement in which there is community sewerage system shall have a separate connection with the sanitary sewer. Where located on the same lot, multiple buildings shall not be prohibited from connecting to a common sanitary building sewer that connects to the community sewerage system.

3. Amend Section 701.8, Engineered Systems.

a. Engineered sanitary drainage systems shall conform to the provisions of Section 316 and 714. Single stack plumbing systems may be considered for approval by the code official for use on the upper floors of hotel and motel guest rooms but shall not be approved for condominium or apartment complexes.

4. Amend Section 701.9, Drainage Piping in Food Service Areas.

a. Exposed soil or waste piping, including vacuum drainage systems, shall not be installed above any food preparation areas, food or utensil storage areas or eating surfaces in food service establishments unless they are adequately shielded to intercept potential drips.

5. Add Section 701.10, Repairs to Drainage System via Re-Route.

a. In the case where it is determined that there is a broken underground drain line including, but not limited to, broken drain lines under the slab of a building, and a drain line re-route is performed, the existing broken underground drain line shall be cut or otherwise disconnected from the entire drainage system. At the point of such cutting or disconnection, the entire circumference of the existing pipe which remains connected to the drainage system shall have a wall thickness of not less than 1/8-inch. The existing pipe which remains connected to the drainage system shall be sealed watertight and gastight using approved plumbing materials and joining/jointing methods, e.g., properly install an approved cap, plug, or cleanout on the cut or disconnected pipe.

6. Amend Section 702.5, Chemical Waste System.

a. A chemical waste system shall be completely separated from the sanitary drainage system. The chemical waste shall be treated in accordance with Section 803.2 before discharging to the sanitary drainage system. Separate drainage systems for chemical wastes and vent pipes shall be constructed of one of the materials listed in Table 702.5 or other materials approved by the plumbing official. The material selected shall be resistant to corrosion and degradation for the concentrations of chemicals involved. Joints shall be made in conformance with the manufacturer's recommendations.

i. Table 702.5—Chemical Waste System

Material	Standard
High silicon cast iron	ASTM A 518/A 518M
Borosilicate glass	ASTM C 1053
Chlorinated poly [vinyl chloride] (CPVC)	ASTM F 2618
Polyolefin	ASTM F 1412
Polyvinylidene fluoride (PVDF)	ASTM F 1673

7. Add Section 703.6, Minimum Size Building Sewer.

a. No building sewer shall be less than 4 inches in size with the exception of force lines.

8. Delete Section 706.4, Heel- or Side-Inlet Quarter Bends.

9. Amend Section 708.3, Where Required.

a. Cleanouts shall be located in accordance with Sections 708.3.1 through 708.3.6.

10. Amend Section 708.3.1, Horizontal Drains within Buildings.

a. Horizontal drains within buildings shall be provided with cleanouts as follows.

i. All horizontal drains 3-inch nominal diameter or less, cleanouts shall be located at not more than 50 feet (15 200mm) intervals.

ii. For horizontal drains 4-inch nominal diameter through 6-inch nominal diameter, cleanouts shall be located at not more than 80 feet (24 400mm) intervals.

iii. Horizontal drains larger than 6-inch nominal diameter shall be provided with cleanouts located at not more than 100 feet (30 480 mm) intervals.

11. Amend Section 708.3.2, Building Sewers.

a. Building sewers 4-inch nominal diameter through 6-inch nominal diameter shall be provided with cleanouts located not more than 80 feet (24 400mm) apart measured from the upstream entrance of the cleanout. For building sewers 8 inches (203 mm) and larger, manholes shall be provided and located not more than 200 feet (60 960 mm) from the junction of the building drain and building sewer, at each change in direction and at intervals of not more than 400 feet (122 m) apart. Manholes and manhole covers shall be of an approved type.

12. Amend Section 708.3.3, Changes of Direction.

a. Each horizontal drainage pipe shall be provided with a cleanout at the upstream end of the pipe and in changes of direction over 45° (0.785 rad).

i. Exceptions:

(a). The following plumbing arrangements are acceptable in lieu of the upstream cleanout:

(i). "P" traps connected to the drainage piping with slip joints or ground joint connections;

(ii). "P" traps into which floor drains, shower drains or tub drains with removable strainers discharge;

(iii). "P" traps into which the straight through type waste and overflow discharge with the overflow connecting to the branch of the tee;

(iv). "P" traps into which residential washing machines discharge;

(v). test tees or cleanouts in a vertical pipe above the flood-level rim of the fixtures that the horizontal pipe serves and not more than 4-feet (1219 mm) above the finish floor.

13. Amend Section 708.3.5, Building Drain and Building Sewer Junction.

a. There shall be a cleanout within 6 feet (1829 mm) of the junction of the building drain and the building sewer. The cleanout shall be either inside or outside the building wall and shall be brought up to the finished ground level or to the basement floor level. An approved two-way cleanout is allowed to be used at this location to serve as a required cleanout for both the building drain and building sewer. The minimum size of the cleanout at the junction of the building drain and building sewer shall comply with Section 708.7.

14. Amend Section 710.1, Maximum Fixture Unit Load.

a. The maximum number of drainage fixture units connected to a given size of building sewer, building drain or horizontal branch of the building drain shall be determined using Table 710.1(1). The maximum number of drainage fixture units connected to a given size vertical soil or waste stack, or horizontal branch connecting to a vertical soil or waste stack, shall be determined using Table 710.1(2).

15. Amend Table 710.1(1).

a. Table 710.1(1)—Building Drains and Sewers

16. Amend Table 710.1(2).

a. Table 710.1(2)—Horizontal Fixture Branches and Soil Stacks^a.

Diameter Of Pipe (Inches)	Maximum Number of Drainage Fixture Units Connected to Any Portion of the Building Drain or the Building Sewer, Including Branches of the Building Drain ^a			
	Slope Per Foot			
	1/16 inch	1/8 inch	1/4 inch	1/2 inch
1 1/4			1	1
1 1/2			3	3
2			21	26
2 1/2			24	31
3		20 (not over two water closets)	27 (not over two water closets)	36 (not over two water closets)
4	—	180	216	250
5	—	390	480	575
6	—	700	840	1,000
8	1,400	1,600	1,920	2,300
10	2,500	2,900	3,500	4,200
12	3,900	4,600	5,600	6,700
15	7,000	8,300	10,000	12,000

For SI: 1 inch = 25.4 mm, 1 inch per foot = 83.3 mm/m.

^a The minimum size of any building drain serving a water closet shall be 3 inches.

Diameter of Pipe (inches) (The minimum size of any branch or soil stack serving a water closet shall be 3")	Maximum Number of Drainage Fixture Units (dfu)			
	Total for horizontal branch (Does not include branches of the building drain. Use 50 percent less dfu's for any circuit or battery vented fixture branches, no size reduction permitted for circuit or battery vented branches throughout the entire branch length.)	Soil Stacks ^b		
		Total discharge into one branch interval when greater than three branch intervals	Total for soil stack when three branch intervals or less	Total for soil stack when greater than three branch intervals
1 1/2	3	2	4	8
2	6	6	10	24
2 1/2	12	9	20	42
3	20 (not over two water closets)	16 (not over two water closets)	30 (not over six water closets)	60 (not over six water closets)
4	160	90	240	500
5	360	200	540	1,100
6	620	350	960	1,900
8	1,400	600	2,200	3,600
10	2,500	1,000	3,800	5,600
12	3,900	1,500	6,000	8,400
15	7,000	Note ^c	Note ^c	Note ^c

For SI: 1 inch = 25.4 mm.

^a Does not include branches of the building drain. Refer to Table 710.1(1).

^b Soil stacks shall be sized based on the total accumulated connected load at each story or branch interval. As the total accumulated connected load decreases, stacks are permitted to be reduced in size. Stack diameters shall not be reduced to less than one-half of the diameter of the largest stack size required.

^c Sizing load based on design criteria.

17. Add Section 710.1.3, Minimum Size of Soil and Waste Stacks.

a. No soil or waste stack shall be smaller than the largest horizontal branch connected thereto except that a 4x3 water closet connection shall not be considered as a reduction in pipe size. The soil or waste stack shall run

undiminished in size from its connection to the building drain to its connection to the stack vent.

18. Add Section 710.1.4, Minimum Size of Drain Serving a Water Closet.

a. The minimum size of any building drain serving a water closet shall be 3 inches. Not more than two water closets shall discharge into a 3-inch horizontal building drain. Not more than six water closets shall discharge into a 3-inch vertical building drain.

19. Add Section 710.3, Underground Drainage Piping.

a. Any portion of the drainage system installed underground or below a basement or cellar shall not be less than 2-inch diameter. In addition, any portion of the drainage system installed underground which is located upstream

from a grease trap or grease interceptor as well as the underground horizontal branch receiving the discharge there from shall not be less than 3-inch diameter.

20. Amend Section 713.9, Local Vents and Stacks for Bedpan Washers.

a. Bedpan washers shall be vented to open air above the roof by means of one or more local vents. The vent terminal and location of the local vent shall be the same as required for sanitary sewer vents. The local vent for a bedpan washer shall not be less than a 2-inch-diameter (51 mm) pipe. A local vent serving a single bedpan washer is permitted to drain to the fixture served.

H. Chapter 8 Indirect/Special Waste.

1. Amend Section 802.1.1, Food Handling.

a. Equipment and fixtures utilized for the storage, preparation and handling of food shall discharge through an indirect waste pipe by means of an air gap. Food handling equipment includes but is not limited to the following: any sink where food is cleaned, peeled, cut up, rinsed, battered, defrosted or otherwise prepared or handled; potato peelers; ice cream dipper wells; refrigerators; freezers; walk-in coolers or freezers; ice boxes; ice making machines; fountain type drink dispensers; rinse sinks; cooling or refrigerating coils; laundry washers; extractors; steam tables; steam kettles; egg boilers; coffee urns; steam jackets or other food handling or cooking equipment wherein the indirect waste pipe may come under a vacuum; or similar equipment.

2. Amend Section 802.2, Installation.

a. Indirect waste piping shall discharge through an air gap or air break into a waste receptor. Waste receptors and standpipes shall be trapped and vented and shall connect to the building drainage system. All indirect waste piping that exceeds 30 inches (762 mm) in developed length measured horizontally, or 54 inches (1372 mm) in total developed length, shall be trapped. The maximum length of indirect waste piping to the waste receptor shall not exceed 15 feet (4527 mm). Should an indirect waste pipe exceed 15 feet in length, a local vent shall be provided at a maximum of every 15 feet (4527 mm) in length. Indirect waste piping shall be installed as to permit ready access for flushing and cleaning.

3. Amend Section 802.2.2, Air Break.

a. An air break shall be provided between the indirect waste pipe and the trap seal of the waste receptor or standpipe. The air break (drainage system) between the indirect waste and the building drainage system shall be installed such that the level of the lowest outlet located on the fixture, device, appliance or apparatus (to which the indirect waste pipe connects) is above the flood-level rim of the receiving sink or other receptor by a vertical distance of at least twice the diameter of the effective opening of the indirect waste pipe, but in no case less than 2 inches (51 mm). In addition, the indirect waste pipe shall terminate below the flood-level rim of the receiving sink or other receptor a distance equal to not more than one-half (1/2) the diameter of the effective opening of the indirect waste pipe.

I. Delete Section 918, Air Admittance Valves in its entirety and all referring sections of the 2012 IPC.

J. Amend Chapter 10: Traps, Interceptors and Separators.

1. Amend Section 1002.1, Fixture Traps.

a. Each plumbing fixture shall be separately trapped by a liquid-seal trap, except as otherwise permitted by this code. The vertical distance from the fixture outlet to the trap weir shall not exceed 24 inches (610 mm), and the horizontal distance shall not exceed 30 inches (610 mm) measured from the centerline of the fixture outlet to the centerline of the inlet of the trap. The height of a clothes washer standpipe above a trap shall conform to Section 802.4. A fixture shall not be double trapped.

i. Exceptions

(a). This section shall not apply to fixtures with integral traps.

(b). A combination plumbing fixture is permitted to be installed on one trap, provided that one compartment is not more than 6 inches (152 mm) deeper than the other compartment and the waste outlets are not more than 30 inches (762 mm) apart.

(c). A grease interceptor intended to serve as a fixture trap in accordance with the manufacturer's installation instructions shall be permitted to serve as the trap for a single fixture or a combination sink of not more than three compartments where the vertical distance from the fixture outlet to the inlet of the interceptor does not exceed 30 inches (762 mm) and the developed length of the waste pipe from the most upstream fixture outlet to the inlet of the interceptor does not exceed 60 inches (1524 mm).

(d). One trap may be installed for a set of not more than three single-compartment sinks or laundry trays or three lavatories immediately adjacent to each other in the same room, if the waste outlets are not more than 30 inches (762 mm) apart and the trap is centrally located when three compartments are installed.

2. Amend Section 1002, Prohibited Traps.

a. The following types of traps are prohibited:

i. traps that depend on moving parts to maintain the seal;

ii. bell traps;

iii. crown-vented traps;

iv. traps not integral with a fixture and that depend on interior partitions for the seal, except those traps constructed of an approved material that is resistant to corrosion and degradation;

v. "S" traps;

vi. drum traps;

(a). exception:

(i). drum traps used as solids interceptors and drum traps serving chemical waste systems shall not be prohibited.

vii. running traps;

(a). exceptions:

(i). a running trap with cleanout may be allowed on condensate waste lines and for certain floor level fixtures installed on a combination waste and vent system.

3. Amend Section 1002.4, Trap Seals.

a. Each fixture trap shall have a liquid seal of not less than 2 inches (51 mm) and not more than 4 inches (102 mm), or deeper for special designs relating to accessible fixtures. Where a trap seal is subject to loss by evaporation, (*i.e., floor drains or similar traps where the water seal is not replenished regularly and automatically*) a trap seal primer valve shall be installed. Trap seal primer valves shall

connect to the trap at a point above the level of the trap seal. A trap seal primer valve shall conform to ASSE 1018 or ASSE 1044.

4. Add Section 1002.4.2, Drainage Type Trap Seal Primer Valves.

a. Drainage-type trap seal primers meeting ASSE 1044 shall capture liquid wastes only from:

- i. the tail piece of a lavatory;
- ii. the discharge side of the atmospheric vacuum breaker located downstream of a flushometer valve servicing a water closet or a clinical sink (the takeoff point on the discharge pipe must be at least 4" below the critical level of the vacuum breaker); or,
- iii. the refill/hush tube of ballcocks

5. Amend Section 1003.2, Approval.

a. Interceptors and separators shall be designed and installed in accordance with the manufacturer's instructions and the requirements of this section based on the anticipated conditions of use. Wastes that do not require treatment or separation shall not be discharged into any interceptor or separator. No interceptor or separator shall be installed until its design, size, location and venting has been approved by the local jurisdictional code official. The local jurisdictional code official shall have the authority to require a grease interceptor to be serviced, repaired, or replaced with a larger unit when it is determined that a unit is not working or being maintained properly, the unit is damaged, or the mode of operation of the facility no longer meets the anticipated conditions of use (i.e., offensive odors, sewage backups or overflows, or when it is determined that grease is bypassing the grease interceptor and causing downstream blockages or interfering with sewage treatment.)

6. Amend Section 1003.3, Grease Interceptors.

a. Grease interceptors shall comply with the requirements of Sections 1003.3.1 through 1003.3.5.

7. Amend Section 1003.3.1, Grease Interceptors and Automatic Grease Removal Devices Required.

a. A grease interceptor or automatic grease removal device, sized in accordance with Section 1003.3.5 of this code, shall be required to receive the drainage from fixtures and equipment with grease-laden waste located in food preparation areas, such as in restaurants, hotel kitchens, hospitals, school kitchens, bars, factory cafeterias and clubs. Fixtures and equipment shall include pot sinks, prerinse sinks; soup kettles or similar devices; work stations; floor drains or sinks into which kettles are drained; automatic hood wash units and dishwashers. Grease interceptors and automatic grease removal devices shall receive waste only from fixtures and equipment that allow fats, oils or grease to be discharged. Other than standard detergents associated with dishwashing; emulsifiers, chemicals, enzymes or bacteria shall not discharge into a grease interceptor or automatic grease removal device. A grease interceptor or an automatic grease removal device shall not be required for individual detached one- and two-family dwelling units or any private living quarters.

8. Amend Section 1003.3.2, Hydromechanical Grease Interceptors.

a. Hydromechanical grease interceptors shall be evaluated, tested, and certified for conformance with ASME A 112.14.3, PDI-G101, or PDI-G102. Hydromechanical grease interceptors shall be equipped with devices to control

the rate of water flow so that the water flow does not exceed the rated flow. The flow-control device shall be vented and terminate not less than 6 inches (152 mm) above the flood rim level or be installed in accordance with the manufacturer's instructions. To prevent odors in the kitchen or occupied space, such vent shall be directly connected to the building vent system. Hydromechanical grease interceptors shall be sized in accordance with Section 1003.3.5 of this code.

9. Amend Section 1003.3.3, Automatic Grease Removal Devices.

a. Automatic grease removal devices shall be evaluated, tested, and certified for conformance with ASME A112.14.4. Where automatic grease removal devices are installed, such devices shall be located downstream of each fixture or multiple fixtures in accordance with the manufacturer's instructions. Ready access shall be provided for inspection and maintenance. Automatic grease removal devices shall be sized in accordance with Section 1003.3.5 of this code.

10. Amend Section 1003.3.4, Gravity Grease Interceptors.

a. Gravity grease interceptors shall comply with the requirements of Sections 1003.3.4.1 through 1003.3.4.8 and shall be sized in accordance with Section 1003.3.5 of this code.

11. Amend 1003.3.4.1, Indoor Installations.

a. If a gravity grease interceptor must be installed within an enclosed building, any access covers shall be gasketed to prevent the intrusion of odors into the building.

12. Amend Section 1003.3.4.2, Distance.

a. The grease interceptor shall be placed as close to the plumbing fixture(s) discharging greasy waste as possible, but preferably on the outside of the building when feasible.

13. Add Section 1003.3.4.3, Outlet Pipe.

a. The minimum diameter of the outlet pipe shall not be less than 4 inches. The invert of the gravity grease interceptor outlet opening (i.e., lowest portion of the outlet pipe where it draws waste near the bottom of the grease interceptor), shall be located at a maximum of 6 inches and a minimum of 4 inches from the floor of the grease interceptor. This requirement also applies to any intermediate outlets in multi-compartment gravity grease interceptors.

14. Add Section 1003.3.4.4, Air Space.

a. A minimum of one foot of air space shall be provided above the static water level.

15. Add Section 1003.3.4.5, Venting.

a. A gravity grease interceptor outlet shall be properly vented in accordance with this section to prevent it from siphoning itself out. Any internally vented outlet line shall have the vent terminal extended to within 2 inches of the bottom of the access cover to prevent grease from escaping the gravity grease interceptor through the open vent terminal. For those gravity grease interceptors having a gasketed cover, the gravity grease interceptor outlet line shall not be allowed to be internally vented. In this case, the outlet line itself shall be vented with a minimum 2-inch vent pipe installed in accordance with Chapter 9 of this code.

16. Add Section 1003.3.4.6, Water Seal.

a. On un baffled single compartment gravity grease interceptors, a 90° ell shall be used on the inlet and shall

terminate 6 inches below the static water level. On baffled single compartment gravity grease interceptors, a baffle wall shall be placed between the inlet and outlet. The inlet shall discharge into the gravity grease interceptor at a level at least 6 inches below the top of the baffle wall.

17. Add Section 1003.3.4.7, Minimum Horizontal Distance.

a. The minimum horizontal distance between the inlet and outlet piping in the gravity grease interceptor shall be 24 inches.

18. Add Section 1003.3.4.8, Access/Covers.

a. Access from the top of the gravity grease interceptor shall be provided by an easily removable cover above an access opening for proper maintenance. Additional access opening/covers shall be provided as necessary to provide accessibility to each compartment in multi-compartment or multi-baffled arrangements as well as access to both the inlet and outlet. Access opening covers shall be above or at grade (G) to provide ready accessibility. Each access cover shall be designed so that it cannot slide, rotate, or flip when properly installed in order that the opening is not unintentionally exposed. Especially for lightweight covers, mechanical fasteners are recommended to augment the safety of and ensure positive closure of the cover.

19. Amend Section 1003.3.5, Minimum Required Liquid Holding Capacity.

a. In all instances of new construction, change of occupancy classification or use of the property, a gravity grease interceptor or hydro-mechanical grease interceptor meeting the minimum capacity as required by this Section of the Code shall be installed. The minimum required capacity (volume) of the grease interceptor shall be determined based upon the maximum number of persons served during the largest meal period in accordance Section 1003.3.5.1 or 1003.3.5.2 of this code.

20. Add Section 1003.3.5.1, Without Garbage Grinder.

a. The minimum capacity for applications without a garbage grinder shall not be less than 125 gallons below the static water level. This capacity is sufficient to hold the flow from one meal long enough to accomplish proper grease separation when serving up to 50 people during a single meal period. When over 50 people are served during a single meal period, the minimum capacity shall be increased beyond 125 gallons based upon at least an additional 2 1/2 gallons per person beginning with the 51st person served and greater.

21. Add Section 1003.3.5.2, With Garbage Grinder.

a. When a garbage grinder is connected, the minimum capacity shall not be less than 500 gallons below the static water level. This capacity is sufficient to hold the flow from one meal long enough to accomplish proper grease separation when serving up to 50 people during a single meal period. When a garbage grinder is connected and over 50 people are served during a single meal period, the minimum capacity shall be increased beyond 500 gallons based upon at least an additional 2 1/2 gallons per person beginning with the 51st person served and greater.

i. Exception

(a). At the discretion of the local jurisdictional code official, a smaller, point of use type hydro-mechanical grease interceptor or automatic grease removal device may be permissible when:

(i). a concrete slab would have to be broken at an existing building or facility for the proper installation of a grease interceptor; or

(ii). an outside, unpaved area surrounding an existing building where a grease interceptor could be installed is available; however, it is determined that the area is located further than 75 feet from the plumbing fixtures that the grease interceptor would be servicing; or

(iii). the local jurisdictional code official determines that the installation is unfeasible such as when servicing a kitchen located on the upper floors of a multistoried building; or

(iv). the local jurisdictional code official determines that minimal fat, oil and grease will be produced or introduced into the sanitary drainage system based on the menu and mode of operation of the facility (i.e., snowball stands, sandwich shops, or other similar facilities with low grease production and which utilize single-service tableware and hollowware including forks, knives, spoons, plates, bowls, cups, and other serving dishes).

(b). In these instances, listed under the exception, the minimum required size of the hydromechanical grease interceptor shall be determined based upon fixture discharge rate (gpm) and grease retention capacity (pounds) in accordance with PDI G101 or ASME A 112.14.3. Automatic grease removal devices shall be sized in accordance with ASME A112.14.4. In no case shall a grease interceptor or automatic grease removal device be installed which has an approved rate of flow of less than 20 gallons per minute.

22. Amend Section 1003.10, Access and Maintenance of Interceptors and Separators.

a. Access shall be provided to each interceptor and separator for service and maintenance. A two-way cleanout shall be provided on the discharge waste line immediately downstream of all interceptors and separators. Interceptors and separators shall be maintained by periodic removal of accumulated grease, scum, oil, or other floating substances and solids deposited in the interceptor or separator.

K. Amend Chapter 11, Storm Drainage.

1. Amend Section 1101.2, Where Required.

a. All roofs, paved areas, yards, courts and courtyards shall drain into a separate storm sewer system or to an approved place of disposal. For one- and two-family dwellings, and where approved, storm water is permitted to discharge onto flat areas, such as streets or lawns, provided that the storm water flows away from the building.

2. Amend Section 1101.3, Prohibited Drainage.

a. Storm water shall not be drained into sewers intended for sewage only.

i. Exception

(a). Liquid waste from the cleaning operation and from the leakage of garbage containers and dumpsters holding putrescible wastes shall be disposed of as sewage. Methods used for this disposal shall prevent rainwater and runoff from adjacent areas from entering the sanitary sewerage system (i.e., dumpster pads may be elevated or curbed, enclosed or covered). When determined by the code official that liquid wastes or putrescible wastes contain fats, oils or grease (or, for new establishments, will likely contain fats, oils, or grease in the future), an approved grease interceptor shall be installed in the waste line in accordance with Section 1003 of this Code.

3. Amend Section 1102.2, Inside Storm Drainage Conductors.

a. Inside storm drainage conductors installed above ground shall conform to one of the standards listed in Table 702.1. Plastic piping shall be schedule 40.

4. Amend Section 1102.3, Underground Building Storm Drain Pipe.

a. Underground building storm drain pipe shall conform to one of the standards listed in Table 702.2. Plastic piping shall be schedule 40.

5. Delete Section 1103.1.

6. Delete Section 1103.2.

7. Delete Section 1103.3.

8. Delete Section 1103.4.

9. Amend Section 1104.2, Combining Storm with Sanitary Drainage Prohibited.

a. The sanitary and storm drainage systems of a structure shall be entirely separate.

10. Amend Section 1106.2, Vertical Conductors and Leaders.

a. Vertical conductors and leaders shall be sized for the maximum projected roof area, in accordance with Table 1106.2(1) and Table 1106.2(2). If a vertical offset is 45 degrees or less, the leader can be sized as a vertical pipe. If the offset is greater than 45 degrees, the pipe must be sized as a horizontal pipe.

11. Delete Section 1109.1.

12. Amend Section 1113.1, Building Subdrains.

a. Building subdrains located below the public storm sewer level shall discharge into a sump or receiving tank, the contents of which shall be automatically lifted and discharged into the gravity storm drainage system as required for building sumps. The sump and pumping equipment shall comply with Section 1114.1.

L. Amend Chapter 13, Gray Water Recycling Systems.

1. Amend Section 1301.1, Scope.

a. Gray water recycling systems shall only be considered on an individual basis and plans and specifications for any proposed gray water recycling system shall be submitted to the local jurisdictional code official for review and approval prior to construction. Such plans and specifications shall be appropriately sealed and signed by a Louisiana Registered Professional Engineer. Potable makeup water supply lines shall be protected against backflow by an air gap or reduced pressure principal backflow prevention assembly. The provisions of Chapter 13 shall govern the materials, design, construction and installation of gray water systems for flushing of water closets and urinals and for subsurface landscape irrigation. See Figures 1301.1(1) and 1301.1(2).

M. Amend Chapter 14, Referenced Standards.

1. Amend CSA Referenced Standard.

a. B64.10.1-07 Maintenance and Field testing of Backflow Prevention devices Section 312.10.2

b. B64.10-94 Manual for the Selection, Installation, Maintenance and Field testing of Backflow Prevention Devices (not including Part 6 (Maintenance and Field Testing) Section 608.16 and Section 618.2

N. Add and reserve Chapter 15 for future use.

O. Add Chapter 16, Travel Trailer and Mobile/Manufactured Home Parks.

1. Add the following definitions.

Dependent Travel Trailer—a travel trailer not equipped with a water closet.

Drain Hose—the approved type hose, flexible and easily detachable, used for connecting the drain outlet on a travel trailer to a sewer inlet connection.

Drain Outlet—the lowest end of the main drain of a travel trailer itself to which a drain hose is connected.

Independent Travel Trailer—a travel trailer equipped with a water closet and a bath or shower.

Inlet Coupling—the terminal end of the branch water line to which the mobile/manufactured home or travel trailer's water service connection is made. It may be a swivel fitting or threaded pipe end.

Intermediate Waste Holding Tank (travel trailers only)—an enclosed tank for the temporary retention of water-borne waste.

Mobile/Manufactured Home—a prefabricated home built on a permanent chassis which can be transported in one or more sections and is typically used as a permanent dwelling. Manufactured homes built since 1976 are built to the Manufactured Home Construction and Safety Standards (HUD Code) and display a HUD certification label on the exterior of each transportable section.

Park or Mobile/Manufactured Home Park or Travel Trailer Park—any lot, tract, parcel or plot of land upon which more than one travel trailer and/or mobile/manufactured homes parked for the temporary or permanent use of a person or persons for living, working or congregating.

Park Drainage System—the entire system of drainage piping within the park which is used to convey sewage or other wastes from the mobile/manufactured home or travel trailer drain outlet connection, beginning at its sewer inlet connection at the mobile/manufactured home or travel trailer site, to a community sewerage system, a commercial treatment facility, or an individual sewerage system.

Park Water Distribution System—all of the water distribution piping within the park, extending from the water supply system or other source of supply to, but not including, the mobile/manufactured home or travel trailer's water service connection, and including branch service lines, fixture devices, service buildings and appurtenances thereto.

Service Building—a building housing toilet and bathing facilities for men and women, with laundry facilities.

Sewer Inlet—a sewer pipe connection permanently provided at the travel trailer or mobile/manufactured home site which is designed to receive sewage when a travel trailer or a mobile/manufactured home is parked on such site. It is considered the upstream terminus of the park drainage system.

Travel Trailer—a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use.

Travel Trailer Sanitary Service Station—a sewage inlet with cover, surrounded by a concrete apron sloped

inward to the drain, and watering facilities to permit periodic wash down of the immediately adjacent area, to be used as a disposal point for the contents of intermediate waste holding tanks of travel trailers.

Water Service Connection—as used in conjunction with mobile/manufactured homes and travel trailers, the water pipe connected between the inlet coupling of the park water distribution system and the water supply fitting provided on the mobile/manufactured home or travel trailer itself.

2. Add Section 1601, General.

a. Add Section 1601.1, Scope.

i. The requirements set forth in this Chapter shall apply specifically to all new travel trailer and mobile/manufactured home parks, and to additions to existing parks as herein defined, and are to provide minimum standards for sanitation and plumbing installation within these parks, for the accommodations, use and parking of travel trailers and/or mobile/manufactured homes.

b. Add Section 1601.2, Governing Provisions.

i. Other general provisions of this code shall govern the installation of plumbing systems in travel trailer and mobile/manufactured home parks, except where special conditions or construction are specifically defined in this Chapter.

c. Add Section 1601.3, Sewage Collection, Disposal, Treatment.

i. Travel trailers or mobile/manufactured homes shall not hereafter be parked in any park unless there are provided plumbing and sanitation facilities installed and maintained in conformity with this code. Every travel trailer and mobile/manufactured home shall provide a gastight and watertight connection for sewage disposal which shall be connected to an underground sewage collection system discharging into a community sewerage system, a commercial treatment facility, or an individual sewerage system which has been approved by the state health officer.

d. Add Section 1601.4, Travel Trailer Sanitary Service Station.

i. At least one travel trailer sanitary service station shall be provided in all travel trailer parks that accept any travel trailers having an intermediate waste holding tank. The water supply serving the sanitary service station shall be protected against backflow by a reduced pressure principle backflow prevention assembly meeting the requirements of Section 608 of this code.

e. Add Section 1601.5, Materials.

i. Unless otherwise provided for in this Chapter, all piping fixtures or devices used in the installation of drainage and water distribution systems for travel trailer parks and mobile/manufactured home parks shall conform to the quality and weights of materials prescribed by this code.

f. Add Section 1601.6, Installation.

i. Unless otherwise provided for in this Chapter, all plumbing fixtures, piping drains, appurtenances and appliances designed and used in the park drainage, water distribution system, and service connections shall be installed in conformance with the requirements of this code.

g. Add Section 1601.7, Maintenance.

i. All devices or safeguards required by this Chapter shall be maintained in good working order by the

owner, operator, or lessee of the travel trailer park or his designated agent.

3. Add Section 1602, Service Buildings.

a. Add Section 1602.1, Service Buildings for Independent Travel Trailers.

i. Each travel trailer park which serves only independent travel trailers shall have at least one service building to provide necessary sanitation and laundry facilities. Each mobile/manufactured home park which also serves one or more independent travel trailers (in addition to mobile/manufactured homes) shall have at least one service building to provide necessary sanitation and laundry facilities. When a service building is required under this Section, it shall have a minimum of one water closet, one lavatory, one shower or bathtub for females and one water closet, one lavatory, and one shower or bathtub for males. In addition, at least one laundry tray or clothes washing machine and one drinking fountain located in a common area shall be provided.

(a). Exception

(i). Temporary (6 months) travel trailers residing in mobile home parks and or where more than one travel trailer resides for the purpose of employment and or hardships, may be exempted by the local jurisdiction building official from 1602.1.

b. Add Section 1602.2, Service Building for Dependent Travel Trailers.

i. The service building(s) in travel trailer or mobile/manufactured home parks that also accommodate dependent travel trailers shall have a minimum of two water closets, one lavatory, one shower or bathtub for females, and one water closet, one lavatory, one urinal, and one shower or bathtub for males. In addition, at least one laundry tray or clothes washing machine and one drinking fountain located in a common area shall be provided. The above facilities are for a maximum of ten dependent travel trailers. For every ten additional dependent travel trailers (or any fraction thereof) the following additional fixtures shall be provided: One laundry tray or clothes washing machine, one shower or bathtub for each sex, and one water closet for females. Also, one additional water closet for males shall be provided for every 15 additional dependent travel trailers (or any fraction thereof).

c. Add Section 1602.3, Service Building Design Requirements.

i. Each service building shall conform to Sections 1302.3.1 through 1302.3.3 of this code.

d. Add Section 1302.3.1, Construction.

i. Every service building shall be of permanent construction with an interior finish of moisture resistant material which will stand frequent washing and cleaning and the building shall be well-lighted and ventilated at all times.

e. Add Section 1602.3.2, Fixture Separation.

i. The laundry tray(s) and/or clothes washing machine(s) and drinking fountain(s) shall be located in a common area. None of these fixtures shall be located within any toilet room. Each water closet, tub and/or shower shall be in separate compartments with self-closing doors on all water closet compartments. The shower stall shall be a minimum of 3 x 3 feet (914 x 914 mm) in area, with a dressing compartment.

- f. Add Section 1602.3.3, Floor Drains.
 - i. A minimum 2-inch floor drain protected by and approved trap primer shall be installed in each toilet room and laundry room.
- 4. Add Section 1603, Park Drainage System.
 - a. Add Section 1603.1, Separation of water and sewer lines.
 - i. The sewer main and sewer laterals shall be separated from the park water service and distribution system in accordance with Section 603.2 of this code.
 - b. Add Section 1603.2, Minimum Size Pipe.
 - i. The minimum size pipe in any mobile/manufactured home park or travel trailer park drainage system shall be 4 inches. This includes branch lines or sewer laterals to individual travel trailers and mobile/manufactured homes.
 - c. Add Section 1603.3, Fixture Units.
 - i. Each mobile/manufactured home and travel trailer shall be considered as 6 fixture units in determining discharge requirements in the design of park drainage and sewage disposal systems.
 - d. Add Section 1603.4, Sewage Disposal/Treatment.
 - i. The discharge of a park drainage system shall be connected to a community sewerage system. Where a community sewerage system is not available, an approved commercial treatment facility or individual sewerage system shall be installed in accord with the requirements of LAC 51:XIII (Sewage Disposal).
 - e. Add Section 1603.5, Manholes and Cleanouts.
 - i. Manholes and/or cleanouts shall be provided and constructed as required in Chapter 7 of this code. Manholes and/or cleanouts shall be accessible and brought to grade.
 - f. Add Section 1603.6, Sewer Inlets.
 - i. Sewer inlets shall be 4-inch diameter and extend above grade (G) 3 to 6 inches (76 to 152 mm). Each inlet shall be provided with a gas-tight seal when connected to a travel trailer or mobile/manufactured home and have a gas-tight seal plug for use when not in service.
 - g. Add Section 1603.7, Drain Connections.
 - i. Drain connections shall slope continuously downward and form no traps. All pipe joints and connections shall be installed and maintained gastight and watertight.
 - h. Add Section 1603.8, Waste.
 - i. No sewage, waste water, or any other effluent shall be allowed to be deposited on the surface of the ground.
 - i. Add Section 1603.9, Testing the Park Drainage System.
 - i. Upon completion and before covering, the park drainage system shall be subjected to a static water test performed in accordance with Section 312 of this code.
- 5. Add Section 1604, Water Supply and Distribution System.
 - a. Add Section 1604.1, General.
 - i. Every mobile/manufactured home and travel trailer site shall be provided with an individual branch water service line delivering potable water.
 - b. Add Section 1604.2, Water Service Lines.
 - i. Water service lines to each travel trailer site shall be sized to provide a minimum of 8 gpm (0.505 L/s) at the point of connection with the trailer's water distribution

system. Water service lines to each mobile/manufactured home site shall be sized to provide a minimum of 17 gpm (1.1 L/s) at the point of connection with the mobile/manufactured home's water distribution system. All water service lines shall be a minimum of 3/4 inch. A separate service shutoff valve shall be installed on each water service line. In instances where a backflow prevention device or assembly is installed on the water service line (see Section 608.16.23), the shutoff valve shall be located on the supply side of the device or assembly.

- c. Add Section 1604.3, Water Service Connections.
 - i. The water service connection from the water service line to the mobile/manufactured home or travel trailer site shall be not less than 1/2-inch diameter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1) and Act836 of the 2014 of the Regular Louisiana Legislative Session. .

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), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, LR 41:2386 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:1672 (October 2016).

Lt. Colonel Jason Starnes
Chief Administrative Officer

1610#044

RULE

Department of Treasury Board of Trustees of the Parochial Employees' Retirement System

Determination of the Unfunded Accrued Liability
(LAC 58:XI.701)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees for the Parochial Employees' Retirement System of Louisiana has approved for advertisement this Rule for the determination of the unfunded accrued liability under R.S. 11:1903(F). The rules have been adopted pursuant to R.S. 11:1983(A)(1), which provides that the Board of Trustees shall promulgate rules that facilitate the proper functioning of this system.

Title 58

RETIREMENT

Part XI. Parochial Employees' Retirement System Chapter 7. Terminations

§701. Procedures for Determination of the Unfunded Accrued Liability

A. Procedures for Determination of the Unfunded Accrued Liability under R.S. 11:1903(F) of Parochial Employees' Retirement System of Louisiana

1. The unfunded accrued liability calculated pursuant to R.S. 11:1903(F) shall be determined in a manner consistent with statement 68 of the Governmental Accounting Standards Board.

2. That is the following: the portion of the unfunded accrued liability attributable to the employer's termination shall be a pro rata portion of the allocated share of the net pension liability (as per statement 68) for the prospective termination of the December 31 immediately preceding the date of termination. The pro rata share shall be determined as one minus the ratio of the present value of future salaries for the current active members of the terminating entity to the present value of future salaries of the active group assuming replacement of terminated employees based on a general increase in payroll as a function of the inflation assumption implicit in the valuation assumptions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:1931.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Parochial Employees' Retirement System, LR 42:1691 (October 2016).

Dainna Tully
Administrative Director

1610#010

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Turtle Harvest Moratorium (LAC 76:XV.101)

Editor's Note: The following Rule is being repromulgated to correct a submission error. The original Rule was printed in the May 20, 2016 edition of the *Louisiana Register* on page 762.

The Department of Wildlife and Fisheries and Wildlife and Fisheries Commission has placed a moratorium on the commercial harvest from the wild of razor-backed musk turtles and revised regulations to be consistent with title 56 of the *Louisiana Revised Statutes*.

Title 76

WILDLIFE AND FISHERIES

Part XV. Reptiles and Amphibians

Chapter 1. Guidelines

§101. Recreational and Commercial Harvests;

Prohibitions

A. - F.2. ...

G. Turtle Rules and Regulations

1. - 1.d. ...

e. A reptile and amphibian collector's license is required to collect and sell turtles.

2. Restricted Turtles

a. List of restricted turtles:

i. alligator snapping turtle (*Macrochelys temminckii*);

ii. razor-backed musk turtle (*Sternotherus carinatus*);

iii. box turtles (*Terrapene sp.*).

b. Commercial Prohibition. No person shall commercially take, possess, sell, purchase, trade, barter, or exchange restricted turtles, their eggs, or any parts thereof. Except that nothing herein shall prohibit the legal commercial sale, and possession of restricted turtles by licensed turtle farmers as provided in R.S. 56:632 et seq., and R.S. 3:2358.1 et seq., which were legally acquired prior to the effective date of this prohibition or imported legally into this state which have proper records as provided for in 56:637.

c. Recreational Take and Possession Limit. Persons engaged in collection of native reptiles and amphibians shall be licensed in accordance with R.S. 56:632.3. No person shall possess restricted turtles taken with commercial gear. No person shall possess in the field more than one alligator snapping turtle, two box turtles, or two razor-backed musk turtles. No person shall possess more than four box turtles or four razor-backed musk turtles. Certified zoos, aquariums, universities, research and nature centers will be exempted from take limits.

H. - K.2. ...

L. Except as provided in Subsection K, whoever violates the provisions of this Rule shall be subject to penalties as provided for in R.S. 56:31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), (13), (15) and (25), R.S. 56:23, and R.S. 56:632.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20:1135 (October 1994), amended LR 42:1692 (October 2016).

Bart R. Yakupzack
Chairman

1610#077

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Outlaw Quadruped, Nutria and Beaver Night Take Permits (LAC 76:V.126)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission have promulgated rules and regulations governing the take of outlaw quadrupeds, nutria and beaver during the nighttime hours from September 1 of each year through the last day of February of the next year.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§126. Outlaw Quadruped, Nutria and Beaver Night Take Permits

A. Purpose—to establish rules and regulations for the take of outlaw quadrupeds, nutria and beaver during the nighttime hours (one-half hour after official sunset to one-half hour before official sunrise) from September 1 of each year, through the last day of February of the next year.

B. Permits

1. On private property, the landowner, or his lessee or agent with written permission from the landowner may

obtain a permit authorizing the take of outlaw quadrupeds, nutria, or beaver during nighttime hours from September 1 through the last day of February of the next year.

2. Permit applications shall be completed on forms provided by the department, with all required information including but not limited to: applicants name, date of birth, contact information, date of application, parish information for applicant, landowner, and location of property subject to the permit, map, acreage, legal description, landowner's expressed authorization to allow night take for these species and any other information required by the department for the proper administration of the permit issuance. Any change of information requires the submission of a new permit application. Applications must be submitted to the regional enforcement office in which the property is located or to the wildlife permits coordinator at the Baton Rouge headquarters.

3. Permits may be issued during business hours by the wildlife enforcement captain located in the applicable regional enforcement office, or by electronic means at the discretion of the department.

4. Permits shall be valid for a period of one year beginning July 1 and terminating on June 30 of the following year. Permits may be renewed annually without additional application upon submission of the annual report and affirmation of the permittee's desire to renew, so long as the permittee has adhered to the rules of the permit and all information contained in the application remains accurate. The permit may be terminated by the permittee, landowner, or lessee at any time. The department may terminate any permit at any time for a violation of any regulation associated with the permit or for any violation of law committed during the participation by any person during the permitted activity. The department may also terminate permits for biological issues or specific enforcement concerns that may arise.

5. Permits are not transferrable and are only valid for the property for which they were issued.

6. No person shall be issued or obtain a permit if they have been convicted of class 3 or greater wildlife violation within a five-year period or have been prohibited in any way from legally participating in a hunting activity.

C. General Rules

1. Permit holders may take or authorize the take of outlaw quadrupeds, nutria or beaver during nighttime hours on private property for which the permit was issued from (one-half hour after official sunset to one-half hour before official sunrise) during the dates of September 1 through the last day of February of the next year.

2. Permittees are responsible for all participants and actions of such which take place as authorized by this permit.

3. Permittees and any participant shall not trespass or commit any other violations of law while conducting activities authorized by the permit.

4. No person shall be allowed to participate or be present during activities authorized by the permit if convicted of a class 3 or greater wildlife violation within the

previous five years or if they have any other prohibition which would prevent the legal use of a firearm or participation in a hunting activity. Such participation will be considered a violation of the permit regulations.

5. Outlaw quadrupeds, nutria and beaver may be taken by any means of take authorized by R.S. 56.

6. The original permit or copy thereof issued by the department shall be with any permittee participating in activities under the authority of the permit.

7. Permittees shall notify the department's law enforcement 24-hour dispatch at (800) 442-2511 prior to engaging in activities authorized under the permit and identify each individual who will be participating in any way with activities authorized by the permit and permit number. Upon notification, the permittee shall be issued a confirmation number for the notification.

8. A report of activities which took place under this permit shall be required to be submitted to the department by June 30 of each year on official forms provided or as otherwise approved for this purpose by LDWF, and consist of:

a. name, permit number, and signature of permit holder;

b. number of outlaw quadrupeds (coyotes, armadillos, feral hogs), nutria and beavers killed under the permit during year.

9. Permittees hereby indemnify and hold harmless the state, department, and other applicable public agencies and employees and accept full responsibility and liability for any damages or injuries that occur during or as a result of activities related to the permit issued herein.

D. Penalties for Violation

1. If any person is found to be in violation of any provision of this Section, except for the reporting requirements as prescribed by Paragraph C.8 of this Section, or any other law during activities authorized by the permit issued pursuant to this Section, the permit shall immediately be voided and such permit shall not be reissued and shall remain void unless there is an acquittal for the offense committed.

2. Persons found in violation of rules and regulations contained herein or any other laws shall be subject to the same penalties as authorized by law as if no permit was issued, in addition, violation of these regulations will be a class 2 violation as defined in R.S. 56:32.

3. Persons failing to provide the annual report shall not be subject to the penalty and provisions herein. Any such person failing to comply with the annual report as prescribed by Paragraph C.8 of this Section shall not be reissued a permit until the reporting requirement under Paragraph C.8 of this Section is submitted to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:112, 56:115, and 56:116.1.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 42:1692 (October 2016).

Bart R. Yakupzack
Chairman

1610#075

RULE

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

Oyster Harvester Training Program (LAC 76:VII.539)

The Wildlife and Fisheries Commission has promulgated a Rule establishing the Oyster Harvester Training Program (R.S. 56:303.6(D)), for the purpose of developing professionalism in the oyster harvest industry. This Rule establishes the requirements needed to complete the program, including training in the Louisiana Shellfish Sanitation Program and the best harvest practices for conservation of the species.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§539. Oyster Harvester Training Program

A. The following defines the requirements necessary to complete the program to develop professionalism in the commercial oyster industry pursuant to R.S. 56:303.6(D). This program shall hereafter be referred to as the Oyster Harvester Training Program.

B. Policy. Applicants for an oyster harvester license shall complete and receive a certificate for an online course within the previous three years, or within the previous year if the requirements covered in course material have substantively changed, in order to receive the oyster harvester license. The course will provide a detailed overview of the Louisiana Shellfish Sanitation Program, Chapter 3 of Part IX of Title 51 of the *Louisiana Administrative Code*, "Preparation and Handling of Seafood for Market," and cover the legalities and best management practices of oyster fishing, including but not limited to, licensing and permitting requirements, oyster harvest regulations, reporting requirements, responsible fishing, and vessel operation. The applicant will be required to view 100 percent of the course content and score a minimum of 80 percent in order to receive a certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:303.6(D).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 42:1694 (October 2016).

Bart R. Yakupzack
Chairman

1610#076

RULE

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

Sabine River Largemouth Bass Size Limit
(LAC 76:VII.110)

The Wildlife and Fisheries Commission has amended the recreational harvest regulations for largemouth bass on the waters of the Louisiana-Texas boundary, specifically the

Sabine River in Beauregard, Calcasieu, Sabine and Vernon Parishes in accordance with the reciprocal agreement between Louisiana and Texas.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§110. Texas Boundary Waters Recreational Creel, Size, and Possession Limits

A. Purpose

1. Pursuant to *Louisiana Revised Statute* 56:673 and the July 1, 2010 memorandum of understanding between Louisiana Department of Wildlife and Fisheries and Texas Parks and Wildlife, the commission hereby ratifies and enters into an agreement with the Texas Parks and Wildlife Department to establish uniform and reciprocal regulations for the recreational harvest of freshwater game fish on the waters of the Louisiana-Texas boundary, specifically Toledo Bend Reservoir, Caddo Lake, and the Sabine River. Those regulations are as follows.

B. Toledo Bend Reservoir

1. The recreational daily creel limit (daily take) for largemouth bass (*Micropterus salmoides*) and spotted bass (*Micropterus punctulatus*) is set at eight fish, in aggregate. The minimum total length limit for largemouth bass (*M. salmoides*) is 14 inches. There is no minimum length limit on spotted bass. For enforcement purposes, a spotted bass shall be defined as a black bass with a tooth patch on its tongue.

2. The daily creel limit for white bass (*Morone chrysops*) is 25 fish and there is no minimum length limit.

3. There is no limit on the daily take of yellow bass (*Morone mississippiensis*).

4. The recreational daily creel limit for black crappie (*Pomoxis nigromaculatus*) and white crappie (*Pomoxis annularis*) is set at 25 fish, in the aggregate, and there is no minimum length limit.

5. The recreational daily creel limit for channel catfish (*Ictalurus punctatus*) and blue catfish (*Ictalurus furcatus*) is set at 50 fish in the aggregate, there is no minimum length limit and not more than 5 fish may exceed 30 inches in total length.

6. The recreational daily creel limit for flathead catfish (*Pylodictis olivaris*) is set at 10 fish. The minimum length limit is 18 inches.

C. Caddo Lake

1. Harvest regulations for black bass (largemouth bass, *Micropterus salmoides* and spotted bass, *Micropterus punctulatus*) on Caddo Lake are as follows.

a. Largemouth Bass Size Limits—14-18inch slot. A 14-18 inch slot limit means that it is illegal to keep or possess a largemouth bass whose maximum total length is between 14 inches and 18 inches, both measurements inclusive.

b. Spotted Bass Size Limits—no minimum length limit. For enforcement purposes, a spotted bass shall be defined as a black bass with a tooth patch on its tongue.

c. The daily creel limit (daily take) for black bass (*Micropterus spp.*) is set at 8 fish, in the aggregate, of which

no more than 4 largemouth bass may exceed 18 inches maximum total length.

2. The daily creel limit for white bass (*Morone chrysops*) is 25 fish and there is no minimum length limit.

3. There is no daily creel limit on yellow bass (*Morone mississippiensis*), and there is no minimum length limit.

4. The recreational daily creel limit for black crappie (*Pomoxis nigromaculatus*) and white crappie (*Pomoxis annularis*) is set at 25 fish, in the aggregate, and there is no minimum length limit.

5. The recreational daily creel limit for channel catfish (*Ictalurus punctatus*) and blue catfish (*Ictalurus furcatus*) is set at 50 fish in the aggregate, there is no minimum length limit and not more than 5 fish may exceed 30 inches in total length.

6. The recreational daily creel limit for flathead catfish (*Pylodictis olivaris*) is set at 10 fish. The minimum length limit is 18 inches.

D. Sabine River

1. Harvest regulations for black basses (largemouth bass, *Micropterus salmoides* and spotted bass, *Micropterus punctulatus*) on the Sabine River are as follows:

a. The river proper from Toledo Bend Dam downstream to the Interstate 10 bridge the minimum length limit for largemouth bass (*M. salmoides*) is 12 inches.

b. The river proper upstream from Toledo Bend Reservoir to the point at which the entire river enters Texas as marked by state line sign the minimum length limit for largemouth bass (*M. salmoides*) is 14 inches.

c. The recreational daily creel limit (daily take) for largemouth bass (*Micropterus salmoides*) and spotted bass (*Micropterus punctulatus*) is set at eight fish, in aggregate. There is no minimum length limit on spotted bass. For enforcement purposes, a spotted bass shall be defined as a black bass with a tooth patch on its tongue.

2. For purposes of this section, the Sabine River shall be defined as the river proper from the Toledo Bend Dam downstream to the Interstate 10 bridge and the river proper upstream from Toledo Bend Reservoir to the point at which the entire river enters Texas as marked by state line sign.

a. The daily creel limit for striped bass (*Morone saxatilis*) is set at 5 fish. There is no minimum length limit and only 2 fish may be over 30 inches in total length.

b. The daily creel limit for white bass (*Morone chrysops*) is 25 fish and there is no minimum length limit.

c. There is no daily creel limit on yellow bass (*Morone mississippiensis*), and there is no minimum length limit.

d. The recreational daily creel limit for black crappie (*Pomoxis nigromaculatus*) and white crappie (*Pomoxis annularis*) is set at 25 fish, in the aggregate, and there is no minimum length limit.

e. The recreational daily creel limit for channel catfish (*Ictalurus punctatus*) and blue catfish (*Ictalurus furcatus*) is set at 50 fish in the aggregate, there is no minimum length limit and not more than 5 fish may exceed 30 inches in total length.

f. The recreational daily creel limit for flathead catfish (*Pylodictis olivaris*) is set at 10 fish. The minimum length limit is 18 inches.

E. Daily Possession Limit: Toledo Bend Reservoir, Caddo Lake, and the Sabine River

1. The following possession limits apply to all persons while on the waters of Toledo Bend Reservoir, Caddo Lake, or the Sabine River. No person shall possess any species of fish in excess of a one day creel limit. No person shall at any time possess in excess of the daily creel limit of any species, except that a two day creel limit may be possessed on the land, if the fish were caught on more than one day and no daily creel limits were exceeded. No person shall possess any fillets of any fish species while on the water.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), R.S. 56:325(C), R.S. 56:326.3, and R.S. 56:673.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:548 (August 1988), amended LR 17:278 (March 1991), LR 17:1123 (November 1991), LR 19:790 (June 1993), LR 23:999 (August 1997), LR 31:948 (April 2005), LR 37:2439 (August 2011), LR 40:802 (April 2014), LR 42:1694 (October 2016).

Bart R. Yakupzack
Chairman

1610#078

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission Office of Fisheries

Management Targets for Selected Finfish Species (LAC 76:VII.385)

The Wildlife and Fisheries Commission does have promulgated a Rule (LAC 76:VII.385) establishing management targets for black drum, sheepshead, and southern flounder. These rules establish biomass and fishing mortality rate targets based upon Act 205 (R.S. 56:325.4) of the 2015 Regular Session of the Louisiana Legislature. Authority for promulgation of this Rule is included in the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:6(25)(a), 56:320.2, 56:326.1, 56:326.3, and 56:325.4.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery

§385. Management Targets for Selected Finfish Species

A. Policy. The stocks of black drum, sheepshead, and southern flounder shall have management targets established within this rule. Management targets shall be established utilizing a historical time-series of fisheries data, defined for each stock, as a basis of reference. The reference time-series is developed utilizing a period of time within the most recent assessment where recruitment has not been impacted and

sustainability has been demonstrated for each stock. The biomass and fishing mortality rate of each stock over this historical time-series shall be derived from the beginning of the assessed period through 2013. If data indicate that a stock is not meeting or is likely not to meet thresholds established in the assessment of the stock, the department shall provide, for the Louisiana Wildlife and Fisheries Commission's consideration, management options to ensure that a stock can remain within the management thresholds established for that particular stock.

B. Management Targets

1. Biomass targets shall be calculated as the average (geometric mean) spawning stock biomass (SSB) from each stock's historical time-series.

2. Fishing mortality rate targets shall be the fishing mortality rate that corresponds to each stock's SSB targets at equilibrium.

3. Biomass and fishing mortality rate targets shall be calculated based upon a historical time-series from the beginning of the assessed period through 2013, inclusive.

AUTHORITY NOTE: Promulgated in accordance with R.S.56:6(25)(a), R.S. 56:320.2(C), R.S. 56:326.1, R.S. 56:326.3, and R.S. 325.4.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, Office of Fisheries, LR 42:1695 (October 2016).

Bart R. Yakupzack
Chairman

1610#079

RULE

**Workforce Commission
Office of Workers' Compensation Administration**

**Medical Treatment Guidelines
Maximum Reimbursement Allowances
(LAC 40:I.5157)**

The Louisiana Workforce Commission has amended certain portions of the medical guidelines contained in the *Louisiana Administrative Code*, Title 40, Labor and Employment, Part I, Workers' Compensation Administration, Subpart 2, Medical Guidelines, Chapter 51, regarding medical reimbursement. This Rule is promulgated by the authority vested in the director of the Office of Workers' Compensation found in R.S. 23:1291 and 23:1310.1(C).

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Medical Guidelines

Chapter 51. Medical Reimbursement Schedule

Editor's Note: The following Sections of this Chapter are applicable and shall be used for the Chapters in this Part governing reimbursement. These specific Chapters are: Chapter 25, Hospital Reimbursement; Chapter 29, Pharmacy; Chapter 31, Vision Care Services; Chapter 33, Hearing Aid Equipment and Services; Chapter 35, Nursing/Attendant Care and Home Health Services; Chapter 37, Home and Vehicle Modification; Chapter 39, Medical Transportation; Chapter 41, Durable Medical Equipment and Supplies; Chapter 43, Prosthetic and Orthopedic Equipment; Chapter 45, Respiratory Services; Chapter 47, Miscellaneous Claimant Expenses; Chapter 49, Vocational Rehabilitation Consultant; Chapter 51, Medical Reimbursement Schedule; and Chapter 53, Dental Care Services.

§5157. Maximum Reimbursement Allowances

A. Table 1

* * *

B. Table 2

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
* * *						
71010		Chest x-ray 1 view frontal		\$45		
71010	TC	Chest x-ray 1 view frontal		\$26		
71010	26	Chest x-ray 1 view frontal		\$19		
71015		Chest x-ray stereo frontal		\$56		
71015	TC	Chest x-ray stereo frontal		\$34		
71015	26	Chest x-ray stereo frontal		\$22		
71020		Chest x-ray 2vw frontal&latl		\$56		
71020	TC	Chest x-ray 2vw frontal&latl		\$34		
71020	26	Chest x-ray 2vw frontal&latl		\$22		
71021		Chest x-ray frnt lat lordotc		\$68		
71021	TC	Chest x-ray frnt lat lordotc		\$40		
71021	26	Chest x-ray frnt lat lordotc		\$28		
71022		Chest x-ray frnt lat oblique		\$84		
71022	TC	Chest x-ray frnt lat oblique		\$50		
71022	26	Chest x-ray frnt lat oblique		\$34		
71023		Chest x-ray and fluoroscopy		\$127		
71023	TC	Chest x-ray and fluoroscopy		\$89		
71023	26	Chest x-ray and fluoroscopy		\$39		
71030		Chest x-ray 4/> views		\$84		
71030	TC	Chest x-ray 4/> views		\$51		
71030	26	Chest x-ray 4/> views		\$32		

**Maximum Fee Allowance Schedule
Office of Workers' Compensation**

CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
71034		Chest x-ray&fluoro 4/> views		\$167		
71034	TC	Chest x-ray&fluoro 4/> views		\$119		
71034	26	Chest x-ray&fluoro 4/> views		\$48		
71035		Chest x-ray special views		\$66		
71035	TC	Chest x-ray special views		\$47		
71035	26	Chest x-ray special views		\$19		
71100		X-ray exam ribs uni 2 views		\$66		
71100	TC	X-ray exam ribs uni 2 views		\$43		
71100	26	X-ray exam ribs uni 2 views		\$23		
71101		X-ray exam unilat ribs/chest		\$73		
71101	TC	X-ray exam unilat ribs/chest		\$45		
71101	26	X-ray exam unilat ribs/chest		\$28		
71110		X-ray exam ribs bil 3 views		\$75		
71110	TC	X-ray exam ribs bil 3 views		\$47		
71110	26	X-ray exam ribs bil 3 views		\$28		
71111		X-ray exam ribs/chest4/> vws		\$96		
71111	TC	X-ray exam ribs/chest4/> vws		\$62		
71111	26	X-ray exam ribs/chest4/> vws		\$34		
71120		X-ray exam breastbone 2/>vws		\$59		
71120	TC	X-ray exam breastbone 2/>vws		\$39		
71120	26	X-ray exam breastbone 2/>vws		\$21		
71130		X-ray strenoclavic jt 3/>vws		\$72		
71130	TC	X-ray strenoclavic jt 3/>vws		\$49		
71130	26	X-ray strenoclavic jt 3/>vws		\$23		
71250		Ct thorax w/o dye		\$363		
71250	TC	Ct thorax w/o dye		\$259		
71250	26	Ct thorax w/o dye		\$104		
71260		Ct thorax w/dye		\$461		
71260	TC	Ct thorax w/dye		\$334		
71260	26	Ct thorax w/dye		\$127		
71270		Ct thorax w/o & w/dye		\$553		
71270	TC	Ct thorax w/o & w/dye		\$413		
71270	26	Ct thorax w/o & w/dye		\$141		
* * *						
72020		X-ray exam of spine 1 view		\$44		
72020	TC	X-ray exam of spine 1 view		\$29		
72020	26	X-ray exam of spine 1 view		\$16		
72040		X-ray exam neck spine 2-3 vw		\$66		
72040	TC	X-ray exam neck spine 2-3 vw		\$44		
72040	26	X-ray exam neck spine 2-3 vw		\$23		
72050		X-ray exam neck spine 4/5vws		\$90		
72050	TC	X-ray exam neck spine 4/5vws		\$58		
72050	26	X-ray exam neck spine 4/5vws		\$32		
72052		X-ray exam neck spine 6/>vws		\$113		
72052	TC	X-ray exam neck spine 6/>vws		\$76		
72052	26	X-ray exam neck spine 6/>vws		\$37		
72070		X-ray exam thorac spine 2vws		\$68		
72070	TC	X-ray exam thorac spine 2vws		\$45		
72070	26	X-ray exam thorac spine 2vws		\$23		
72072		X-ray exam thorac spine 3vws		\$69		
72072	TC	X-ray exam thorac spine 3vws		\$47		
72072	26	X-ray exam thorac spine 3vws		\$22		
72074		X-ray exam thorac spine4/>vw		\$79		
72074	TC	X-ray exam thorac spine4/>vw		\$56		
72074	26	X-ray exam thorac spine4/>vw		\$22		
72080		X-ray exam thoracolmb 2/> vw		\$61		
72080	TC	X-ray exam trunk spine 2 vws		\$39		
72080	26	X-ray exam trunk spine 2 vws		\$22		
72081		X-ray exam entire spi 1 vw		\$78		
72081	TC	X-ray exam entire spi 1 vw		\$51		
72081	26	X-ray exam entire spi 1 vw		\$27		
72082		X-ray exam entire spi 2/3 vw		\$125		
72082	TC	X-ray exam entire spi 2/3 vw		\$92		
72082	26	X-ray exam entire spi 2/3 vw		\$33		

**Maximum Fee Allowance Schedule
Office of Workers' Compensation**

CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
72083		X-ray exam entire spi 4/5 vw		\$136		
72083	TC	X-ray exam entire spi 4/5 vw		\$100		
72083	26	X-ray exam entire spi 4/5 vw		\$36		
72084		X-ray exam entire spi 6/> vw		\$162		
72084	TC	X-ray exam entire spi 6/> vw		\$121		
72084	26	X-ray exam entire spi 6/> vw		\$41		
72100		X-ray exam l-s spine 2/3 vws		\$70		
72100	TC	X-ray exam l-s spine 2/3 vws		\$47		
72100	26	X-ray exam l-s spine 2/3 vws		\$23		
72110		X-ray exam l-2 spine 4/>vws		\$98		
72110	TC	X-ray exam l-2 spine 4/>vws		\$66		
72110	26	X-ray exam l-2 spine 4/>vws		\$32		
72114		X-ray exam l-s spine bending		\$125		
72114	TC	X-ray exam l-s spine bending		\$92		
72114	26	X-ray exam l-s spine bending		\$34		
72120		X-ray bend only l-s spine		\$81		
72120	TC	X-ray bend only l-s spine		\$58		
72120	26	X-ray bend only l-s spine		\$23		
72125		Ct neck spine w/o dye		\$371		
72125	TC	Ct neck spine w/o dye		\$262		
72125	26	Ct neck spine w/o dye		\$109		
72126		Ct neck spine w/dye		\$460		
72126	TC	Ct neck spine w/dye		\$336		
72126	26	Ct neck spine w/dye		\$124		
72127		Ct neck spine w/o & w/dye		\$545		
72127	TC	Ct neck spine w/o & w/dye		\$415		
72127	26	Ct neck spine w/o & w/dye		\$129		
72128		Ct chest spine w/o dye		\$363		
72128	TC	Ct chest spine w/o dye		\$260		
72128	26	Ct chest spine w/o dye		\$102		
72129		Ct chest spine w/dye		\$461		
72129	TC	Ct chest spine w/dye		\$337		
72129	26	Ct chest spine w/dye		\$124		
72130		Ct chest spine w/o & w/dye		\$548		
72130	TC	Ct chest spine w/o & w/dye		\$419		
72130	26	Ct chest spine w/o & w/dye		\$129		
72131		Ct lumbar spine w/o dye		\$361		
72131	TC	Ct lumbar spine w/o dye		\$259		
72131	26	Ct lumbar spine w/o dye		\$102		
72132		Ct lumbar spine w/dye		\$460		
72132	TC	Ct lumbar spine w/dye		\$335		
72132	26	Ct lumbar spine w/dye		\$124		
72133		Ct lumbar spine w/o & w/dye		\$544		
72133	TC	Ct lumbar spine w/o & w/dye		\$415		
72133	26	Ct lumbar spine w/o & w/dye		\$129		
72141		Mri neck spine w/o dye		\$450		
72141	TC	Mri neck spine w/o dye		\$299		
72141	26	Mri neck spine w/o dye		\$152		
72142		Mri neck spine w/dye		\$654		
72142	TC	Mri neck spine w/dye		\$470		
72142	26	Mri neck spine w/dye		\$183		
72146		Mri chest spine w/o dye		\$450		
72146	TC	Mri chest spine w/o dye		\$299		
72146	26	Mri chest spine w/o dye		\$152		
72147		Mri chest spine w/dye		\$646		
72147	TC	Mri chest spine w/dye		\$465		
72147	26	Mri chest spine w/dye		\$182		
72148		Mri lumbar spine w/o dye		\$448		
72148	TC	Mri lumbar spine w/o dye		\$297		
72148	26	Mri lumbar spine w/o dye		\$152		
72149		Mri lumbar spine w/dye		\$646		
72149	TC	Mri lumbar spine w/dye		\$463		

Maximum Fee Allowance Schedule Office of Workers' Compensation						
CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
72149	24	Mri lumbar spine w/dye		\$183		
72156		Mri neck spine w/o & w/dye		\$763		
72156	TC	Mri neck spine w/o & w/dye		\$529		
72156	26	Mri neck spine w/o & w/dye		\$234		
72157		Mri chest spine w/o & w/dye		\$764		
72157	TC	Mri chest spine w/o & w/dye		\$531		
72157	26	Mri chest spine w/o & w/dye		\$234		
72158		Mri lumbar spine w/o & w/dye		\$761		
72158	TC	Mri lumbar spine w/o & w/dye		\$528		
72158	26	Mri lumbar spine w/o & w/dye		\$234		
72159		MR angio spine w/o&w/dye		\$838		
72159	TC	MR angio spine w/o&w/dye		\$654		
72159	26	MR angio spine w/o&w/dye		\$184		
72170		X-ray exam of pelvis		\$64		
72170	TC	X-ray exam of pelvis		\$46		
72170	26	X-ray exam of pelvis		\$18		
72190		X-ray exam of pelvis		\$77		
72190	TC	X-ray exam of pelvis		\$54		
72190	26	X-ray exam of pelvis		\$22		
* * *						

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), LR 27:314 (March 2001), amended by the Workforce Commission, Office of Workers' Compensation, LR

39:1854 (July 2013), LR 40:379 (February 2014), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 42:1696 (October 2016).

Ava Dejoie
Executive Director

1610#032

Notices of Intent

NOTICE OF INTENT

Department of Culture, Recreation and Tourism Office of Cultural Development Division of Archeology

Fees (LAC 25:V.122)

Under the authority of the Archaeological Resources Act, R.S. 41:1608, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Division of Archeology gives notice that procedures have been initiated to increase the curation fee and assess an annual GIS access fee.

The proposed amendment will increase the fee for depositing a box of archaeological materials with the division's curation facility, and will establish an annual fee for access to the division's online geographic information system (GIS). The curation fee increase will provide sufficient operating funds to the division to fully support its archaeological curation facility and staff without relying on state funds. The GIS fee will provide funds for the Division of Archeology's GIS operation and maintenance. The division operates a GIS system for inhouse use and provides online access to federal agencies, state agencies, private firms, students, and academic and other researchers. Online accessibility to the system enables users to save significant time and money by accessing the system at their office rather than having to travel to Baton Rouge and use the system at the division's offices. In addition, the GIS system allows users to overlay multiple datasets and examine the data in ways that is not possible through the use of paper records. The proposed annual fee will maintain this access and provide the funds to support the operation, maintenance, and necessary upgrades of the GIS system. State agencies will not be charged the access fee, and the division will provide free online access at its Baton Rouge office for any user who does not wish to pay the access fee.

Title 25

CULTURAL RESOURCES

Part I. Office of Cultural Development

Chapter 1. Division of Archeology

Subchapter A. Regulations

§122. Fees

A. - B. ...

C. Curation of Archaeological Collections. A one-time fee of \$400 shall be charged for processing and long-term curation of a standard box of artifacts deposited with the division. A standard box measures 12 x 10 x 15 inches and the contents can weigh no more than 30 pounds (13.6 kg). Oversize artifacts shall be assessed at the rate of \$400 per square foot of shelf space occupied.

D.1. The division shall charge an annual, non-refundable fee for online access to the division's geographic information system (GIS). The fee will be \$1,300 per state fiscal year for each public or private entity with one or more professional archaeologists on staff or an individual professional archaeologist who will use the online access.

2. Professional archaeologists at academic institutions and graduate students studying to become a professional archaeologist will not be charged the access fee.

E. Fee Adjustments. Fees may be adjusted in accordance with the division's *Archaeological Code of Louisiana*.

AUTHORITY NOTE: Promulgated in accordance with Revised Statute 41:1601-1615.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Division of Archeology, LR 20:411 (April 1994), amended by the Department of Culture, Recreation and Tourism, Office of Cultural Development, Division of Archeology, LR 43:

Family Impact Statement

1. The proposed amendment will not have any effect on the stability of the family.

2. The proposed amendment will not affect the authority and rights of persons regarding the education and supervision of their children.

3. This amendment will not have any effect on the functioning of the family.

4. This amendment will not affect family earnings or family budget.

5. This amendment will not affect the behavior or personal responsibility of children.

6. This amendment will not have any effect on the family or local government.

Poverty Impact Statement

The proposed amendment should not have any 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 amendment does 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 until 4 p.m., November 15, 2016, to Chip McGimsey, Division of Archaeology, P.O. Box 44247, Baton Rouge, LA 70804.

Phil Boggan
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change may result in an expenditure increase for the office of Cultural Development for implementation of online access, server and computer replacement; software upgrades and add-ons etc. Any potential increase in cost would not be incurred unless the revenue corresponding to the fee is recognized.

The proposed rule change will double the current per box curation fee from \$200 to \$400 per box and institute an annual fee of \$1,300 for online access to the Division of Archaeology's Geographical Information System (GIS) database. The cost of operations is currently partly absorbed by existing fees and partly by the Office of Cultural Development within the Department of Culture, Recreation and Tourism. The curation fee will be used solely to support the curation facility, and the GIS fee will be used solely to support the GIS system. Neither fee will fully cover the costs for each activity.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The \$1,300 GIS fee will increase revenue collections in the form of self-generated funds at the state level. Those fees will be applied to GIS operations only. Increasing the curation fee from \$200 per standard box to \$400 per standard box will increase revenue collections in the form of statutory dedication funds at the state level. Those fees will be applied to Curation operations only. The proposed rule changes will not effect revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Agencies and private firms conducting archaeological investigations in Louisiana will be subject to the \$1,300 annual GIS fee, unless they wish to access the system at no cost at the Division's offices. Most agencies and firms have multiple staff that access the system on a daily or weekly basis. Paying the fee will be more cost-effective than sending staff on day-long trips to the Division's office. The fee will not create any increased workload or paperwork for the organizations that pay it.

Private firms undertaking archaeological investigations in Louisiana under contract to businesses or federal agencies required under the federal National Historic Preservation Act to conduct those investigations will pay the \$400 per box curation fee (increased from \$200) to the Division for all collections submitted. Firms are not required to deposit collections with the Division and may choose other out-of-state facilities. Nearly all archaeological collections currently obtained from Louisiana are curated with the Division, thus there will be no additional workload requirement for the private firms.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The amended fee structure will have no effect on competition and employment.

Phil Boggan
Assistant Secretary
1610#027

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Culture, Recreation and Tourism
Office of State Parks**

State Parks (LAC 25:IX.Chapters 1-11)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:201-209, the Department of Culture, Recreation and Tourism proposes to amend its regulations to perform general editing, update provisions pertaining to various facilities and programs, increase fees, and to remove outdated references pertaining to federal programs.

Title 25

CULTURAL RESOURCES

Part IX. Office of State Parks

Chapter 1. General Provisions

§101. Definitions

A. As used by the Office of State Parks (OSP) in association with the operation of its holdings and public facilities.

Assistant Secretary—the assistant secretary of the office of state parks is executive head of the office and is appointed by the lieutenant governor with consent of the Senate. This officer is subject to the overall direction and control of the secretary of the Department of Culture, Recreation and Tourism (DCRT) while having direct responsibility for the policies of the OSP, and for the administration, control and operation of the functions, programs and affairs of the office.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690, R.S. 56:1801-1809 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 12:90 (February 1986), amended LR 19:308 (March 1993), LR 31:1979 (August 2005), LR 36:1225 (June 2010), LR 42:

Chapter 3. General Provisions

§301. General Authority and Purpose

A. - C. ...

D. The programs and activities of the OSP are open to all qualified persons regardless of race, color, national origin, religion, age or disability. If anyone believes he or she has been discriminated against in any OSP program, activity or facility, he or she may file a complaint alleging discrimination with either the OSP or the Office for Equal Opportunity, U.S. Department of the Interior, Washington, D.C. 20240.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 16:1051 (December 1990), LR 31:1980 (August 2005), LR 36:1225 (June 2010), LR 42:

§303. Park Property and Environment

A. - D. ...

E. Once a carrying capacity for an OSP site has been reached, or when additional visitors would adversely impact the site, the site manager is authorized to close the site to incoming visitors.

F. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 19:308 (March 1993), LR 26:25 (January 2000), LR 27:1673 (October 2001), LR 31:1980 (August 2005), LR 36:1226 (June 2010), LR 42:

§305. Vehicle Use

A. The provisions of the Louisiana Highway Regulatory Act (R.S. 32:1 et seq.) and any rules and regulations promulgated thereunder shall be enforced on all OSP sites.

B. - C. ...

D. No person shall operate a vehicle in excess of 15 miles per hour on any OSP sites unless otherwise posted.

E. No motor vehicle shall be operated on OSP sites without being properly licensed by the appropriate regulatory agencies.

1. However, persons with mobility disabilities may use single-passenger, wheeled devices powered by electric motors wherever pedestrians are allowed. Multiple-passenger wheeled devices powered by electric or gas motors (e.g., golf carts) are permitted to transport persons with mobility disabilities within the campgrounds. The disabled visitor must be a passenger in the vehicle.

2. Golf carts may be driven by licensed and insured drivers on the roadways at OSP sites where such use is specifically authorized by law or by the assistant secretary.

3. Low-speed electric bicycles (electric motor of less than 750 watts, 1 h.p.) are treated like bicycles.

4. As new wheeled devices powered by electric motors are developed, exceptions to this provision may be granted in advance on a case-by-case basis.

F. - H. ...

I. Off-highway vehicles (OHV) are prohibited on OSP sites, including back country trails, except as set forth in this Section.

1. OHVs are permitted on established OHV trails at South Toledo Bend State Park, subject to compliance with the following rules by OHV riders (i.e., both operators and passengers):

a. OHV riders must possess on person a valid OHV permit issued by the OSP.

i. Single use OHV permits may be obtained from the South Toledo Bend Entrance Station.

ii. Annual OHV permits may be obtained from the South Toledo Bend Entrance Station or the OSP administrative office in Baton Rouge.

b. OHV riders shall wear a U.S. Department of Transportation and/or Snell-approved helmet.

c. OHV riders should wear appropriate personal protective clothing such as eye protection, gloves, boots, long-sleeve shirt, and long pants.

d. OHV riders shall stay on established OHV trails. Cross-country riding is prohibited.

e. OHV riders shall ensure the OHV has a properly functioning spark arrestor and a muffler that does not exceed 90dB.

f. OHV riders shall not possess, consume, or be under the influence of alcoholic beverages.

g. OHV riders shall only use OHV trails while the OHV trails are open.

i. OHV trails are open from 8 a.m. to 5 p.m. from October 1 through March 31.

ii. OHV trails are open from 8 a.m. to 7 p.m. from April 1 through September 30.

iii. OHV trails may be closed by the OSP for management reasons.

h. OHV riders must be 7 years of age or older.

i. OHV riders between the ages of 7-17 must be under the continuous and direct supervision of an adult age 18 or older.

2. OHVs use is permitted on other OSP sites only by OSP staff, contractors, and agents or with prior written consent of the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 26:25 (January 2000), LR 31:1980 (August 2005), LR 39:1264 (May 2013), LR 42:

§307. Watercraft

A. Federal, state, and local laws, rules and ordinances related to the use of watercraft shall be enforced. All watercraft located on or adjacent to any site must be operated in a careful and reasonable manner, and such operation is subject to the rules of safety imposed by the laws of Louisiana and by the United States Coast Guard. Boaters must abide by posted park operational hours.

B. ...

C. Watercraft shall be launched only from designated boat ramps or launching areas within a site.

D. A person renting a watercraft must return the watercraft to the original docking location after use, and secure the boat from unauthorized use.

E. No watercraft may be operated in a designated swimming area or in any other area designated as a non-boating area by signs or any area otherwise restricted from boat operation or docking.

F. Watercraft left docked and unattended must be properly secured in designated areas only. The OSP will not be responsible for any loss, theft or damage to watercraft, equipment, personal property or supplies left unattended.

G. Watercraft will be considered abandoned if left unattended for more than seven consecutive days unless the proper permit or advanced written approval is granted by the site manager.

H. Commercial boats (defined as any watercraft capable of carrying five or more persons for hire; any watercraft having a water displacement of five tons or more, whatever the length; or any watercraft from which commercial activities are conducted, e.g., shrimping, crabbing, fishing, etc.) are prohibited from using any OSP facility without the written consent of the assistant secretary. Prohibited uses include, but are not limited to, loading or unloading of

materials, boarding of persons, operating power equipment and non-emergency repair work.

I. ...

J. Water skiing and related activities such as wake boarding, knee boarding, tubing, and banana rides are permitted only in designated areas, and at the participants' own risk.

K. Personal watercrafts (defined as any one or more person jet propelled craft such as a Jet Ski or Sea-Doo) are prohibited at Poverty Point Reservoir, Chicot Lake, Hodges Gardens Lake and in any portion of any site posted as a "no ski zone."

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 16:1052 (December 1990), LR 26:26 (January 2000), LR 31:1981 (August 2005), LR 36:1226 (June 2010), LR 39:1265 (May 2013), LR 42:

§308. Poverty Point Reservoir State Park

A. All of the restrictions on and requirements for operating watercraft in Poverty Point Reservoir State Park listed in this section are in addition to those restrictions and requirements found elsewhere in these OSP rules and regulations. These section rules apply only to Poverty Point Reservoir State Park's visitors. No part of this section however, shall be construed so as to nullify, in whole or in part, any other section of the OSP rules and regulations as they exist.

B. Watercraft owners and their invitees must enter the Marina from designated entry points.

C. Operation of Watercraft. Individuals are prohibited from all of the following:

1. operating a watercraft at a speed greater than headway speed (i.e., the minimum speed required to maintain steering) within 50 feet of a shoreline, structures or swimmers;

2. operating a watercraft at a speed greater than 20 mph or minimum planing speed (whichever is less) between sunset and sunrise;

3. operating a watercraft where the idle volume is greater than 85 decibels. Further, if a watercraft is equipped with an optional exhaust noise suppression device, the device must be engaged while the watercraft is within a no-wake zone;

4. operating a watercraft without a current day use receipt or "Resident Boat Permit."

D. No person shall moor any watercraft to any buoy or other man-made structure not specifically intended for mooring.

E. Skiing and/or towing of persons behind a watercraft is prohibited outside of designated skiing areas.

F. Skiing and/or towing of persons behind a watercraft is prohibited in all areas between sunset and sunrise.

G. Use of the Marina Complex. All visitors to the marina, whether watercraft owners or their invitees, are prohibited from:

1. storing hazardous or flammable materials in the slip area (with the exception of normal fuel storage in moored watercraft);

2. performing or allowing to be performed any major repairs or maintenance to a watercraft moored in the marina. Major repairs or maintenance include any activities that pose a safety hazard or nuisance or infringe on the enjoyment of the marina by others;

3. - 5. ...

6. fueling, or allowing to be fueled any watercraft outside designated fueling areas;

7. - 10. ...

H. All watercraft owners must complete and submit a signed "marina slip rental agreement" along with any required payments and/or deposits due prior to using a rental slip.

I. Watercraft owners and their invitees shall be responsible for maintaining the marina facilities available for their use. To that end, every watercraft owner and invitee shall:

1. remove all refuse from the watercraft and slip and place in the designated receptacles;

2. ...

3. place all storage lockers only on the end of dock fingers so as not to interfere with the view or access of other watercraft owners;

4. provide the park office with keys to both the storage locker and the watercraft to be used for emergency purposes only;

5. - 6. ...

J. Personal watercraft are prohibited at Poverty Point Reservoir.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 31:1981 (August 2005), amended LR 36:1226 (June 2010), LR 42:

§309. Horseback Riding, Livestock, Animals and Pets

A. ...

B. Any pet brought on OSP property must be leashed, caged or crated. Leashes shall not exceed 6 feet in length. With the exception of service animals, pets are not permitted within buildings or other enclosed structures on site, nor are they allowed near designated swimming areas and in overnight facilities. Owners of pets shall be fully responsible for any injury and/or damage caused by their pet.

C. No person shall allow livestock to run or graze on any OSP site, except in specially designated areas and/or as part of special programs or events approved in advance by the assistant secretary.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks in LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 14:773 (November 1988), LR 26:26 (January 2000), LR 31:1982 (August 2005), LR 36:1226 (June 2010), LR 42:

§310. Litter, Sanitation and Health

A. - B. ...

C. No person shall clean fish or other food, or wash clothing or articles of household use except in designated areas. No person shall clean, field dress, or have in open view on OSP property any harvested animal or animals,

except in association with an OSP approved management hunt or event.

D. - G. ...

H. A person may enter an OSP site for the sole purpose of using the dump station facilities. General admission fees plus a \$5 dump station use fee apply to such use.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 26:26 (January 2000), LR 31:1982 (August 2005), LR 36:1227 (June 2010), LR 42:

§313. Fishing, Hunting, Trapping, and the Use of Firearms or Fireworks

A. All wildlife in OSP sites, including reptiles and amphibians, is under strict protection and must not be hunted, molested, disturbed, trapped, destroyed, fed or removed, except for scientific or management purposes when approved by the assistant secretary.

B. Bringing or keeping any hunting dogs on OSP property for the purpose of hunting inside or adjacent to a site is prohibited unless approved in advance and in writing by the assistant secretary.

C. - E. ...

1. No more than 50 yo-yos or trigger devices allowed per person.

2. Each yo-yo or trigger device must be clearly tagged with the name, address and telephone number of the owner/user.

3. All fish or any wildlife caught or hooked must be immediately removed from the device.

4. Each yo-yo or trigger device must be re-baited at least once every 24 hours.

5. The placement of any artificial object to anchor a yo-yo or trigger device is prohibited.

6. Except for an object used strictly in the construction of a pier, boathouse, seawall, or dock, no object which is driven into the lake bottom, a stump, tree, or shoreline shall be used to anchor a yo-yo or trigger device. *Object* means rebar or other metal material, cane, PVC tubing, construction material, or any other type of material.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:773 (November 1988), LR 16:1052 (December 1990), LR 19:308 (March 1993), LR 31:1982 (August 2005), LR 36:1227 (June 2010), LR 39:1265 (May 2013), LR 42:

§314. Swimming

A.

B. All children under 12 years of age must be accompanied by an adult at any swimming area or water playground.

C. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:635 (December 1982), amended LR 12:89 (February 1986), LR

16:1052 (December 1990), LR 26:27 (January 2000), amended LR 31:1983 (August 2005), LR 36:1227 (June 2010), LR 39:1265 (May 2013), LR 42:

§317. Disorderly Conduct

A. Disorderly or boisterous conduct is prohibited.

B. The site manager and his designees are authorized to control the use and consumption of alcoholic beverages at a site. This includes the authority to prohibit the consumption of alcohol in designated areas within an OSP site. The lawful consumption of alcoholic beverages may be allowed to the extent that such activity does not adversely affect the use and enjoyment of the site by other OSP site users.

C. - C.3. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 31:1983 (August 2005), LR 39:1265 (May 2013), LR 42:

§321. Fines and Enforcement

A. - B. ...

C. Site visitors may be required to furnish specific information upon admission or registration, including but not limited to, vehicle license plate number and a driver's license number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 26:27 (January 2000), LR 27:1673 (October 2001), LR 31:1983 (August 2005), LR 36:1227 (June 2010), LR 39:1266 (May 2013), LR 42:

§329. Closures

A. The assistant secretary or his designee may direct the closing of a site or a facility to public use when or if any natural or man-made occurrence has affected, or is expected to affect, the operation and management of the site to a degree that normal public use and enjoyment are altered, or when such use may impair the health, safety, and well-being of the public or employees of the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 42:

§330. Day-Use Facilities

A. - B. ...

C. Permittees waive and release all claims against the state of Louisiana for any damage to person or property arising from the privileges granted by any use permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 19:308 (March 1993), LR 26:28 (January 2000), LR 31:1984 (August 2005), LR 42:

§331. Overnight Use Facilities

A. - A.5. ...

6. Established time schedules (check-in and check-out) are strictly enforced. Failure to comply without

advanced approval of the park manager may result in additional charges and denial of future use of OSP facilities.

7. Overnight users must observe quiet hours between the hours of 9 p.m. and 6 a.m. Playing music or other loud activities that adversely affect the use and enjoyment of the site by other site users is a violation of quiet hours.

8. Overnight users shall not erect or display unsightly, obscene, or inappropriate structures or features which, in the opinion of the site manager, may create a disturbing or otherwise unpleasant condition detrimental to the general site use.

9. ...

10. No person shall be permitted to reside at any OSP site, except for assigned OSP staff and their immediate family.

11. - 12.

13. Upon departure, the user must ensure that the facility is vacated in good repair and in the same condition in which it was occupied. Trash must be disposed of and all fires extinguished. Permittees will be responsible for any and all damages resulting from their use of the facility. Failure to comply may result in denial of future use of OSP facilities.

B. Camping

1. With the exception of a campground host and long term stay campsites, overnight camping and group camp, lodge and cabin use are limited to 15 consecutive days. After 15 consecutive days of occupancy at an OSP site, the visitor must vacate the site for seven consecutive days before occupancy may be resumed. No person shall occupy a campsite for more than 23 days in any 30 day period. However, at the site manager's discretion, and subject to availability, overnight camping may be extended on a weekly basis. No campsite may be vacated for longer than a 24-hour continuous period under any permit agreement.

2. OSP campgrounds are intended for tents and recreational vehicles only.

3. Campsite occupancy is limited to six persons. Day use guests may visit overnight campers at their campsites between the hours of 8 a.m. and 9 p.m.

4. At designated group camping areas occupancy limits are set by the site manager or his designee.

5. - 5.e. ...

6. Upon termination of any use permit, the facility must be vacated in good repair and in the same condition in which it was occupied. Where applicable, all water taps shut, and all fires extinguished. Permittees will be responsible for any and all damages resulting from their use of the facility. Failure to comply may result in denial of future use of OSP facilities.

C. - C.3. ...

4. The maximum overnight (9 p.m. to 8 a.m.) capacity for cabins and lodges is the listed bedding accommodations. A \$15 fee per person will be charged to the permittee for additional persons up to the listed maximum sleeping capacity of the facility.

5. The maximum overnight (9 p.m. to 8 a.m.) capacity for a group camp is the maximum sleeping capacity of the group camp facility.

6. The maximum daytime (8 a.m. to 9 p.m.) capacity for cabins, lodges and group camps is double the sleeping capacity or posted fire marshall occupancy of the facilities.

Exceptions may be granted by the assistant secretary or his designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:634 (December 1982), amended LR 12:89 (February 1986), LR 14:772 (November 1988), LR 16:1053 (December 1990), LR 19:308 (March 1993), LR 26:28 (January 2000), LR 27:1673 (October 2001), LR 31:1984 (August 2005), LR 36:1227 (June 2010), LR 39:1266 (May 2013), LR 42:

§333. Boundary Designation/Property Posting

A. - B. ...

C. Criteria for Posting and Establishing Boundaries

1. Except where posting is deemed unnecessary, boundaries of developed and undeveloped property shall be posted in accordance with OSP policies and procedures approved by the assistant secretary.

D. Penalties

1. - 2. ...

3. No person shall enter an OSP site when the OSP site is closed.

4. No person shall enter an OSP site without proper registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 11:100 (February 1985), amended LR 12:89 (February 1986), LR 31:1985 (August 2005), LR 42:

Chapter 5. Procedures and Fees

§500. Admission Fees and Exemptions

A. State Parks—General Admission Fees

1. Except as otherwise provided in this Chapter, a general admission fee is charged at all state parks as follows.

	State Parks	Hodges Gardens SP
Visitors (age 4 – 61) in non-commercial vehicles, walk-in visitors, visitors on bicycles	\$3 per person, per day	\$7 per person, per day
Children 3 and under	Free	Free
Seniors 62 and older	Free	Free
Persons, regardless of age, arriving by bus	\$75 per bus, per day	\$75 per bus, per day

Bus—a bus used as a public conveyance, whether privately or commercially owned and operated, that is capable of transporting 20 or more persons.

2. St. Bernard State Park General Admission Fees

a. The general admission fee at St. Bernard State Park is \$2 per person 16 years of age and older and \$1 per person under 16 years of age with a maximum of \$5 per vehicle for all passengers in that vehicle.

b. Except there shall be no admission fee for St. Bernard and Plaquemines parish residents on Sundays.

c. An annual vehicle permit may be obtained from the park office by St. Bernard and Plaquemines parish residents only. The annual vehicle permit fee is \$25. The annual vehicle permit will be in the form of a windshield decal. There will be no admission charge at any time for anyone entering the park as a passenger or driver of a vehicle with a decal.

d. OSP will replace the annual permit decal, free of charge, when presented with a current year decal if a windshield or vehicle has been replaced.

B. ...

1. General Admission Fees for State Historic Sites

a. Except as otherwise provided in this Chapter, a general admission fee of \$4 per person is charged at all state historic sites.

b. Children age 3 and under are free.

c. ...

2. Locust Grove SHS and Los Adaes SHS have no general admission fee.

3. - 3a. ...

- i. \$15 per adult (ages 18 to 61);
- ii. \$10 per senior citizen (ages 62 and over);
- iii. \$6 per child (ages 4 to 17);
- iv. free for children (ages 3 and under).

b. ...

- i. \$7 per adult (ages 18 to 61);
- ii. \$7 per senior citizen (ages 62 and over);
- iii. \$5 per student (ages 4 to 17);
- iv. free for children (ages 3 and under).

c. Organized groups of 20 or more are requested to notify the site manager in advance of their arrival. Special entry rates may apply to organized groups, set by the assistant secretary or his designee.

4. - 4.a. ...

- i. \$10 per adult (ages 18 to 61);
- ii. \$8 per senior citizen (ages 62 and over);
- iii. \$5 per student (ages 4 to 17);
- iv. free for children (ages 3 and under).

b. ...

- i. \$5 per person (ages 4 and over);
- ii. free for children (ages 3 and under).

5. Organized groups of 10 or more are requested to notify the site manager in advance of their arrival. Except as otherwise provided in this chapter, there is no additional fee for SHS visitors arriving by bus.

6. Admission entitles visitors to all facilities and regular programs that may be offered at the historic site. Special programs and events may include special admission rates.

C. ...

D. All admission fees include applicable state and local taxes.

E. Admission fees may be subject to a discount or surcharge in association with special events and uses, if approved by the assistant secretary.

F. A self-service fee system may be used to collect user fees on areas not normally served by an entrance control station.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:636 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1986 (August 2005), LR 36:1228 (June 2010), LR 39:1266 (May 2013), LR 42:

§501. Day-Use Fees; Miscellaneous Services, Privileges, and Facility Fees

A. Boating

1. Boat Launch Fees

a. In addition to the general admission fee and all other applicable user fees, a boat launch fee of \$5 is charged to all vehicles entering the park with motorized watercraft.

b. An annual boat launch permit can be purchased at a cost of \$75 from the OSP administrative office in Baton Rouge. The permit includes admission for one person; all others pay the general admission fee.

2. OSP rental boats. Rental boats, including flat bottom, motor, canoes, and kayaks, are available at most parks. The use of motors on these boats is limited to the manufacturer's recommended horsepower capacity. Boats may be rented from OSP at the following rates.

a. Flat bottom boats with three life jackets and two paddles may be rented for \$20 per boat per day.

b. Canoes with two life jackets and two paddles may be rented for \$7 per hour or \$25 per vessel, per day.

c. Kayaks with life jacket(s) and paddle(s) and paddle boats with life jacket(s) may be rented for \$7 per hour or \$35 per vessel, per day. Number of included life jackets and paddles equals watercraft seating capacity.

d. A guided canoe float trip is charged \$30 per canoe, per trip. All fees include paddles and life jackets.

e. All fees include indicated number of life jackets and paddles. Additional paddles and life jackets are available at a rental fee of \$2 each per day.

3. At some sites rental boats, kayaks, canoes and other watercraft may be available through a concessionaire. Visitors should contact the site to check availability and rates. Visitors utilizing these services are subject to general admission fees.

B. Swimming Pools

1. In addition to the general admission fee and all other applicable user fees, the fees to enter the Bayou Segnette SP wave pool are:

Visitors 48" in height or taller	\$13 per person, per day
Visitors under 48" in height	\$10 per person, per day

i. The price includes one flotation device per person.

ii. Discount coupons are available when purchased in quantity lots.

2. In addition to the general admission fee and all other applicable user fees, the fee to enter any other OSP swimming pool complex is \$3 per person, per day.

C. Golf Carts

1. A golf cart usage fee of \$10 a day is charged for all approved golf carts.

2. An annual golf cart pass can be purchased at a cost of \$100 by contacting the OSP Administrative Office in Baton Rouge.

D. Marina Boat Slips

1. Boat slips in the Poverty Point Reservoir State Park marina are available for \$15 per night or, under an annual contract, for \$625 per year.

E. Trail Riding

1. Equestrian. Designated trails are available for equestrian use, subject to the following fees:

a. In addition to the general admission fee and all other applicable user fees, an equestrian trail use fee of \$3 is charged per horse. Visitors are required to produce documents for each animal as proof the animal is reasonably free of contagious pathogens (e.g. Equine Infectious Anemia Laboratory Test showing proof of negative Coggins Test).

b. At some OSP sites horseback riding may be available through a concessionaire. Visitors should contact the site to check availability and rates. Visitors utilizing these services are subject to general admission fees.

2. Off-highway Vehicle (OHV). OHVs are permitted on designated trails at South Toledo Bend State Park.

a. A single-use OHV permit fee of \$15 per OHV may be purchased at South Toledo Bend SP entrance station.

b. An annual OHV permit fee of \$100 per OHV may be purchased by contacting the OSP Administrative office in Baton Rouge and the entrance station of South Toledo Bend SP. Permits are valid for permit holder and one OHV only. These are the only annual permits valid for OHV Trail use.

3. Bicycles. Where available, bicycles may be rented for \$7 per hour or \$25 per day.

F. Group Rental Pavilions

1. Group rental pavilions are available at most state parks and state historic sites.

2. Exclusive use of a group pavilion can only be made by a rental permit and payment of a rental fee. These group pavilions can be reserved in advance with payment of the rental fee.

3. Reserved pavilions will be posted, indicating the name of the party and date of use. When such pavilions are not so posted or reserved, they are available to the site visitors on a first come, first served basis.

4. In addition to the rental fee, users of the reserved group pavilions will also be charged the general admission fee to the OSP site.

5. The carrying capacity of a group rental pavilion is based on its size, facilities and available parking, and may not be exceeded as determined by the site manager.

6. There are three types of rental pavilions, as follows:

a. Type I Pavilion. These pavilions, usually located in the day-use area, accommodate a standard of 40 people.

b. Type II Pavilion. These pavilions, usually located in the day-use area, accommodate 60 people.

c. Type III Pavilion. These pavilions are usually separated from the day-use area, affording more group privacy than the other pavilion types. They may accommodate 100 people.

7. Fees for Group Rental Pavilions

Type I Pavilion	\$50 per day
Type II Pavilion	\$70 per day
Type III Pavilion	\$120 per day

G. Meeting Rooms. Meeting rooms used to accommodate meetings and functions of private groups, clubs and other organizations are available during normal

park operating hours. Kitchen facilities may be used, if available. Meeting room rates are as follows.

\$100	Type I e.g., North Toledo Bend, Palmetto Island, Arboretum, Poverty Point Reservoir, Lake Claiborne, Chemin-à-Haut
\$160	Type II e.g., Chicot, South Toledo Bend, Fontainebleau, Lake D'Arbonne
\$220	Type III e.g., Lake Fausse Pointe, Bogue Chitto

H. Fees for pavilion and meeting room rentals are subject to applicable state and local taxes. Fees for general admission and miscellaneous day use services, permits, and privileges include applicable state and local sales taxes

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1052 (December 1990), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1986 (August 2005), LR 36:1228 (June 2010), LR 39:1266 (May 2013), LR 42:

\$502. Fees and Exemptions; Exemptions/Discounts

A. ...

B. Active Duty Military. Active duty military personnel and one immediate family member shall receive a 50 percent discount for general admission to a state park or state historic site by presenting a current, valid military photo ID.

C. School Groups. Any child who is on a field trip conducted as part of the curriculum of the school and any classroom teacher, parent, bus driver and any other person accompanying a school child on such a field trip are exempt from paying the general admission charge to any OSP site.

D. National Parks and Federal Recreation Lands Passes. Any citizen of the United States who possesses a national parks and federal recreation lands senior pass (formerly the golden age passport) or access pass (formerly the golden access passport) issued by any agency of the United States, pursuant to 16 U.S.C. section 460 L-65, upon presentation of the pass and proper identification to any OSP authorities, shall be exempt from the general admission fee to any OSP site and/or receive a 50 percent discount on camp site rental fees provided that the state park system of the citizen's domicile as reflected on his presented identification also recognizes such passes for discounted access and services.

E. Non-Profit Community Home-Based Organization. Any child age 18 or under who is retained in the legal custody of the state through a bona fide contractual service agreement with a public, non-profit community home-based organization or provider shall be exempt from paying the general admission fees or any other day-use fee at any site. Such use must be in conjunction with an organized group outing or event sponsored and supervised by the public, non-profit organization or provider.

1. - 2. ...

F. Annual Day-Use Permits

1. Permits are available at a cost of \$80 per year. This permit, in the form of a wallet I.D. card, allows the holder individually or as a passenger in a single, private non-commercial vehicle entry to all sites in lieu of the normal admission fee. All people accompanying a permit holder as occupants in a single, private non-commercial vehicle in

which the permit holder is a passenger or driver are also admitted without charge

a. The wallet permit may be exchanged for a vehicle decal which shall be permanently affixed to a vehicle, if this is a more convenient permit arrangement.

b. The annual day-use permits are valid for a period of one year from the date of purchase. Permits may be obtained at any site.

c. Price does not include applicable state and local taxes.

2. The annual day-use permits are valid for exemption of the general admission day-use charge only.

G. Pursuant to R.S. 56:1692, any person accompanying a citizen of the state of Louisiana who is sixty-two years of age or older, as the driver of a single, private, noncommercial vehicle, or alternatively, the exempted person's spouse and children accompanying him or her where entry to the area is by any means other than private, noncommercial vehicle, shall be exempt from paying the general admission charge to any state park in Louisiana.

H. Discounts and Fee Waivers. The assistant secretary or his designee may grant written approval for a waiver or discount of entrance fees and facility use fees in accordance with guidelines adopted by the Louisiana State Parks and Recreation Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 19:309 (March 1993), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1987 (August 2005), LR 36:1229 (June 2010), LR 39:1267 (May 2013), LR 42:

§503. Fees and Exemptions; Special Promotions

A. From time to time, as deemed appropriate by the assistant secretary, special programs, promotions, occupancy regulations, discounts or waivers on user fees may be offered in order to encourage visitation. These special promotional offers must be reviewed and reauthorized annually.

B. As approved by the assistant secretary and subject to the limits set forth herein, overnight use rates may be subject to a surcharge based on demand. In no event shall campsite rental fees exceed \$40 per night, cabin rental fees exceed \$350 per night, lodge rental fees exceed \$400 per night, nor group camp rental fees exceed \$1000 per night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:637 (December 1982), amended LR 12:89 (February 1986), LR 14:774 (November 1988), LR 16:1053 (December 1990), LR 26:29 (January 2000), LR 27:1673 (October 2001), LR 31:1988 (August 2005), LR 42:

§504. Fees and Exemptions; Overnight Accommodations

A. Camping Fees and Exemptions

1. Campsites

a. A premium campsite is an improved campsite with sewer or is pull-through or is in a prime location.

b. An improved campsite has water and electrical hookup available.

c. An unimproved campsite does not have utility hook-ups. These are typically located in campgrounds where utilities or bathhouses are nearby.

d. Backcountry campsites typically only have a tent pad and fire ring and are located in undeveloped areas of an OSP site, where no facilities are provided. These sites are accessed by backpacking or by non-motorized watercraft.

i. A permit is required for all overnight backcountry camping or backpacking use and may be obtained at the park entrance station.

ii. A copy of the backcountry camping or backpacking regulations can be obtained at the park entrance station.

e. For information regarding campsite reservation fees, see §505, Reservation Policy.

f. Each campsite is restricted to use by one camping unit as defined in §331.B.5.

g. The winter season is October 1-March 31 and the summer season is April 1-September 30.

	Summer Weekend	Summer Weekday	Winter Weekend	Winter Weekday
Premium Campsite	\$33	\$30	\$33	\$25
Improved Campsite	\$28	\$25	\$28	\$20
Unimproved Campsite	\$18	\$18	\$18	\$18
Backcountry Campsite	\$9	\$9	\$9	\$9

2. Primitive Group Camping Areas. Designated primitive areas accommodating organized groups (Boy Scouts, Girl Scouts, etc.) are available for camping at \$35 to \$60 per night based on capacity. Capacity will be set by the site manager.

3. Rally camping areas are those designated and reserved for use by organized groups of overnight campers. These areas differ from the normal state park campgrounds since they are available for group use only.

a. Fees

i. A fee of \$60 per night is assessed to the group for the exclusive use of the area, and each individual camper rig is also charged the improved campsite rate.

ii. The day-use fee for a rally campground is \$60 per day for the group, in addition to the standard general admission fees per person.

b. Carrying Capacity. A maximum carrying capacity for rally areas is established by individual site managers, and information concerning these capacities is available through the individual site offices.

4. Long-Term Stays. No fee exemption or discount provided for by rule may be applied to a long-term stay.

B. Cabins, Lodges, Group Camps—Fees and Exemptions

1. Cabins

a. Except as otherwise set forth in this Chapter, cabins may be rented in accordance with the following rates.

Classification	Standard Weekday Rate	Standard Weekend Rate	Bedding Accommodations	Maximum Capacity
Deluxe	\$150	\$175	6-8	8
Standard	\$85	\$95	4-6	6-8

b. The rental fee for all cabins at Hodges Gardens S.P. and modular cabins at Sam Houston Jones S.P. will be the standard weekday rate year round.

2. Park Lodges. Lodges are large overnight structures equipped with kitchen, bath and sleeping facilities and can accommodate a large family or several family groups. Except as otherwise set forth in this Chapter, lodges may be rented at the following rates.

Classification	Standard Weekday Rate	Standard Weekend Rate	Bedding Accommodations	Maximum Capacity
Standard	\$155	\$210	varies	varies
Deluxe	\$175	\$225	14	16

3. Group Camps. Group camps are available at certain parks for organized group use, for day or overnight use. The capacity, type of facility, and rates are as follows.

Classification	Overnight Rate	Maximum Capacity
Class III	\$600	100+
Class II	\$300	99
Class I	\$240	49

4. Special Research Dormitory Facilities at Poverty Point SHS

a. Purpose. The primary purpose of the research dormitory is to provide living space and sleeping accommodations for professional researchers and students who are actively conducting on-site research. The dormitory can be used on a first come, first served basis by other individuals who meet the requirements as set forth in this policy statement.

b. Eligible Users. The dormitory is available to college students, professional archaeologists and other scientists and professionals who are studying the site and/or actively conducting research which relates to or directly involves the site or nearby sites of significance.

i. Requests for use of the dormitory by individuals or groups not meeting the above criteria will be reviewed to determine merit and appropriateness.

c. Application Process. Requests for use of the dormitory must be made by letter addressed to the site manager. The site manager and the assistant secretary will review the request and respond in writing to the applicant.

d. Facility Use Agreement

i. All parties granted permission to use the dormitory must execute a "facility use agreement."

ii. The user must execute the agreement and return it to the site manager before occupying the dormitory.

e. Research Dormitory Fees. All user groups, unless otherwise authorized by the assistant secretary, will be required to pay a \$125 per night fee for overnight use. The rental fee must be received within 10 days after the user receives written approval to use the dormitory.

f. Research Dormitory Occupancy Requirements

i. Registration with the site manager is required of all boarders before occupying the dormitory. This information will include name, organization, address, and home or business phone numbers.

ii. Keys to the dormitory can be obtained from the site manager. One group leader will assume responsibility for the keys and return them to the manager before leaving.

iii. General cleanup of this facility will be the responsibility of the user. The user will follow established cleanup and housekeeping procedures distributed by the manager.

iv. Research dormitory checkout time is 2 p.m.

g. Special Conditions. All programs and activities conducted by groups or individuals using the dormitory must be approved in writing by the site manager.

h. The site manager has the administrative responsibility for all matters relating to the daily operation of the dormitory building and site facilities.

5. Prices for the facilities listed in this Section do not include applicable state and local taxes.

6. Prices are subject to discounts, waivers, or surcharges due to special events, demand, occupancy, use that exceeds capacity, or use that is deemed to fall outside of the type of use for which the facility is designed, managed, and staffed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:638 (December 1982), amended LR 12:89 (February 1986), LR 12:828 (December 1986), LR 26:30 (January 2000), LR 27:1674 (October 2001), LR 31:1988 (August 2005), LR 36:1229 (June 2010), LR 39:1267 (May 2013), LR 42:

§505. Reservation Policy

A. - A.1. ...

2. The call center will operate 7:30 a.m. to 6 p.m. (Central Standard Time), Monday-Friday. Inbound telephone reservation services will be closed on the following holidays: New Year's Day, Good Friday, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. Based upon demand, the center's hours may be extended by the assistant secretary or his designee.

3. Reservations are accepted only from persons 21 years of age or older. All persons under 21 years of age must be accompanied by adults when using reserved facilities. Exceptions may be approved by the assistant secretary or his designee.

4. Deposit in full deposit amount must be received within 10 days of the date the reservation is made; otherwise, the reservation is canceled. Payment may be made by credit card, in-state personal check or money order. A \$35 NSF fee will be charged for checks written on accounts with insufficient funds. If the reservation is made within 14 days or fewer of the usage date, payment shall be by credit card only.

5. Cancellation of a reservation initiated by the site user is subject to a surcharge. The cancellation fee is a minimum of \$10 per facility. If the reservation is canceled within 14 days of the first day of intended use, the cancellation fee is the cost of one day's stay or \$10 per

facility, whichever is more. Transfer of reservation dates will be treated as a cancellation as well as a new reservation; therefore subject to the cancellation surcharge. There is no charge to transfer a reservation from a facility to the same type of facility located within the same site. Requests for waivers of the cancellation fee must be made in writing to the assistant secretary or his designee and will be granted only for extreme situations.

6. - 7. ...

8. For cabins, lodges, group camps, rally shelters and campsites a two-night minimum reservation is required for weekends and a three-night minimum reservation is required for weekdays. Weekdays nights are considered Sunday through Thursday and Weekends are Friday through Saturday. The weekend minimum applies to any reservation containing a weekend night consecutive with other nights. The weekday minimum applies to any reservation not containing a weekend night. If facilities are not reserved in advance, they may be rented on weekends or weekdays for one night to walk-up users using the facilities that day. Exceptions may be granted by the assistant secretary or his designee. Minimum night reservations terms may be adjusted site by site or periodically by the assistant secretary or his designee in order to encourage visitation or to correlate with special events.

9. Up to five campsites in a park may be designated for long-term stays during the winter season, October 1 through March 31, with assistant secretary approval. A long-term stay shall not exceed 60 consecutive nights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1693 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:640 (December 1982), amended LR 12:89 (February 1986), LR 14:777 (November 1988), LR 16:1051 (December 1990), LR 26:32 (January 2000), LR 27:1674 (October 2001), LR 31:1989 (August 2005), LR 36:1230 (June 2010), LR 39:1267 (May 2013), LR 42:

§507. Special Uses and Restrictions

A. Special Use. Any function requiring special or restricted use of any facility or area within an OSP site must be approved by the assistant secretary and the fee for such will be computed on a negotiated rate unless otherwise established. Special use for an organized group event (e.g. weddings, tournaments, fundraiser, runs/walks, etc.) will typically require a facility use agreement (FUA). The determination for the requirement of a FUA will be made by the assistant secretary. Written request for special use of a facility must be received at the Office of State Parks, Box 44426, Baton Rouge, LA 70804-4426 at least 30 days prior to the scheduled event. No telephone requests are accepted.

B. - B.3. ...

4. It has also been determined that the use of state historic sites for such activities and events as fairs, circuses, carnivals, amusement rides, and other promoter sponsored, commercial activities and events is not deemed in the best interest of the state historic sites. Such uses fail to achieve the intent outlined in the preservation purpose and may increase the potential for serious damage to the quality and character of the area, adversely affecting the experience of the visitor. However, at Rebel State Historic Site, musical events sponsored by promoters will be permitted with the

approval of the assistant secretary or his designee. In addition, PowWows will be allowed, where appropriate, with the approval of the assistant secretary or his designee.

B.5 - C.2. ...

D. Use of OSP sites for commercial film-making, videography, or commercial still photography including but not limited to the production of motion picture, television programs, video or print advertising commercials, or commercial video tapings, any of which involves the exclusive use and occupancy of OSP property and/or facilities must be arranged and negotiated with the Office of State Parks' administrative office, Public Information Officer for location agreement.

1. Such use shall only be permitted in accordance with a signed location agreement. Each location agreement is unique depending on the site, the proposed use, and other relevant factors and is negotiated accordingly. Contact the Office of State Parks' administrative office, public information officer for location agreement.

2. Exempt from this rule and policy are photographers and videographers who enter OSP property at the request of the DCRT, in response to a press release, or otherwise; to cover an event, conduct interviews, capture footage of the OSP site or program, or else to gather information for a news or feature story or DCRT project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1690 and R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 8:633 (December 1982), amended LR 12:89 (February 1986), LR 14:779 (November 1988), LR 19:313 (March 1993), LR 26:32 (January 2000), LR 27:1674 (October 2001), LR 31:1989 (August 2005), LR 36:1230 (June 2010), LR 42:

Chapter 9. Division of Outdoor Recreation Administration

§921. LandWCF Application Preparation, Review and Selection Process

A. Applications for LandWCF funds must be submitted to the DOR through an online application available on the Louisiana State Parks website. Applications must be submitted by April 1 (annually). Receipt of an application initiates an extensive and highly competitive process involving DOR preparation of the federal application package, securing clearinghouse approval, evaluation and rating. Project applications will be ranked by score from the Open Project Selection Process (OPSP) and forwarded to the National Park Service for federal approval. Assistance is available from the DOR staff for completion of the online application at any time throughout the year.

1. Initial Evaluation. DOR staff initially review all application submittals on the first business day following April first annually. Identification of all required documents is completed. Applications with substantial missing required documentation are not eligible for further consideration. Sponsors of projects found to have existing compliance issues are also ineligible to apply until actions are completed to meet National Park Service standards. Sponsors of existing active projects are also not eligible to apply until formal federal closeout procedures by the National Park Service are finalized upon completion of the scope of work for the active project. All project sponsors of applications

deemed ineligible are notified in writing in regards to the eligibility to participate. Proposed project sites are visited for initial inspection and evaluation by DOR staff.

2. Review and Preparation of Application. Eligible applicants with complete documentation are evaluated through the OPSP and ranked in priority order. The OPSP is developed in accordance with the most recent publication of the Statewide Comprehensive Outdoor Recreation Plan and approved by the National Park Service (NPS). This determination of suitability results in a priority order of projects for consideration. Projects are presented to the State Parks and Recreation Commission (SPARC) for review. Upon determination of eligible federal LandWCF monies, all eligible projects are forwarded to the NPS Regional Office within the limits of funding.

3. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1232 (June 2010), amended LR 39:1268 (May 2013), LR 42:

§923. Recreational Trail Program Summarized³

A. - B. ...

C. Program Funding. The RTP funds come from the Federal Highway Trust Fund, and represent a portion of the motor fuel excise tax collected from non-highway recreational fuel use: fuel used for off-highway recreation by snowmobiles, all-terrain vehicles, off-highway motorcycles, and off-highway light trucks. The RTP funds are distributed to the states by legislative formula: half of the funds are distributed equally among all states, and half are distributed in proportion to the estimated amount of non-highway recreational fuel use in each state.

³Title 23 United States Code §206, Recreational Trails Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1233 (June 2010), amended LR 42:

§929. RTP Application Preparation, Review and Selection Process

A. - E. ...

F. Division of Outdoor Recreation staff will monitor the construction phase and complete a site inspection at the completion of the project. Project sites are subject to periodic inspection after completion by Division of Outdoor Recreation staff and federal partners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1234 (June 2010), amended 39:1268 (May 2013), LR 42:

§931. Louisiana Recreational Trails Advisory Committee

A. The Louisiana Recreational Trails Advisory Committee is composed of selected individuals to represent a cross section of trail users and trail providers. The committee meets at a minimum of once per the federal fiscal year.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1681-1704, R.S. 56:1801-1809 and R.S. 36:201-209.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Parks, LR 36:1234 (June 2010), amended LR 42:

Chapter 11. Black Bear Golf Course

Editor' Note: This Chapter 11 (§§1101-1131) has been moved from LAC 25:XI.Chapter 5 (§§501-531).

§1101. Definitions

[Formerly LAC 25:XI.501]

A. ...

* * *

Director of Golf (Director)—under the direction of the manager of Poverty Point Reservoir State Park, the director is the top supervisor directly in charge of day-to-day management of the course. The *director* is responsible for enforcing all rules set forth in this Part and for enforcing all course policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:249 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1268 (May 2013), LR 42:

§1111. Business Solicitation

[Formerly LAC 25:XI.511]

A. No person may sell or offer for sale any merchandise or service at the course without the written consent of the assistant secretary, subject to applicable laws, rules, and policies of the state.

B. No person may distribute, post, place, or erect any advertising device at the course without the written consent of the assistant secretary, subject to applicable laws, rules, and policies of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:204.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation, and Tourism, Office of the Secretary, LR 33:250 (February 2007), amended by the Department of Culture, Recreation, and Tourism, Office of State Parks, LR 39:1269 (May 2013), LR 42:

Family Impact Statement

The proposed Rule has no known or foreseeable impact on any family as defined by R.S. 49:972(D) on family formation, stability and autonomy. Specifically there is no known or foreseeable effect on:

1. the stability of the family;
2. the authority and right so 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.

Poverty Impact Statement

The proposed Rule does 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.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does 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 Rule to Sharon Broussard, Public Information Officer, Office of State Parks, P.O. Box 44426, Baton Rouge, LA 70804. Such comments must be received no later than October 10, 2016.

Brandon Burris
Deputy Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: State Parks

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed technical and non-technical rule changes may result in negligible costs associated with updating signage and other related media. The modifications to Title 25 reflect new fees, increased fees, inclusion of taxes in fees, and other State park specific changes such as: 1) guidance on off-highway vehicle and watercraft use; 2) dump station use; and 3) guidelines and use of certain devices while fishing, hunting, and trapping.

Office of State Parks (OSP) has a sign making shop located at one of its facilities. The sign shop produces two main sizes of signs, which cost the agency \$50 and \$100 to create. OSP estimates it will need ten (10) signs for new boating fees, twenty-two (22) for dump station fees, ten (10) for golf cart fees, and twenty (20) for various other posted changes. The new signs will have an estimated one-time cost of \$6,200. This cost will not result in an increase in OSP's budget.

In addition, OSP will have to reprint tri-fold brochures reflecting proposed fee modifications. OSP handles printing in-house and the estimated one-time cost is \$500. This cost will not result in an increase in OSP's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

OSP estimates, the proposed rule changes will generate approximately the following estimated revenues on an annual basis:

• Increased Overnight Fees	\$1,125,000
• Proposed Day Use Fee	\$895,000
• New Tax responsibility	\$817,000
• Proposed Boat Launch Fee	\$182,000
• Proposed Golf Cart Fee	\$255,000
Total	\$3,274,000

OSP is proposing to increase fees for overnight accommodations such as cabins, group camps, lodges, and campsites. The estimated effect on revenue collected for overnight accommodations is an increase of approximately \$1,125,000 annually.

Additionally, OSP is proposing an increase of \$1 for day use visitors, from \$2 to \$3. For FY 16 OSP had a total of 1,993,553 visitors. Approximately 45% of all visitors pay a day use fee. OSP estimates to generate \$895,000 additional revenue annually by increasing the day use fee.

Historically, OSP's published fee schedule included local taxes and hotel/motel taxes. In the proposed Title 25 changes, visitors will pay taxes on cabins, group camps, lodges, and campsites. For FY 15/16, OSP paid approximately \$817,000 in taxes. OSP estimates that excluding taxes from the published fees will generate \$817,000 in revenue for OSP annually. Local governmental units will realize a modest revenue increase associated with the application of relevant sales and hotel/motel taxes on the increased fee base.

OSP is proposing a new boat launch fee. On an average day approximately 100-125 boats are launched at state parks. The new fee will generate between \$182,500 to \$273,750 annually.

OSP is proposing a new golf cart fee. The fee will be charged to the two specific parks that currently allow golf carts and plans to allow golf carts at five additional parks. OSP plans to implement golf cart fees at a total of seven parks and estimates the fees will generate \$255,500 to \$306,000 annually.

The basis for the fee increase is the need to generate additional revenue to counteract the rising costs of keeping parks operational. The fee increases were determined by analyzing current occupancy reports per each type of overnight facility provided. Due to the high occupancy figures, some state parks operate at almost a hundred percent occupied during times of the year, OSP adjusted the fees to price the public demand of each facility. In addition, a comparison was created of Louisiana fees versus those of other southern state park agencies.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The estimated cost to the individual park user will vary depending on the services they utilize during a typical visit. Day use visitors will realize a modest increase per visit and overnight guest will see a more significant increase. The fees generated in the park will be utilized for operations, repairs, and improvements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Brandon Burris
Deputy Assistant Secretary
1610#038

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development Office of Business Development Office of Entertainment Industry Development

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 better align the rules 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. ...

* * *

Cost Report of Production Expenditures—a report of production expenditures formatted in accordance with LED accounting guidelines, which may be issued with initial certification, posted on LED's website or otherwise communicated by LED to applicant in writing.

* * *

Louisiana Publisher—a company primarily engaged in trade, professional or scholarly publishing, which sells or licenses copyrights or the right of use of copyrights in its ordinary course of business, and has a physical location in Louisiana with at least one full-time employee working at such a location on a regular basis. Registering with the Louisiana Secretary of State or appointing a registered agent in Louisiana does not establish a physical location in Louisiana. A procurement company shall not be considered a Louisiana publisher.

Louisiana Resident—a natural person who is a legal resident, who has been domiciled in and maintained a permanent place of abode in Louisiana for no less than twelve consecutive months, and who has filed a Louisiana state income tax return.

* * *

Louisiana Screenplay—

a. a screenplay created by a Louisiana resident or
b. a screenplay purchased, optioned, licensed or otherwise acquired from a Louisiana publisher, in each case, as evidenced by documents such as certificate of authorship, a WGA registration certificate, the records of the United States Copyright Office, or a reasonable legal opinion issued to the office.

* * *

Procurement Company—any person or entity that purchases, leases or otherwise obtains goods or services from sources outside of the state, for the ultimate use, benefit or enjoyment of a state certified production company.

* * *

Qualified Louisiana Production Company—an LED approved motion picture production company, meeting the eligibility criteria for §1615, Louisiana Screenplay Credit.

* * *

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 43:

§1615. Louisiana Screenplay Credit

A.1. For state certified productions initially certified on or after July 1, 2015, with expenditures occurring on or after

July 1, 2015, a state certified production company which demonstrates that it owned or optioned to own a Louisiana screenplay, which has been held by a qualified Louisiana production company for a minimum of 12 months prior to production, may be eligible for an additional 15 percent of base investment tax credit.

2. *Louisiana Screenplay*—

a. a screenplay created by a Louisiana resident; or
b. a screenplay purchased, optioned, licensed or otherwise acquired, from a Louisiana publisher;

i. in each case, as evidenced by documents such as certificate of authorship, a WGA registration certificate, the records of the United States Copyright Office, or a reasonable legal opinion issued to the office.

3. *Qualified Louisiana Production Company (QLPC)*—a motion picture production company, organized under Louisiana law, or otherwise domiciled and authorized to do business in Louisiana, having its principal place of business in Louisiana, which files Louisiana income tax returns and can also demonstrate:

a. the power and authority to make creative decisions with respect to a motion picture being produced by a state certified production company, including but not limited to final cut authority; and

b. either of the following:

i. Louisiana ownership—must be able to prove that the company is one hundred percent owned by a Louisiana resident or residents, who are natural persons who have been domiciled in and maintained a permanent place of abode in Louisiana for no less than twelve consecutive months prior to beginning of pre-production; or

ii. Louisiana employees—must be able to prove that the company has directly employed a minimum of three full-time Louisiana residents for a minimum of twelve months prior to beginning of pre-production.

3. LED shall post on its website a listing of approved Louisiana publishers and qualified Louisiana production companies.

B. If LED determines that an expenditure is a related party transaction, after review of CPA's verification report and any other supplemental support documentation, in addition to any other appropriate limitations or exclusions, such related party transactions shall not qualify for the additional fifteen percent copyright credit.

C. LED shall not issue a final certification letter certifying any credits pursuant to the provisions of this section, until promulgation of a rule in the *Louisiana Register*, pursuant to the Administrative Procedure Act.

D. LED staff are available to assist interested parties in understanding the eligibility criteria and applying for this additional credit, and would suggest the following sequence of steps.

1. Interested motion picture production companies should apply to LED for approval as a QLPC.

2. Interested publishing house companies should apply to LED for approval as a Louisiana Publisher.

3. Following QLPC approval, QLPC's may apply to LED for project approval of state certified productions as usual, applying either on their own behalf, or their associated project company may apply, but at time of application it must be able to demonstrate the relationship between QLPC and state certified production company applicant.

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 43:

§1621. Louisiana Filmmaker Credit

A. For state certified productions initially certified on or after July 1, 2015, with expenditures occurring on or after July 1, 2015, to be eligible for the 30 percent base investment tax credit, motion picture production applicants with base investments in excess of \$50,000 but less than \$300,000, must be able to demonstrate at time of request for final certification that 90 percent of the Louisiana base investment expended on above the line services has been expended for the services of Louisiana residents and that at least 90 percent of the total production jobs have been filled by Louisiana residents. No credits shall be earned by applicant, and LED shall void any initial certification letter issued and deny final certification requests if applicant fails to demonstrate such compliance.

B. Compensation for above the line services performed in Louisiana shall be paid directly to a Louisiana resident, and any payments made to a loan-out company shall not be considered Louisiana resident payroll for the purposes of above the line percentage calculations.

C. Production jobs may include, but not be limited to cast and crew positions customarily considered below the line in the film and television industry, such as: production manager, cinematographer, set designer, make-up artist. Extras shall not be considered a production job for purposes of production job percentage calculations.

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 43:

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.

Provider Impact Statement

The proposed rulemaking will have no provider impact as described in HCR 170 of 2014.

Small Business Statement

It is anticipated that the proposed Rule should 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.

Public Comments

Interested persons should submit written comments on the proposed Rules to Stephen Hamner through the close of

business on Tuesday, November 29, 2016 at 1051 N. Third St., Baton Rouge, LA 70802 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 11 a.m. on Wednesday, November 30, 2016 at the Department of Economic Development, 1051 N. Third St., Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Motion Picture
Investor Tax Credit Program**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units due to the implementation of the proposed rules because they set forth guidelines required by portions of Act 134 of 2015 and Act 417 of 2015. The proposed rules align the administrative rules with statutory provisions and administrative practices. Any administrative duties brought about by the proposed rules will be absorbed utilizing existing personnel and resources presently included in the LA Dept. of Economic Development's (LED) FY 17 appropriation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes enact provisions of Act 134 of 2015, increasing the potential for more credits to be issued to Louisiana-based productions under the Motion Picture Investor Tax Program. Presently productions can qualify for a 40% credit comprised of a 30% credit for the base investment and 10% of payroll associated with the production. Regarding the issuance of credits, the act provides for two new credit provisions in accordance with these proposed LED rules, which set forth criteria a production company must meet to qualify for; 1) an additional 15% tax credit (for 45% total film tax credit) on the total base investment for expenditures based upon a Louisiana screenplay, and 2) a new base investment credit of 30% for certain Louisiana filmmakers spending between \$50,000-\$300,000 (with 90% of above-the-line expenditures and 90% of below-the line jobs with LA residents). A Louisiana resident must reside in the state for 12 consecutive months and payments made to a loan-out company are considered separate from payroll for both the Louisiana resident credit and above the line percentage calculations. Essentially, Act 134 of 2015 expands the available potential credit rate by 15%, from 40% to 55%, on the total base investment in the event the production is sourced to Louisiana and qualifies for the additional 15% credit.

Act 134 of 2015 also placed an exposure cap of \$180 M that the state may incur from FY 16 to FY 18. These changes in program composition are expected to occur under the annual program cost cap of \$180 M during FY 16-18, pursuant to Act 134 of 2015. The fiscal note for Act 134 indicates an expected increase in state general fund revenue of \$77M in FY 16 and \$70M annually in FY 17 and FY 18 as a result of the \$180 M cap.

However, a potential exposure to the state fisc exists beyond FY 18, when the \$180 M cap expires. While Act 134 of 2015 limited the state's annual Motion Picture Investor Tax Program cost exposure to \$180 million for FY 16-18 reallocated the limited amounts of credits to projects with more resident content & participation, the cap does not limit LED's

authority to issue credits. Credits certified in a given fiscal year that are not covered by the \$180 M cap are rolled forward to the ensuing fiscal year and are credited against that year's cap. Assuming current activity levels and greater percentages of credits issued (conceivable that companies may qualify for 55% credit rate: 30% base+15% additional base for LA copyright credit+10% LA payroll) it is possible that exposure to the state fisc could build up and be realized in FY 19 to the extent credits are certified in excess of the \$180 M cap in FYs 17 and 18 and are rolled forward to the program's cost in FY 19.

For reference, the current version of the statute was established in 2009, to date over 700 applications have been received, and \$1.25 billion 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, \$308 million in FY 2015 and \$87 million certified to date in FY 2016.

There is no impact to local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The income of businesses participating in the program may increase due to the increased credit rates and new eligibility criteria. However, due to the \$180 M cap, businesses participating in the program may see a delay in the issuance of their credit to the extent the amount of credits certified are in excess of \$180 M in a given fiscal year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program's benefits

Anne G. Villa
Undersecretary
1610#056

Gregory Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Board of Regents
Office of Student Financial Assistance**

Scholarship/Grant Programs
(LAC 28:IV.703 and 1903)

The Louisiana Board of Regents announces its intention to amend its Scholarship/Grant rules (LSA-R.S. 17:3021-3025, LSA-R.S. 3041.10-3041.15, LSA-R.S. 17:3042.1, LSA-R.S. 17:3048.1, LSA-R.S. 17:3048.5 and LSA-R.S. 17:3048.6).

This rulemaking adds AP Computer Science A as a course which will be graded on a 5.0 grading scale beginning with the graduating class of 2018 and adds an expiration date to the provision requiring a postsecondary institution to list an amount designated as Tuition Only which shall be the same as the TOPS Award Amount to be paid to eligible students attending that school. (SG17173NI)

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education Scholarship and Grant Programs**

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

§703. Establishing Eligibility

A. - A.5.a.ii.(e). ...

(f). For students graduating in academic year (high school) 2017-2018 and after, the courses listed in the tables below have been approved by the Board of Regents and the state Board of Elementary and Secondary Education to be converted to a 5.00 scale when used to complete the core curriculum, and shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a.

(i). Advanced Placement Courses

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

A.5.a.ii.(f).(ii). - J.4.b.ii. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612

(December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015), LR 43:

Chapter 19. Eligibility and Responsibilities of Post-Secondary Institutions

§1903. Responsibilities of Post-Secondary Institutions

A. - B.10.c. ...

11.a. Beginning with the spring semester of 2014 through the spring semester of 2016, for a public college or university to be permitted to bill for a TOPS award amount under the provisions of Section 1903.B.6 of these rules, the college or university must include on the student fee bill line items entitled:

- i. "Tuition Only" that equals the TOPS award amount listed on the fee bill;
- ii. "TOPS Award Amount" as defined in Section 301; and
- iii. "TOPS Stipends" for TOPS Honors and Performance Award stipends. These amounts shall not be included in the "Tuition Only" or "TOPS Award Amount" line items.

b. There shall be no reference to a tuition amount on a student's fee bill other than as provided herein.

C. - G.2. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:645 (April 1998), amended LR 24:1914 (October 1998), LR 25:1459 (August 1999), LR 26:1998 and 2002 (September 2000), repromulgated LR 27:1864 (November 2001), amended LR 28:448 (March 2002), LR 28:775 (April 2002), LR 28:1760 (August 2002), LR 28:2333 (November 2002), LR 30:784 (April 2004), LR 30:1166 (June 2004), LR 31:40 (January 2005), LR 31:3111, 3114 (December 2005), LR 33:1340 (July 2007), LR 35:1233 (July 2009), LR 35:1490 (August 2009), LR 35:1491 (August 2009), LR 36:2857 (December 2010), LR 40:282 (February 2014), LR 40:1003 (May 2014), LR 41:667 (April 2015), LR 41:2599 (December 2015), LR 43:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in LSA-R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in LSA-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 (SG17173NI) until 4:30 p.m., November 10, 2016, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office

of Student Financial Assistance, P. O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

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 change will have no impact on state or local government expenditures. Previous rulemaking added the AP Computer Science A course as an equivalent (substitute) course to Advance Mathematics for the purpose of meeting the TOPS core curriculum requirements effective for students graduating during the 2013-2014 high school academic year and thereafter. This proposed rule change is technical and adds this course to the list of courses that are graded on a 5.0 grading scale beginning with the graduating class of 2018. This proposed rule change also sunsets the current requirement pertaining to the way charges are reflected on students' fee bills. The changes stem from Act 18 of the 2016 Regular Legislative Session, which sets the TOPS award amount at the FY 17 level and the award amount can only be raised by an act of the legislature.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated effects on economic benefits to directly affect persons or non-governmental groups resulting from these measures.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no anticipated effects on competition and employment resulting from these measures.

Robyn Rhea Lively
Senior Attorney
1610#015

Evan Brasseaux
Staff Director
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 105—Applications for Rate Increases
(LAC 37:XIII.Chapter 147)

The Department of Insurance, pursuant to the authority of the *Louisiana Insurance Code*, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., hereby gives notice of its intent to adopt Regulation 105—Applications for Rate Increases.

Every insurer whose rates are subject to regulation pursuant to subpart O of part IV of chapter 4 of title 22 of the *Louisiana Revised Statutes*, comprised of R.S. 22:1451 to 1488, is required to file with the commissioner every manual, minimum, class rate, rating schedule, or rating plan and every other rating rule and every modification of any of the foregoing that it proposes to use. The commissioner of

insurance has the exclusive authority to accept, review, and approve any application for insurance rates or rate changes for all lines of property and casualty insurance. The purpose of Regulation 105 is to regulate the frequency of applications for rate increases in furtherance of the purposes of subpart O.

**Title 37
INSURANCE**

Part XIII. Regulations

Chapter 147. Regulation 105—Applications for Rate Increases

§14701. Purpose

A. The purpose of Regulation 105 is to establish limitations on the frequency of applications for rate increases and exceptions to such limitations in furtherance of Subpart O of Part IV of Chapter 4 of Title 22 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1451(B), 22:1464(A)(1), and 22:1473(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§14705. Authority

A. Regulation 105 is promulgated by the Commissioner of Insurance pursuant to authority granted under the Louisiana Insurance Code, R.S. 22:1 et seq, particularly 22:1473(D).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1451(B), 22:1464(A)(1), and 22:1473(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§14707. Exemptions

A. Regulation 105 shall not apply to an insurer's rate filing that would result in a zero percent overall statewide rate change or an overall statewide rate decrease for any property and casualty insurance product or program. Furthermore, Regulation 105 shall not apply to any rate filing submitted pursuant to R.S. 22:1451(D), 1464(E), or 2303.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1451(B), 22:1464(A)(1), and 22:1473(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

§14709. Definitions

A. For purposes of Regulation 105, the definitions detailed below shall apply.

Rate—as defined in R.S. 22:1452.

Property and Casualty Insurance Product or Program—product or program of an insurer regulated by Subpart O of Part IV of Chapter 4 of Title 22 of the Louisiana Revised Statutes, comprised of R.S. 22:1451 to 1488, except as provided by §14707.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1451(B), 22:1464(A)(1), and 22:1473(D).

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

§14711. Application for Rate Increase

A. The commissioner will not accept an application for an overall statewide rate increase for any property and casualty insurance product or program if such application requests that the rate increase be implemented within 12 months of the effective dates of the most recently approved overall statewide rate increase. However, the commissioner, at his discretion, may accept the application if the applicant

presents compelling evidence along with an affidavit setting forth the reasons why the application should be accepted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1451(B), 22:1464(A)(1), and 22:1473(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 43:

Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The proposed amended 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 amended 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 amended 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 amended 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 amended 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 amended 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 amended 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 amended 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 amended regulation should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed amended 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 amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety,

environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed amended 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 amended regulation should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed amended 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 amended 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 amended 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 amended regulation will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed amended regulation will have no effect.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than November 20, 2016, by 4:30 p.m. and should be addressed to Lynette Roberson, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, faxed to (225) 342-1632, or emailed to lroberson@ldi.la.gov. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North 3rd Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 105—Applications for Rate Increases

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed regulation will not result in costs or savings to the state or local governmental units. The purpose of Regulation 105 is to regulate the frequency of applications for rate changes for all lines of property and casualty insurance. The commissioner will not accept an application for an overall statewide rate increase for any property and casualty insurance product if such application requests that the rate increase be

implemented within 12 months of the effective date of the most recently approved rate. This regulation shall not apply to an insurer's rate filing that would result in a zero percent overall statewide rate change or an overall statewide rate decrease or filings submitted pursuant to R.S. 22:1451(D), 1464(E), or 2303.

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 limits the frequency of applications for rate increases for all lines of property and casualty insurance products. The regulation will reduce rate increases to no more than once every 12 months.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed regulation will have no impact upon competition and employment in the state.

Denise Brignac
Deputy Commissioner
1610#033

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of State Lands

Granting of Rights-of-Way to Corporations or Individuals (LAC 43:XXVII.2701)

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. 41:1173, that the Office of State Lands proposes to amend Chapter 27 to increase the fees associated with pipeline rights-of-way. The Office of State Lands currently charges \$25, \$35, and \$45 for the three classes of pipeline that traverse State property. The Office of State Lands intends to double these rates, bringing Louisiana's rates closer to those of neighboring states.

Title 43

NATURAL RESOURCES Part XXVII. State Lands

Subpart 2. Use and Management of State Lands

Chapter 27. Rights-of-Way

§2701. Granting Rights-of-Way to Corporations or Individuals

A - L. ...

M. Fees for permits shall be as follows.

1. Class 1. Pipe 2 inches up to 19 inches outside diameter with a minimum of 75 feet right-of-way during construction to revert to 35 after construction is completed with the additional right of ingress and egress for the purpose of maintenance, repairs, removal or modification—\$50 per rod.

2. Class 2. Pipe 19 inches up to 36 inches outside diameter with a maximum of 100 feet right-of-way during construction to revert to 50 feet after construction is completed with the additional right of ingress and egress for the purpose of maintenance, repairs, removal or modification—\$70 per rod.

3. Class 3. Pipe over 36 inches outside diameter with a maximum of 200 feet right-of-way during construction to revert to 60 feet after construction is completed with the additional rights of ingress and egress for the purpose of maintenance, repairs, removal or modification—\$90 per rod.

AUTHORITY NOTE: Promulgated in accordance with R.S. 41:1173.

HISTORICAL NOTE: Adopted by the State Land Office, LR 1:147 (February 1975), amended by the Department of Natural Resources, Office of the Secretary, LR 3:314 (July 1977), repealed and repromulgated by the Office of the Governor, Division of Administration, State Land Office, LR 19:493 (April 1993), amended LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed rule on the family has been considered. This proposed rule has no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Les Rosso, Office of State Lands, P.O. Box 44124 Baton Rouge, LA 70804. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Monday, November 28 at 9:30 a.m. in Room G-150, Claiborne Building, 1201 North Third St., 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.

Mark Gates
Assistant Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Granting of Rights-of-Way to Corporations or Individuals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no projected implementation costs to state or local governmental units. The proposed rule change will double the fee paid by right-of-way grantees from \$25, \$35 or \$45 per rod (16.5 feet) depending on the diameter of the pipeline, to \$50, \$70 or \$90 respectively.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The state is estimated to collect an additional \$280,000 in right-of-way fees on an annual basis as a result of the proposed rule change. The total projected collections through the end of FY 2021 will total \$1,260,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

New right-of-way grantees will realize additional costs of approximately \$280,000 annually and \$1,260,000 in total over the next five (5) fiscal years as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to effect competition or employment in the public or private sectors.

Mark Gates
Assistant Director
1610#055

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Racing Commission

License Information (LAC 46:XLI.1903)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to amend LAC 46:XLI.1903. This amendment creates an additional licensing requirement of licensed training tracks requiring them to provide proof that the Racing Commission be a notified party on the policy so that it receives notice of all renewals and any lapses in coverage.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLI. Horseracing Occupations

Chapter 19. Training Tracks

§1903. License Information

A. - B.5. ...

6. name of liability insurer, policy number, name of insureds, certificate of insurance in an amount not less than \$1,000,000, and proof that the Louisiana State Racing Commission is listed as a notified party on the insurance policy and certificate in such a manner that the Louisiana

State Racing Commission receives notice of all renewals and any lapses in coverage;

7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 4:289 (August 1978), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 38:1018 (April 2012), LR 43:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: License Information**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in any costs or savings to state or local governmental units. The proposed rule change creates an additional licensing requirement of the four licensed training tracks, requiring them to list the Racing Commission as a notified party on their insurance policies. As a notified party on the insurance policy, the Racing Commission will receive notices of all renewals, changes, and any lapses in policy coverage. Furthermore, the proposed rule requires the training tracks to provide proof to the Racing Commission that the Commission has been added as a notified party on their insurance policies.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Licensed training tracks must add the Racing Commission as a notified party in the event there are revisions or changes to their insurance policies, which has no expected cost. The proposed rule change may have a minimal impact on insurance companies depending on which process they use to notify the Louisiana State Racing Commission in regards to lapses or revisions to the licensed training tracks' insurance policies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed rule change.

Charles A. Gardiner III
Executive Director
1610#002

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Dentistry**

Advertising and Soliciting by Dentists and Complaints and Investigation (LAC 46:XXXIII.701 and 1509)

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), notice is hereby given that the Department of Health and Hospitals, Board of Dentistry intends to amend LAC 46:XXXIII.701 and 1509.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.701 so it will read more clearly. The rule was unclear that the limits did not apply to hygienists working in school or public institution.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.1509 because the initial office permit rule should have included the requirement that dentists treating pediatric patients who have been sedated by a third party must hold a current pediatric advanced life support (PALS) certification. The rule currently requires that any dentist treating a patient who has been sedated (by either a third party or the dentist) be currently certified in advanced cardiac life support (ACLS) to better ensure the patient's safety; however, ACLS is only for adult patients whereas PALS is for patients below the age of 13. Currently, a dentist sedating the patient is required to hold PALS certification. This Rule requires that all children sedated in dental offices will be treated by dentists who are certified in PALS regardless of who sedates or anesthetizes the pediatric patient. Requiring the dentist to hold current PALS certification ensures that both the dentist and the third party anesthesia provider can both assist the child patient in the case of an emergency.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 7. Dental Hygienists

§701. Authorized Duties

A. ...

B. A person licensed to practice dentistry in the state of Louisiana may delegate to any dental hygienist any chairside dental act which said dentist deems reasonable, using sound professional judgment. Such act must be performed properly and safely on the patient. Furthermore, the act must be under the direct on-premises supervision of the treating dentist. A dentist may not delegate to a dental hygienist:

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

3. No duly licensed and registered dentist in a private practice shall supervise a dental hygienist for more than five consecutive business days or for more than 20 total days in

any calendar year. These limits do not apply to a hygienist working at a school or public institution.

4. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 14:791 (November 1988), amended LR 15:965 (November 1989), LR 19:206 (February 1993), LR 22:22 (January 1996), LR 22:1217 (December 1996), LR 24:1116 (June 1998), LR 27:1892 (November 2001), LR 32:2056 (November 2006), LR 37:590 (February 2011), LR 37:1406 (May 2011), LR 42:

Chapter 15. Anesthesia/Analgesia Administration

§1509. Third-Party Sedation/Anesthesia

A. ...

B. In order to utilize a third-party to administer sedation and/or anesthesia as described in Subsection A, a dentist must obtain an office permit for each office location at which a third-party anesthetist will be administering sedation or anesthesia, subject to the exceptions in R.S. 37:793(H). This permit will only be issued after an office inspection by the board to assure that the office meets the minimum requirements for facilities, personnel and equipment for sedation/anesthesia procedures. Additionally, the dentist who is performing the dental work but not performing the sedation/general anesthesia must have current certification in advanced cardiac life support (ACLS) as described in §1503.E and, if children are to be sedated, must also have current certification in pediatric life support (PALS) as described in §1504.A.4. If a dentist's practice is restricted to treating only children, the certification in pediatric life support (PALS) described in §1504.A.4 will suffice as a substitute for ACLS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:54 (January 2016), amended LR 42:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed rulemaking 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 of 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 Comment

Interested persons may submit written comments on these proposed Rule to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. Written comments must be submitted to and received by the Board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be made in writing and received by the board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur F. Hickham, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Advertising and Soliciting by Dentists and Complaints and Investigation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated one-time implementation cost to the Board of Dentistry for the publication of the proposed notice and rules in the State Register is approximately \$500 in FY 17. There are no other implementation cost or savings to state or local governmental units through promulgation of the proposed rules changes.

The proposed rule change clarifies that the current general supervision annual daily limits and consecutive daily limits for dental hygienist do not apply to hygienist that are working in a school or public institution. In addition, the proposed rule changes require dentists to have a Pediatric Advanced Life Support (PALS) certification in the event they use a third-party to anesthetize pediatric patients.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections by the board, state, or local governmental units through promulgation of the proposed rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes are anticipated to impact dental hygienists and dentists. The proposed rule change clarifies that the current general supervision requirement for dental hygienist does not apply to hygienist that are working in a school or public institution.

The propose rule changes to LAC 46:XXXIII.1509 will impact dentists. If the dentist is not currently certified in PALS and children are to be sedated using a third-party, the dentist will now incur a cost to take the required certification in PALS.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The rule changes to LAC 46:XXXIII.701 and LAC 46:XXXIII.1509 should not impact public competition or employment. The current rule requires that any dentist treating a patient who has been sedated (by either a third party or the

dentist) be currently certified in Advanced Cardiac Life Support (ACLS) to better ensure the patient's safety. ACLS certification is only for adult patients whereas PALS certification is for patients below the age of 13.

The proposed rule changes require dentists to have PALS certification when treating patients below the age of 13 who have been sedated by the doctor or by a third party. This requirement ensures that both the dentist and the third party anesthesia provider can both assist the child patient in the case of an emergency.

Arthur F. Hickham, Jr
Executive Director
1610#074

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Medical Examiners

Physician Licensure and Practice; Telemedicine
(LAC 46:XLV.408 and Chapter 75)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1270, the Board intends to amend its Rules governing the use of telemedicine as to patients who are located in this state, LAC 46:XLV.408 and .7501 et seq. The proposed amendments are needed to conform the board's telemedicine rules to Acts 630 and 252 of the 2016 Regular Session of the Louisiana Legislature. Among other items, the proposed changes: remove the requirement that a physician practicing medicine by telemedicine maintain a physical practice location in this state or have an arrangement with physician who does (§408.A, §408.D.3; §7503.A, §7507.A.1.-2); authorize the use of telemedicine by interactive audio, without the need for video, provided certain conditions are satisfied (§7503.A, §7505.B); delete the requirement for at least one in-person visit by a physician who prescribes controlled substances by telemedicine for patients being treated in a healthcare facility required to be licensed by this state, which possesses a current registration with the U.S. Drug Enforcement Administration (§7513.C.3.a); provide that a physician refer a patient to another physician in this state or arrange for follow-up care within the state if indicated (§7507.B.2.d); and better provide for board access to patient records (§7509.A.5). The amendments also clarify the status of a telemedicine permit (§408.A), and provide for documentation of telemedicine encounters (§7509.A.1).

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 3. Physicians

Subchapter H. Restricted Licensure, Permits

§408. Telemedicine Permit Qualifications, Procedure, Issuance, Expiration and Renewal

A. Requirement for Permit/Qualifications. A physician who does not possess a Louisiana medical license shall not

engage in the practice of medicine in this state via telemedicine, as defined in Chapter 75 of these rules, unless he or she holds a telemedicine permit issued by the board. A telemedicine permit is a limited license that provides lawful authority to a physician who does not hold a current, unrestricted Louisiana medical license to practice telemedicine with respect to patients located in this state. To be eligible for a telemedicine permit an applicant shall:

A.1. - C. ...

D. Application. Application for a telemedicine permit shall be made in a format approved by the board and shall include:

1. - 2. ...

3. the primary location(s) from which telemedicine will be utilized by the applicant;

D.4. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, 1276.1 and 1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1532 (August 2009), amended 41:2144 (October 2015), LR

Subpart 3. Practice

Chapter 75. Telemedicine

Subchapter A. General Provisions

§7503. Definitions

A. As used in this Chapter and in §408 of these rules, unless the content clearly states otherwise, the following words and terms shall have the meanings specified.

Medical Practice Act or the Act—R.S. 37:1261-92, as may from time to time be amended.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current license or a telemedicine permit duly issued by the board.

Telemedicine—the practice of health care delivery, diagnosis, consultation, treatment, and transfer of medical data by a physician using interactive telecommunication technology that enables a physician and a patient at two locations separated by distance to interact via two-way video and audio transmissions simultaneously. Neither an electronic mail message between a physician and a patient, or a true consultation constitutes *telemedicine* for the purposes of this Part. A physician practicing by telemedicine may utilize interactive audio without the requirement of video if, after access and review of the patient's medical records, the physician determines that he or she is able to meet the same standard of care as if the healthcare services were provided in person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015), LR 43:

§7505. Patient Relationship; Standard of Care; Location of Participants

A. ...

B. Standard of Care. The practice of medicine by telemedicine, including the issuance of any prescription via electronic means shall be held to the same prevailing and usually accepted standards of medical practice as those in

traditional (face-to-face) settings. An online, electronic or written mail message does not satisfy the standards of appropriate care.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015) LR 43:

§7507. Prerequisite Conditions; Disclosures

A. The practice of medicine is deemed to occur at the location of the patient. Therefore, no physician shall utilize telemedicine to provide medical services to patients located in this state unless the physician:

1. holds an unrestricted Louisiana medical license; or
2. holds a telemedicine permit as provided in §408 of these rules.

B. A physician utilizing telemedicine with respect to patients located in this state shall have:

1. ...
2. if required by the standard of care applicable to the diagnosis or treatment of the patient's complaints in a traditional (face-to-face) setting, the ability:
 - a. - c. ...
 - d. to refer the patient to another physician in this state or arrange for follow-up care within this state as may be indicated for that purpose.

C. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015), LR 43:

§7509. Patient Records

A. Patient records shall be:

1. created and maintained for every telemedicine visit according to the same standards of care as in an in-person visit. The record shall clearly reflect and state that the patient encounter occurred by telemedicine;
2. - 3. ...
4. made available to the patient or a physician to whom the patient may be referred within a reasonable period of time; and
5. made available to the board upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2146 (October 2015), LR 43:

§7513. Prohibitions

A. - B. ...

C. No physician shall utilize telemedicine:

1. - 2. ...
3. to authorize or order the prescription, dispensation or administration of any controlled substance unless;
 - a. the physician has had at least one in-person visit with the patient within the past year; provided, however, the requirement for an in-person visit shall not apply to a physician who holds an unrestricted license to practice medicine in this state and who practices telemedicine upon any patient being treated at a healthcare facility that is required to be licensed pursuant to the laws of this state and which holds a current registration with the U.S. Drug Enforcement Administration;

C.3.b. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1534 (August 2009), amended LR 41:2146 (October 2015), LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any 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 HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., November 21, 2016.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on November 28, 2016 at 10:30 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Eric D. Torres
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Physician Licensure
and Practice; Telemedicine**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated implementation costs to the Louisiana State Board of Medical Examiners are approximately \$492 in FY

2017 for the notice and rule publication costs. There are no estimated implementation savings to the state or local government units through promulgation of the proposed rule changes, which are needed to conform the Board's telemedicine rules to Acts 630 and 252 of the 2016 Regular Session of the Louisiana Legislature. Among other items, the proposed rule changes implement the following actions:

(i) Remove the requirement that a physician practicing medicine by telemedicine maintain a physical practice location in this state or have an arrangement with physician who does (408A, 408D.3; 7503A, 7507A.1.-2);

(ii) Authorize the use of telemedicine by interactive audio without the need for video if the physician determines that he or she can satisfy the same standard of care as if the services were provided in person (7503A, 7505B);

(iii) Delete the requirement for at least one in-person visit by a physician who prescribes controlled substances by telemedicine for patients being treated in a healthcare facility required to be licensed by this state, which possesses a current registration with the U.S. Drug Enforcement Administration ("DEA") (7513C.3.a);

(iv) Maintain the need that a physician be capable of referring a patient to another physician or arranging for follow-up care within the state if indicated (7507B.2.d);

(v) Provide for Board to have access to patient records (7509A.5);

(vi) Clarify the status of a telemedicine permit (408A), and provide for documentation of telemedicine encounters (7509A.1).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the Board's revenue collections or those of any other state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes are not anticipated to have a material effect on costs, paperwork, or workload of physicians and/or income of licensees or non-governmental groups. The proposed rule changes may affect physicians in the following ways:

(i) Out-of-state physicians who possess a license or apply for a telemedicine permit will no longer need a referral arrangement with a physician who maintains a physical practice location in this state;

(ii) Physicians are authorized to use telemedicine by interactive audio without the need for video if the physician determines that he or she can satisfy the same standard of care as if the services were provided in person;

(iii) Eliminates the requirement for at least one in-person visit by a physician who prescribes controlled substances by telemedicine to a patient being treated in a facility licensed by the state which possesses a current DEA registration.

Because there is no information or data available either as to the number of physicians who utilize telemedicine in their practice, or the extent to which the changes will impact those that do, the Board is not in a position to estimate the impact of the proposed changes. However, the proposed rule changes may provide an economic benefit to the public by enhanced access to medical services via telemedicine and may reduce the costs associated with the delivery of certain medical services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule changes will

have any impact on competition or employment in either the public or private sector.

Eric D. Torres
Executive Director
1610#071

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Medical Examiners

Physician Practice; Marijuana for Therapeutic Use by Patients Suffering From a Debilitating Medical Condition (LAC 46:XLV Chapter 77)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (Board) by the Louisiana Medical Practice Act, R.S. 37:1270, the Board intends to amend its Rules governing physicians who utilize therapeutic marijuana in the treatment of their patients who are suffering from a debilitating medical condition, LAC 46:XLV Chapter 77. The proposed amendments are needed to conform the Board's rules to Act 96 of the 2016 Regular Session of the Louisiana Legislature. Among other items, the proposed changes: incorporate changes in definitions made to the law e.g., changing a *prescription* to a *recommendation* (§7705) and a *qualified medical condition* to a *debilitating medical condition* (§7701, §7705); expand the conditions for which therapeutic marijuana may be recommended from three to ten (§7705); provide for instances where the United States Food and Drug Administration may subsequently approve therapeutic marijuana for a debilitating medical condition in the same or a different form (§7709A.2); consistent with the law, provide that physicians who recommend therapeutic marijuana must be domiciled in this state (§7711A.3); incorporate certain changes to provisions on medical diagnoses and independent medical judgment consistent with guidance by the Federation of State Medical Boards and update provisions relative to the treatment plan and patient informed consent (§7717); remove the delay in rule implementation so that the rules will be effective upon promulgation (§7725); and update the suggested form for physician recommendation for therapeutic marijuana consistent with the changes to the law (§7729).

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions Subpart 3. Practice

Chapter 77. Marijuana for Therapeutic Use by Patients Suffering from a Debilitating Medical Condition

Subchapter A. General Provisions

§7701. Preamble, Warning, and Suggested Consultation

A. Preamble—State Law. Pursuant to Act 261, R.S. 40:1046, of the 2015 Session of the Louisiana Legislature, as amended and supplemented by Act 96 of the 2016 Session of

the Louisiana Legislature, the Louisiana State Board of Medical Examiners was directed to:

1. promulgate rules and regulations authorizing physicians licensed to practice in this state to recommend marijuana for therapeutic use by patients clinically diagnosed as suffering from a debilitating medical condition; and

A.2. - C. ...
D. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2631 (December 2015), amended by the Department of Health Hospitals, Board of Medical Examiners, LR 43:

§7703. Scope of Chapter

A. This Chapter is being adopted in order to comply with the obligations imposed upon the board by Act 261, R.S. 40:1046, of the 2015 Session of the Louisiana Legislature, as amended and supplemented by Act 96 of the 2016 Session of the Louisiana Legislature, and govern a physician's recommendation for the therapeutic use of marijuana for a patient suffering from a debilitating medical condition with whom the physician has established a bona-fide physician-patient relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

§7705. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

* * *

Conventional Treatment or Conventional Medicine—therapeutic modalities and medications offered or employed by a physician in the treatment of a debilitating medical condition which are generally accepted and recognized as falling within the standard of care in the course of medical practice based upon medical training, experience and peer reviewed scientific literature.

Debilitating Medical Condition (also referred to in this Chapter as a *Qualifying Medical Condition*)—cancer, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity, Crohn's disease, muscular dystrophy, or multiple sclerosis, and/or such other diseases or conditions that may subsequently be identified as a debilitating medical condition by amendment of R.S. 40:1046 or other state law.

* * *

Qualifying Medical Condition—a debilitating medical condition, as defined in this Section.

Recommend or Recommendation (also referred to in this Chapter as a *Written Request* or Recommendation—a physician's written direction transmitted in a form and manner specified in §7721 of this Chapter, to a licensed therapeutic marijuana pharmacy. The issuance of a recommendation must be in good faith and in the usual course of the physician's professional practice.

* * *

Step Therapy or Fail First Protocols—as used in this Chapter means that if the USFDA approves the use of therapeutic marijuana for a debilitating medication condition, in a form or derivative that is different than provided for in this Chapter, the USFDA form or derivative shall be used first. If the physician determines that such USFDA approved form or derivative has been ineffective in the treatment of the patient's debilitating medical condition, the physician may then recommend a form of therapeutic marijuana provided in this Chapter for use by the patient as medically necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subchapter B. Prohibitions and Exceptions

§7709. Exceptions

A. This Chapter is subject to the following exceptions.

1. The rules of this Chapter shall not apply to a physician's prescription of cannabinoid derived pharmaceuticals that are approved by the USFDA for administration to patients.

2. If the USFDA approves the use of therapeutic marijuana:

a. in the same form provided for in this Chapter for a debilitating medical condition, identified in §7705.A, that medical condition shall no longer be covered by this Chapter;

b. in a form or derivative different than provided for in this Chapter for a debilitating medical condition, identified in §7705.A, that disease state shall remain covered by this Chapter. However, the patient shall first be treated through utilization of step therapy or fail first protocols.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subchapter C. Registration

§7711. Registration, Physician Eligibility

A. To be eligible for registration under this Chapter a physician shall, as of the date of the application:

1.-2. ...

3. be domiciled in and practice at a physical practice location in this state; and

4.-D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), amended by the Department of Health, Board of Medical Examiners LR 43:

Subchapter D. Marijuana for Therapeutic Purposes, Limitations, Access to Records

§7717. Use of Marijuana for Therapeutic Purposes, Limitations

A. ...

1. Medical Diagnosis. A medical diagnosis of a debilitating medical condition shall be clinically established

and clearly documented in the patient's medical record, based on an in-person physical examination. The diagnosis shall be supported by an assessment of the patient which, at a minimum, shall include a review of the patient's present illness, medical and surgical history, social history, alcohol and substance use history (including addiction, mental illness and psychotic disorders), prescription history, and an assessment of current coexisting illnesses, diseases, or conditions.

2. ...

3. **Independent Medical Judgment.** A physician's decision to utilize marijuana in the treatment of a patient must be based on the physician's independent medical judgment. The indication, appropriateness, and safety of the recommendation shall be evaluated in accordance with current standards of practice and in compliance with the laws of this state and the rules of this Chapter.

4. **Treatment Plan.** An individualized treatment plan shall be formulated and documented in the patient's medical record which includes medical justification for the use of marijuana. In addition, the plan shall include documentation:

a. that conventional treatment for the patient's debilitating medical condition have been considered, are being undertaken or have been attempted without adequate or reasonable success or a statement that the patient has refused such methods;

b. whether therapeutic marijuana could interfere with any ongoing conventional treatment; and

c. the intended role of therapeutic marijuana within the overall plan.

5. **Informed Consent.** A physician shall explain the potential risks and benefits of both the therapeutic use of marijuana and any alternative conventional treatment to the patient. Among other items, informed consent should caution against driving, operating machinery or performing any task that requires the patient to be alert or react when under the influence of the drug and the need for secure storage to reduce the risk of exposure to children or diversion by others. Unless approved by the USFDA for treatment of the patient's debilitating medical condition, a physician shall

also advise patients that therapeutic marijuana is experimental, unconventional, and has not been approved by the USFDA for the treatment of the patient's debilitating medical condition, and that possession may be viewed as illegal under federal law and subject to federal (and workplace) enforcement action. Discussion of the risks and benefits should be clearly noted in the patient's record. If the patient is a minor a custodial parent or legal guardian shall be fully informed of the risks and benefits and consent to such use.

A.6. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

§7721. Form of Written Request or Recommendation

A. **Required Contents.** A written request or recommendation for therapeutic marijuana shall include:

1. - 3. ...

4. the form, amount, dosage and instructions for use of therapeutic marijuana in an amount which is not greater than that necessary to constitute an adequate supply to ensure uninterrupted availability for a period of one month, including amounts for topical treatment; and

A.5. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2634 (December 2015), amended by the Department of Health, Board of Medical Examiners LR 43:

Subchapter E. Sanctions, Severability

§7725. Effective Date

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2635 (December 2015), repealed by the Department of Health, Board of Medical Examiners LR 43:

§7729. Appendix—Form for Recommendation for
Therapeutic Marijuana

—THIS IS NOT A PRESCRIPTION—
PHYSICIAN RECOMMENDATION FORM

* * *

Section C. Patient's Debilitating Medical Condition(s) (Required)

This patient has been diagnosed with the following debilitating medical condition: (A minimum of one condition must be checked)
<input type="checkbox"/> Acquired Immune Deficiency Syndrome <input type="checkbox"/> Cachexia or Wasting Syndrome <input type="checkbox"/> Cancer <input type="checkbox"/> Crohn's Disease <input type="checkbox"/> Epilepsy <input type="checkbox"/> Multiple Sclerosis <input type="checkbox"/> Muscular Dystrophy <input type="checkbox"/> Positive Status for Human Immunodeficiency Virus <input type="checkbox"/> Spasticity <input type="checkbox"/> Seizure Disorders

* * *

Section E. Certification, Signature and Date (Required)

By signing below, I attest that the information entered on this recommendation is true and accurate. I further attest that the above-named individual is my patient, who suffers from a debilitating medical condition and that this recommendation is submitted by and in conformity with Louisiana Law, R.S. 40:1046, and administrative rules promulgated by the Louisiana State Board of Medical Examiners, LAC 46:XLV.Chapter 77. Signature of Physician: X _____ Date: _____
--

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2635 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any 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 HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been

considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., November 21, 2016.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on November 28, 2016 at 11:30 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Eric D. Torres
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Physician Practice; Marijuana for
Therapeutic Use by Patients Suffering From a
Debilitating Medical Condition**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The estimated implementation costs to the Louisiana State Board of Medical Examiners are approximately \$752 in FY 2017 for the notice and rule publication costs. There are no estimated implementation savings to the state or local government units through promulgation of the proposed rule changes, which are needed to conform the Board's rules to Act 96 of the 2016 Regular Session of the Louisiana Legislature. Among other items, the proposed rule changes implement the following actions:

(i). Incorporate various definitional changes embodied in the law by changing the term to describe: a physician's decision to order therapeutic marijuana for a patient from a *prescription* to a *recommendation* (7705); a condition for which therapeutic marijuana may be utilized from a *qualified medical condition* to a *debilitating medical condition* (7701, 7705);

(ii) Expand from three to ten the medical conditions for which therapeutic marijuana may be recommended (7705);

(iii) Provide for exceptions to the rules in instances where the United States Food and Drug Administration may subsequently approve the use of therapeutic marijuana for a debilitating medical condition in the same form or in a different form provided by state law and, in the latter instance, provide for step therapy or fail first protocols (7709A.2);

(iv) Provide that physicians who recommend therapeutic marijuana be domiciled in this state (7711A.3) to be consistent with R.S. 40:1046A(1);

(v) Incorporate certain changes to the provisions dealing with medical diagnoses and independent medical judgment consistent with guidance by the Federation of State Medical Boards and update provisions relative to the treatment plan and patient informed consent (7717);

(vi) Remove the delay in the effective rule implementation date so that the rules will be effective upon promulgation (7725); and (vii) update the suggested form for a physician recommendation for therapeutic marijuana consistent with the changes to the law (7729).

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no anticipated effect on the Board's revenue collections or any other state or local governmental unit.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed changes are not anticipated to have a material effect on costs, paperwork, or workload of physicians and/or income of licensees or non-governmental groups. The proposed rule changes expand from three to ten debilitating medical conditions for which therapeutic marijuana may be recommended by a physician for the treatment of a patient.

Based on information received by the Fiscal Office from the Department of Insurance, insurance companies in the short-run will not be covering medical marijuana, therefore the additional eligible medical conditions is not anticipated to increase costs to insurance companies. It is anticipated at this time the prescription cost of the medical marijuana will be paid directly by the patient.

Physicians who recommend, and patients who receive therapeutic marijuana on their physician's recommendation, will be directly affected by the proposed rule changes.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

It is not anticipated that the proposed rule changes will have any impact on competition or employment in either the public or private sector.

Eric D. Torres
Executive Director
1610#072

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

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

Forensic Supervised Transitional Residential
and Aftercare Facilities
Licensing Standards
(LAC 48:I.Chapters 72)

The Department of Health, Bureau of Health Services Financing proposes to repeal and replace LAC 48:I.Chapter 72 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 28:31-28:37. 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 promulgated licensing standards for forensic supervised transitional residential and aftercare (FSTRA) facilities (*Louisiana Register*, Volume 37, Number 4). The department now proposes to repeal and replace the provisions governing FSTRA licensing standards to include language related to the culture change movement in nursing facilities, to update language to be consistent with licensing and enforcement processes, and to be more concise in providing regulatory information to providers and the public.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 3. Licensing and Certification

**Chapter 72. Forensic Supervised Transitional
Residential and Aftercare Facilities
Licensing Standards**

Subchapter A. General Provisions

§7201. Introduction

A. These rules and regulations contain the minimum licensure standards for forensic supervised transitional residential and aftercare (FSTRA) facilities, pursuant to R.S. 28:31-28:37. These licensing regulations contain core requirements as well as module specific requirements, depending upon the services provided by the forensic supervised transitional residential and aftercare facility. The modules to be licensed under a FSTRA license are:

1. secure community supervised transitional/residential facility; and
2. secure forensic facility.

B. A forensic supervised transitional residential and aftercare facility serves clients referred by state forensic hospitals or state forensic inpatient psychiatric units operated

by the Department of Health, including persons who are court ordered and persons who are on court ordered conditional release status. A FSTRA facility shall operate seven days per week, 24 hours a day.

C. The care and services to be provided through arrangement or by the facility shall include, but are not limited to, the following:

1. behavioral health services;
2. nutritional services;
3. medication management;
4. assistance with independent living skills;
5. recreational services; and
6. transportation services.

D. Key administrative personnel shall include the administrator, physician/psychiatrist and the registered nurse supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7203. Definitions

Activities of Daily Living (ADLs)—the functions or tasks which are performed by an individual in a typical day, either independently or with supervision/assistance. Activities of daily living may include, but are not limited to, bathing, dressing, eating, grooming, walking, transferring and/or toileting.

Administrator—the person responsible for the on-site, daily implementation and supervision of the overall facility's operation commensurate with the authority conferred by the governing body.

Assistance with Activities of Daily Living—services that provide assistance with activities of daily living. Such assistance may be the actual performance of the task for the individual, or may provide hands-on assist with the performance of the tasks, or may be supervision and prompting to allow the individual to self-perform such tasks.

Behavior Management—techniques, measures, interventions and procedures applied in a systematic fashion to promote positive behavioral or functional change which fosters the client's self-control, and to prevent or interrupt a client's behavior which threatens harm to the client or others.

Cessation of Business—FSTRA is non-operational and/or has stopped offering or providing services to the community.

Department—the Louisiana Department of Health (LDH).
Division of Administrative Law (DAL)—the administrative law tribunal authorized by law to hear and decide the administrative appeals for the department.

Forensic Clients—persons transitioned from a forensic facility established pursuant to R.S. 28:25.1(A) or (B).

Forensic Supervised Transitional Residential and Aftercare Facility—a facility that provides supervised transitional residential and aftercare services to forensic clients, including persons who are court ordered or who are on court ordered conditional release status. A forensic supervised transitional residential and aftercare facility shall provide clients, referred by state operated forensic facilities/hospitals and under court order or court ordered forensic conditional release, with individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Forensic Psychiatrist—a physician, currently licensed to practice medicine in Louisiana, who:

1. signs the order admitting the individual to the FSTRA facility;
2. maintains overall responsibility for the client's medical management; and
3. is readily available for consultation and collaboration with the FSTRA facility staff.

Health Standards Section (HSS)—the licensing and certification section of the Louisiana Department of Health.

Instrumental Activities of Daily Living (IADLs)—the functions or tasks that are not necessary for fundamental functioning but assist an individual to be able to live in a community setting. These are activities such as light house-keeping, food preparation and storage, grocery shopping, laundry, reminders to take medication, scheduling medical appointments, arranging transportation to medical appointments and accompanying the client to medical appointments.

Licensee—the person, partnership, company, corporation, association, organization, professional entity or other entity to whom a license is granted by the licensing agency and upon whom rests the ultimate responsibility and authority for the conduct of and services provided by the FSTRA facility.

Non-operational—the FSTRA facility is not open for continuous business operation 24 hours a day, seven days per week as stated on the licensing application and business location signage.

Secure Community Supervised Transitional/Residential Facility—a secure residential facility within the community that provides individualized services to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services enable such persons to develop daily living skills and to prepare for vocational adjustment and reentry into the community.

Secure Forensic Facility—a secure residential facility located on the grounds of a state owned/operated hospital that provides individualized services, including personal care services and medication administration, to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit. These services prepare such persons for transition to a less restrictive environment before transitioning to the community.

Therapeutic—process of intervention, in accordance with the treatment plan, that has the desirable effect of modifying or redirecting a client's behavior and/or emotional state in a positive or beneficial manner.

Treatment Plan—a comprehensive plan developed by the facility for each client that includes the services each client needs. It shall include the provision of medical/psychiatric, nursing and psychosocial services.

Unit—an integral, separate, segregated living space utilized only by either male, or by female clients, and who reside in that space of the licensed facility. Living spaces include the client's sleeping quarters and bathroom facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7205. Licensing Requirements

A. Any person or entity applying for a FSTRA license shall meet all of the core licensing requirements contained in this Subchapter as well as module specific requirements, unless otherwise specifically noted herein.

B. All facilities providing forensic supervised transitional residential and aftercare services shall be licensed by the department. A FSTRA facility shall not be established, opened, operated, managed, maintained or conducted in this state without a license issued by the Department of Health and Hospitals. Each facility shall be separately licensed.

C. The Department of Health is the only licensing authority for FSTRA facilities in the state of Louisiana. It shall be unlawful to operate a FSTRA facility without possessing a current, valid license issued by the department.

D. Each FSTRA license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the facility to which it is issued and only for the specific geographic address of that facility;
3. be valid for one year from the date of issuance, unless revoked, suspended or modified prior to that date, or unless a provisional license is issued;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the facility;
5. not be subject to sale, assignment, donation or other transfer, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

E. In order for the FSTRA facility to be considered operational and retain licensed status, the facility shall meet the following conditions.

1. When clients are present, the facility shall provide 24 hours a day, seven days per week supervision and the care and services sufficient to meet the needs of the clients, including but not limited to:

- a. at least three direct care staff persons during the day and two awake staff during the night;
- b. at least two direct care staff persons in each building and/or unit; and
- c. a functional security system on all points of ingress and egress with 24-hour, seven days per week continuous monitoring by awake staff.

2. There shall be staff employed and available to be assigned to provide care and services to each client during all operational hours consistent with the behavioral health needs of each client.

3. The facility shall have provided services to at least two clients in the preceding 12-month period in order to be eligible to renew its license.

F. The licensed FSTRA facility shall abide by and adhere to any state law, rules, policy, procedure, manual, or memorandums pertaining to such facilities.

G. A separately licensed FSTRA facility shall not use a name which is substantially the same as the name of another such facility licensed by the department, unless the facility is under common ownership with other FSTRA facilities.

H. No branches, satellite locations or offsite campuses will be authorized for a FSTRA facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7207. Initial Licensing Application Process

A. An initial application for licensing as a FSTRA facility shall be obtained from the department. A completed initial license application packet for a facility shall be submitted to and approved by the department prior to an applicant providing services. An applicant shall submit a completed initial licensing packet to the department, which shall include:

1. a completed facility licensure application and the non-refundable licensing fee as established by statute;
2. a copy of the approval letter of the architectural facility plans from the Office of the State Fire Marshal and any other office/entity designated by the department to review and approve the facility's architectural plans;
3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal;
4. a copy of the health inspection report with approval of occupancy from the Office of Public Health;
5. a copy of the statewide criminal background checks on the following persons:
 - a. all individual owners with a 5 percent or more ownership interest in the FSTRA facility entity;
 - b. facility administrators; and
 - c. members of the facility's board of directors, if applicable;
6. proof of financial viability, comprised of the following:
 - a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000;
 - i. any state agency operating a FSTRA facility, or any entity operating a facility pursuant to a cooperative endeavor agreement (CEA) with a state agency, shall be exempted from the line of credit requirement;
 - b. general and professional liability insurance of at least \$300,000; and
 - c. worker's compensation insurance;
 7. if applicable, Clinical Laboratory Improvement Amendments (CLIA) certificate or CLIA certificate of waiver;
 8. a letter-sized floor sketch or drawing of the premises to be licensed; and
 9. any other documentation or information required by the department for licensure.

B. If the initial licensing packet is incomplete when submitted, the applicant will be notified of the missing information and will have 90 days from receipt of the notification to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a facility shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

C. Once the initial licensing application packet has been approved by the department, notification of such approval shall be forwarded to the applicant. Within 90 days of receipt of the approval of the application, the applicant shall notify

the department that the facility is ready and is requesting an initial licensing survey. If an applicant fails to notify the department within 90 days, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a licensed facility shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

D. When issued, the initial forensic supervised transitional residential and aftercare facility license shall specify the capacity of the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7209. Types of Licenses

A. The department shall have the authority to issue the following types of licenses.

1. Full Initial License. The department shall issue a full license to the facility when the initial licensing survey finds that the facility is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, or suspended.

2. Provisional Initial License. The department shall issue a provisional initial license to the facility when the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the individuals receiving services. The provisional license shall be valid for a period not to exceed six months.

3. Full Renewal License. The department shall issue a full renewal license to an existing licensed facility which is in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license unless the license is modified, revoked, or suspended.

B. The department, in its sole discretion, may issue a provisional license to an existing licensed facility for a period not to exceed six months for the following reasons.

1. The existing facility has more than five deficient practices or deficiencies cited during any one survey.

2. The existing facility has more than three validated complaints in one licensed year period.

3. The existing facility has been issued a deficiency that involved placing a client at risk for serious harm or death.

4. The existing facility has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey.

5. The existing facility is not in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

C. When the department issues a provisional license to an existing licensed facility, the department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license, and shall issue written notice of the results of the follow-up survey.

1. If the on-site follow-up survey determines that the facility has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the facility license.

2. If the on-site follow-up survey determines that the facility has not corrected the deficient practices or has not maintained compliance during the period of the provisional license, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee, if no timely informal reconsideration or administrative appeal of the deficiencies cited is filed pursuant to this Chapter.

a. At the sole discretion of the department, the provisional license may be extended for a period, not to exceed 90 days, in order for the facility to correct the noncompliance or deficiencies.

D. When the department issues a provisional license as a result of the initial licensing survey, the facility shall submit a plan of correction to the department for approval, and shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct an on-site follow-up survey at the facility prior to the expiration of the provisional license and shall issue written notice to the facility of the results of the follow-up survey.

1. If all such noncompliance or deficiencies are determined by the department to be corrected on a follow-up survey, a full license will be issued.

2. If all such noncompliance or deficiencies are not corrected on the follow-up survey, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee and any applicable facility need review approval for licensure.

a. At the sole discretion of the department, the provisional license may be extended for an additional period, not to exceed 90 days, in order for the facility to correct the noncompliance or deficiencies.

E. The license for a facility shall be valid for one year from the date of issuance, unless revoked, suspended or modified prior to that time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7211. Licensing Surveys

A. Prior to the initial license being issued to the facility, an initial licensing survey shall be conducted on-site at the facility to assure compliance with licensing standards. The facility shall not provide services until the initial licensing survey has been performed and the facility found in compliance with the licensing standards. The initial licensing survey shall be an announced survey.

B. In the event that the initial licensing survey finds that the facility is compliant with all licensing laws, regulations and other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the facility.

C. In the event that the initial licensing survey finds that the facility is noncompliant with any licensing laws or

regulations, or any other required statutes, laws, ordinances, rules or regulations, that present a potential threat to the health, safety, or welfare of clients, the department shall deny the initial license.

D. Once an initial license has been issued, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards and regulations, as well as other required statutes, laws, ordinances, rules, regulations, and fees. These surveys shall be unannounced.

E. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

1. An acceptable plan of correction may be required for a facility for any survey where deficiencies have been cited.

2. If deficiencies have been cited, regardless of whether an acceptable plan of correction is required, the department may issue appropriate sanctions, including, but not limited to:

- a. civil monetary penalties;
- b. directed plans of correction;
- c. license revocations; and
- d. denial of license renewal.

F. LDH surveyors and staff shall be:

1. given access to all areas of the facility and all relevant files during any licensing or other survey; and

2. allowed to interview any facility staff, or client as necessary to conduct the survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7213. Changes in Licensee Information or Personnel

A. A facility license shall be valid only for the person or entity named in the license application and only for the specific geographic address listed on the license application.

B. Any change regarding the facility name, "doing business as" name, mailing address, phone number, or any combination thereof, shall be reported in writing to the department within five days of the occurrence. Any change regarding the facility name or "doing business as" name requires a change to the facility license and the required fee for the reissuance of an amended license.

C. Any change regarding the facility's key administrative personnel shall be reported in writing to the department within five days of the change.

1. Key administrative personnel include the administrator, physician/psychiatrist and the registered nurse supervisor.

2. The facility's notice to the department shall include the individual's:

- a. name;
- b. facility address;
- c. hire date; and
- d. qualifications.

D. A change of ownership (CHOW) of the facility shall be reported in writing to the department within five days of the change of ownership.

1. The license of a facility is not transferable or assignable. The license of a facility cannot be sold.

2. In the event of a CHOW, the new owner shall submit the legal CHOW document, all documents required

for a new license, and the applicable licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

3. A facility that is under license suspension, revocation, denial of license renewal or provisional licensure shall not undergo a CHOW.

E. Any request for a duplicate license shall be accompanied by the required fee.

F. A facility that intends to change the physical address of its geographic location is required to have plan review approval, Office of State Fire Marshall approval, Office of Public Health approval, compliance with other applicable licensing requirements, and an on-site licensing survey prior to the facility relocation.

1. Written notice of intent to relocate shall be submitted to the licensing section of the department when plan review request is submitted to the department for approval.

2. The relocation of the facility's physical address results in a new anniversary date and the full licensing fee shall be paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7215. Renewal of License

A. License Renewal Application. The facility shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the existing current license. The license renewal application packet shall include:

1. the license renewal application;
2. a copy of the current on-site inspection with approval for occupancy from the Office of the State Fire Marshal;
3. a copy of the current on-site inspection report with approval of occupancy from the Office of Public Health;
4. proof of financial viability, comprised of the following:
 - a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least \$50,000; any state agency operating a FSTRA facility, or any entity operating a FSTRA facility pursuant to a CEA with a state entity, shall be exempt from the line of credit requirement;
 - b. general and professional liability insurance of at least \$300,000; and
 - c. worker's compensation insurance;
5. the license renewal fee; and
6. any other documentation required by the department.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the FSTRA license.

D. The renewal of a license or the denial of a renewal application does not in any manner affect any sanction, civil monetary penalty, or other action imposed by the department against the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7217. Denial of License, Revocation of License, Denial of License Renewal

A. In accordance with the provisions of the Administrative Procedure Act, the department may:

1. deny an application for a license;
2. deny a license renewal; or
3. revoke a license.

B. Denial of an Initial License

1. The department shall deny an initial license when the initial licensing survey finds that the facility is noncompliant with any licensing laws or regulations or with any other required statutes, laws, ordinances, rules or regulations that present a potential threat to the health, safety, or welfare of the clients who will be served by the facility.

2. The department may deny an initial license for any of the reasons in this Chapter that a license may be revoked or denied renewal.

C. Voluntary Non-Renewal of a License

1. If a facility fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the facility.

2. If a facility fails to timely renew its license, the facility shall immediately cease and desist providing services, unless the facility is actively treating clients, in which case the facility shall comply with the following:

- a. immediately provide written notice to the department of the number of clients receiving treatment at the facility;
- b. immediately provide written notice to the prescribing physician and to the client or legal representative of the following:
 - i. notice of voluntary non-renewal;
 - ii. notice of closure; and
 - iii. plans for orderly transition of the client(s);
- c. discharge and transition of each client within 15 days of voluntary non-renewal; and
- d. notify the department of the location where records will be stored and the contact person for the records.

3. If a facility fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning a FSTRA facility for a period of two years.

D. Revocation of License or Denial of License Renewal. A facility license may be revoked or may be denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the FSTRA facility licensing laws, rules and regulations or with other required statutes, laws, ordinances, rules or regulations;
2. failure to comply with the terms and provisions of a settlement agreement or education letter with or from the department, the Attorney General's office, any regulatory agency or any law enforcement agency;
3. failure to uphold clients' rights whereby deficient practices result in harm, injury, or death of a client;

4. negligent failure to protect a client from a harmful act of an employee or other client including, but not limited to:

- a. mental or physical abuse, neglect, exploitation, or extortion;
- b. any action posing a threat to a client's health and safety;
- c. coercion;
- d. threat or intimidation;
- e. harassment; or
- f. criminal activity;

5. failure to notify the proper authorities, as required by federal or state law, rules or regulations, of all suspected cases of:

- a. mental or physical abuse, neglect, exploitation, or extortion;
- b. any action posing a threat to a client's health and safety;
- c. coercion;
- d. threat or intimidation;
- e. harassment; or
- f. criminal activity;

6. knowingly making a false statement in any of the following areas, including but not limited to:

- a. application for initial license or renewal of license;
- b. data forms;
- c. clinical records, client records or facility records;
- d. matters under investigation by the department or the Office of the Attorney General; or
- e. information submitted for reimbursement from any payment source;

7. knowingly making a false statement or providing false, forged, or altered information or documentation to department employees or to law enforcement agencies;

8. the use of false, fraudulent or misleading advertising;

9. fraudulent operation of a facility by the owner, administrator, manager, member, officer or director;

10. an owner, officer, member, manager, administrator, director or person designated to manage or supervise client care has pled guilty or nolo contendere to a felony, or has been convicted of a felony, as documented by a certified copy of the record of the court. For purposes of these provisions, conviction of a felony includes a felony relating to any of the following:

- a. violence, abuse, or negligence of a person;
- b. misappropriation of property belonging to another person;
- c. cruelty, exploitation, or sexual battery of a person with disabilities;
- d. a drug offense;
- e. crimes of sexual nature;
- f. a firearm or deadly weapon;
- g. fraud or misappropriation of federal or state funds, including Medicare or Medicaid funds;

11. failure to comply with all reporting requirements in a timely manner as required by the department;

12. failure to allow or refusal to allow the department to conduct an investigation or survey, or to interview provider staff or clients;

13. failure to allow or refusal to allow access to facility or client records by authorized departmental personnel; or

14. failure to maintain all required elements of the proof of financial viability without interruption.

E. If an existing facility has been issued a notice of license revocation or suspension and the facility's license is due for annual renewal, the department shall deny the license renewal. The denial of the license renewal does not affect in any manner the license revocation.

F. If a facility license is revoked or renewal is denied, any owner, officer, member, director, manager or administrator of such facility may be prohibited from opening, managing, directing, operating or owning another FSTRA facility for a period of two years from the date of the final disposition of the revocation or denial action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7219. Notice and Appeal of License Denial, License Revocation and Denial of License Renewal

A. Notice of a license denial, license revocation or denial of license renewal shall be given to the provider in writing.

B. A facility has a right to an informal reconsideration of the license denial, license revocation or denial of license renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the facility.

1. The facility shall request the informal reconsideration within 15 calendar days of the receipt of the notice of the license denial, license revocation or denial of license renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section.

2. The request for informal reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an informal reconsideration is received by the Health Standards Section, an informal reconsideration shall be scheduled and the facility will receive written notification of the date of the informal reconsideration.

4. The facility shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the denial, revocation or denial of license renewal shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process.

7. The facility will be notified in writing of the results of the informal reconsideration.

C. A facility has a right to an administrative appeal of the license denial, license revocation, or denial of license renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the facility.

1. The facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the results of the informal reconsideration of the license denial, license revocation, or denial of license renewal. The facility may forego its rights to an informal reconsideration, and if

so, the facility shall request the administrative appeal within 30 calendar days of the receipt of the notice of the license denial, license revocation, or denial of license renewal. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law (DAL).

2. The request for administrative appeal shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the DAL, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the facility shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the facility pose an imminent or immediate threat to the health, welfare, or safety of a client, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency of the administrative appeal. The facility shall be notified of this determination in writing.

4. Correction of a violation or a deficiency which is the basis for the denial, revocation or denial of license renewal shall not be a basis for the administrative appeal.

D. If a timely administrative appeal has been filed by the facility on a license denial, denial of license renewal or license revocation, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

1. If the final agency decision is to reverse the license denial, the denial of license renewal or the license revocation, the facility's license will be re-instated or granted upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to affirm the denial of license renewal or the license revocation, the facility shall discharge any and all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where its records will be stored.

E. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional license to a new facility. A facility that has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license to an existing facility is not considered to be a denial of license, a denial of license renewal, or a license revocation.

F. A facility with a provisional initial license or an existing facility with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey, shall have the right to an informal reconsideration and the right to an administrative appeal regarding the deficiencies cited at the follow-up survey.

1. The facility has five calendar days from the receipt of the department's notice of the results of the follow-up survey to submit a written request for informal reconsideration of the follow-up survey findings.

2. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

3. The correction of a violation, noncompliance, or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

4. The facility has 15 calendar days from the receipt of the department's notice of the results of the follow-up survey to submit a written request for an administrative appeal.

G. A facility with a provisional license that expires under the provisions of this Chapter shall cease providing services and discharge clients unless the DAL issues a stay of the expiration.

1. A stay may be granted by the DAL upon application by the provider at the time the administrative appeal is filed and only:

- a. after a contradictory hearing; and
- b. upon a showing that there is no potential harm to the clients being served by the facility.

H. If a timely administrative appeal has been filed by a facility with a provisional license that has expired under the provisions of this Chapter, the DAL shall conduct the hearing in accordance with the Administrative Procedure Act.

1. If the final agency decision is to remove all deficiencies, the facility's license will be reinstated upon the payment of any licensing or other fees due to the department and the payment of any outstanding sanctions due to the department.

2. If the final agency decision is to uphold the deficiencies and affirm the expiration of the provisional license, the facility shall discharge all clients receiving services. Within 10 days of the final agency decision, the facility shall notify the department's licensing section in writing of the secure and confidential location of where records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7221. Complaint Surveys

A. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13, et seq.

B. Complaint surveys shall be unannounced surveys.

C. A follow-up survey may be conducted for any complaint survey where deficiencies have been cited to ensure correction of the deficient practices. If the department determines that other action, such as license revocation, is appropriate, a follow-up survey may not be required. The facility will be notified of any action.

D. The department may issue appropriate sanctions, including but not limited to, civil monetary penalties, directed plans of correction, and license revocations for deficiencies and non-compliance with any complaint survey.

E. LDH surveyors and staff shall be given access to all areas of the facility and all relevant files during any complaint survey. LDH surveyors and staff shall be allowed to interview any facility staff, client, or participant, as necessary or required to conduct the survey.

F. A facility which has been cited with violations or deficiencies on a complaint survey has the right to request an informal reconsideration of the validity of the violations or deficiencies. The written request for an informal reconsideration shall be submitted to the department's

Health Standards Section. The department must receive the written request within 10 calendar days of the facility's receipt of the notice of the violations or deficiencies.

G. A complainant shall have the right to request an informal reconsideration of the findings of the complaint survey or investigation. The written request for an informal reconsideration shall be submitted to the department's Health Standards Section. The department must receive the written request within 30 calendar days of the complainant's receipt of the results of the complaint survey or investigation.

H. An informal reconsideration for a complaint survey or investigation shall be conducted by the department as an administrative review. The facility or complainant shall submit all documentation or information for review for the informal reconsideration, and the department shall consider all documentation or information submitted. There is no right to appear in person at the informal reconsideration of a complaint survey or investigation. The facility's correction of the violation or deficiency shall not be the basis for the reconsideration. The facility and/or the complainant shall be notified in writing of the results of the informal reconsideration.

I. Except as provided pursuant to R.S. 40:2009.13, et seq., the informal reconsideration shall constitute final action by the department regarding the complaint survey or investigation, and there shall be no right to an administrative appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7223. Statement of Deficiencies

A. The following statements of deficiencies issued by the department to a facility shall be posted in a conspicuous place on the licensed premises:

1. the most recent annual survey statement of deficiencies; and
2. any subsequent complaint survey statement of deficiencies.

B. Any statement of deficiencies issued by the department to a facility shall be available for disclosure to the public 30 calendar days after the facility submits an acceptable plan of correction of the deficiencies or 90 calendar days after the statement of deficiencies is issued to the facility, whichever occurs first.

C. Unless otherwise provided in statute or in this Chapter, a facility shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the deficient practice, of the violation, or of the noncompliance shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be submitted in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided for in these provisions.

3. The written request for informal reconsideration of the deficiencies shall be submitted to the Health Standards Section.

4. Except as provided for complaint surveys pursuant to R.S. 40:2009.11, et seq., and as provided in this Chapter for license denials, revocations, and denial of license

renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies. There is no administrative appeal right of such deficiencies.

5. The facility shall be notified in writing of the results of the informal reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7225. Cessation of Business

A. A cessation of business or closure is deemed to be effective the date on which the facility stops providing services to the community or residents.

1. Except as provided in §7227 and §7228 of this Chapter, a license shall be immediately null and void if a FSTRA ceases to operate.

B. A cessation of business is considered to be a voluntary action on the part of the facility. As such, there is no right to an informal reconsideration and no right to an administrative appeal of a cessation of business or closure.

C. Upon the cessation of business, the facility shall immediately return the original license to the department.

D. A facility that intends to close or cease operations shall comply with the following procedures:

1. give 30 days' advance written notice to the:
 - a. department;
 - b. forensic psychiatrist; and
 - c. ordering court of any conditional release client(s); and
2. provide for an orderly discharge and transition of all clients admitted to the facility.

E. In addition to the 30 days' advance written notice, the facility shall submit a written plan for the disposition of patient medical records for approval by the department. The plan shall include the following:

1. the effective date of the closure;
2. provisions that comply with federal and state laws on storage, maintenance, access, and confidentiality of the closed facility's patients medical records;
3. an appointed custodian(s) who shall provide the following:
 - a. access to records and copies of records to the patient or authorized representative, upon presentation of proper authorization(s); and
 - b. physical and environmental security that protects the records against fire, water, intrusion, unauthorized access, loss and destruction; and
4. public notice regarding access to records in the newspaper with the largest circulation in close proximity to the closing facility, at least 15 days prior to the effective date of closure.

F. If a facility fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning a FSTRA facility for a period of two years.

G. Once the facility has ceased doing business, the facility shall not provide services until the facility has obtained a new initial license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7227. Temporary Inactivation of a License Due to a Declared Disaster or Emergency

A. A facility licensed in a parish which is the subject of an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766 may seek to inactivate its license for a period not to exceed one year, provided that the following conditions are met:

1. the facility shall submit written notification to the Health Standards Section within 60 days of the date of the executive order or proclamation of emergency or disaster that:

- a. the facility has experienced an interruption in the provisions of services as a result of events that are the subject of such executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724 or R.S. 29:766;
- b. the facility intends to resume operation as a FSTRA facility in the same service area;
- c. includes an attestation that the emergency or disaster is the sole casual factor in the interruption of the provision of services;
- d. includes an attestation that all clients have been properly discharged or transferred to another facility; and
- e. provides a list of all clients and to where each client has been discharged or transferred;

2. the facility resumes operating as a FSTRA in the same service area within one year of the issuance of an executive order or proclamation of emergency or disaster in accordance with R.S. 29:724 or R.S. 29:766;

3. the FSTRA continues to pay all fees and cost due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties; and

4. the FSTRA continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate a FSTRA license, the department shall issue a notice of inactivation of license to the FSTRA.

C. Upon completion of repairs, renovations, rebuilding or replacement, the FSTRA which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. The FSTRA shall submit a written license reinstatement request to the licensing agency of the department 60 days prior to the anticipated date of reopening.

a. The license reinstatement request shall inform the department of the anticipated date of opening, and shall request scheduling of a licensing survey.

b. The license reinstatement request shall include a completed licensing application with appropriate licensing fees.

2. The facility resumes operating as a FSTRA in the same service area within one year.

D. Upon receiving a completed written request to reinstate a FSTRA license, the department shall conduct a licensing survey. If the FSTRA meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the FSTRA license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the FSTRA at the time of the request to inactivate the license.

E. No change of ownership in the FSTRA shall occur until such FSTRA has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as a FSTRA.

F. The provisions of this Section shall not apply to a FSTRA which has voluntarily surrendered its license and ceased operation.

G. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the FSTRA license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7228. Inactivation of License due to Non-Declared

Emergency or Disaster

A. A FSTRA in an area or areas which have been affected by a non-declared emergency or disaster may seek to inactivate its license, provided that the following conditions are met:

1. the FSTRA shall submit written notification to the Health Standards Section within 30 days of the date of the non-declared emergency or disaster stating that:

a. the FSTRA has experienced an interruption in the provisions of services as a result of events that are due to a non-declared emergency or disaster;

b. the FSTRA intends to resume operation as a FSTRA in the same service area;

c. the FSTRA attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the FSTRA's initial request to inactivate does not exceed one year for the completion of repairs, renovations, rebuilding or replacement of the facility.

NOTE: Pursuant to these provisions, an extension of the 30 day deadline for initiation of request may be granted at the discretion of the department.

2. the FSTRA continues to pay all fees and costs due and owed to the department including, but not limited to, annual licensing fees and outstanding civil monetary penalties and/or civil fines; and

3. the FSTRA continues to submit required documentation and information to the department, including but not limited to cost reports.

B. Upon receiving a completed written request to temporarily inactivate a FSTRA license, the department shall issue a notice of inactivation of license to the FSTRA.

C. Upon the FSTRA's receipt of the department's approval of request to inactivate the FSTRA's license, the FSTRA shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility to OSFM and OPH as required.

D. The FSTRA shall resume operating in the same service area within one year of the approval of renovation/construction plans by OSFM and OPH as required.

1. Exception. If the FSTRA requires an extension of this timeframe due to circumstances beyond the FSTRA's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show the FSTRA's active efforts to complete construction or repairs and the reasons for request for extension of the FSTRA's inactive license. Any approvals for extension are at the sole discretion of the department.

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, a FSTRA which has received a notice of inactivation of its license from the department shall be allowed to reinstate its license upon the following conditions being met:

1. the FSTRA shall submit a written license reinstatement request to the licensing agency of the department;

2. the license reinstatement request shall inform the department of the anticipated date of opening and shall request scheduling of a licensing or physical environment survey; and

3. the license reinstatement request shall include a completed licensing application with appropriate licensing fees.

F. Upon receiving a completed written request to reinstate a FSTRA license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the FSTRA has met the requirements for licensure including the requirements of this Section.

NOTE: The licensed bed capacity of the reinstated license shall not exceed the licensed bed capacity of the FSTRA at the time of the request to temporarily inactivate the license.

G. No change of ownership of the FSTRA shall occur until such facility has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as a FSTRA.

H. The provisions of this Section shall not apply to a FSTRA which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Section shall be deemed a voluntary surrender of the FSTRA license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7229. Temporary Inactivation of Licensed FSTRA

Beds Due to Major Alterations

A. A FSTRA which is undergoing major alterations to its physical plant may request a temporary inactivation of a certain number of licensed beds providing that:

1. The FSTRA submits a written request to the licensing agency of the department seeking temporary inactivation of a certain number of its licensed bed capacity. Such written request shall include the following:

a. that the FSTRA has experienced or will experience a temporary interruption in the provisions of services to its licensed bed capacity as a result of major alterations;

b. an attestation that the renovations are the sole causal factor in the request for temporary inactivation of a certain number of its licensed beds;

c. the anticipated start date of the temporary inactivation of a certain number of licensed beds;

d. the anticipated end date of the temporary inactivation of a certain number of licensed beds; and

e. the number of licensed beds requested to be inactivated temporarily;

2. the FSTRA ensures the health, safety and welfare of each client during the major alterations; and

3. the FSTRA continues to provide, and each client continues to receive, the necessary care and services to attain or maintain the client's highest practicable physical, mental, and psychosocial well-being, in accordance with each client's comprehensive assessment and plan of care.

B. Upon receiving a completed written request for temporary inactivation of a certain number of the licensed bed capacity of a FSTRA, the department shall issue a notice of temporary inactivation of a certain number of the FSTRA's licensed beds.

C. No change of ownership in the FSTRA shall occur until such FSTRA has completed the major alterations and has resumed operating at prior approved licensed bed capacity.

D. Upon completion of the major alterations and receiving a completed written request to reinstate the number of licensed beds of a FSTRA, the department may conduct a physical environment survey. If the FSTRA meets the requirements for licensure and the requirements under this Subsection, the department may issue a notice of reinstatement of the FSTRA's licensed bed capacity.

NOTE: The licensed bed capacity after major alterations are completed shall not exceed the licensed bed capacity of the FSTRA at the time of the request to temporarily inactivate a certain number of its licensed bed capacity prior to renovations.

E. The provisions of this Subsection shall not apply to a FSTRA which has voluntarily surrendered its license and ceased operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter B. Administration and Organization

§7231. Governing Body

A. A FSTRA shall have an identifiable governing body with responsibility for, and authority over, the policies and activities of the program/facility.

B. A FSTRA shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;
2. terms of membership;
3. officers of the governing body; and
4. terms of office of any officers.

C. When the governing body of a FSTRA is comprised of more than one person, the governing body shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings and bylaws specifying frequency of meetings and quorum requirements.

D. When the governing body is composed of only one person, this person shall assume all responsibilities of the governing body.

E. Responsibilities of a Governing Body. The governing body of a FSTRA shall:

1. ensure the FSTRA's compliance and conformity with the facility's charter or other organizational documents;

2. ensure the FSTRA's continual compliance and conformity with all relevant federal, state, local, and municipal laws and regulations;

3. ensure that the FSTRA is adequately funded and fiscally sound;

4. review and approve the FSTRA's annual budget;

5. designate a person to act as Administrator and delegate sufficient authority to this person to manage the facility (a sole owner may be the administrator);

6. formulate and annually review, in consultation with the administrator, written policies concerning the FSTRA's philosophy, goals, current services, personnel practices, job descriptions and fiscal management;

7. annually evaluate the administrator's performance (if a sole owner is not acting as administrator);

8. have the authority to dismiss the administrator (if a sole owner is not acting as administrator);

9. meet with designated representatives of the department whenever required to do so;

10. inform designated representatives of the department prior to initiating any substantial changes in the services provided by the FSTRA; and

11. notify the Health Standards Section in writing at least 30 days prior to any change in ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7233. Policy and Procedures

A. The FSTRA shall establish procedures to assure written communication among staff to ensure safety and continuity of services to all clients.

B. Direct care employees shall have access to information concerning clients that is necessary for effective performance of the employee's assigned tasks.

C. Confidentiality and Security of Files. A FSTRA shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released.

D. The FSTRA shall allow designated representatives of the department, in the performance of their mandated duties, to inspect all aspects of the FSTRA's practices which impact clients and to interview any staff member or client relevant or as required for any survey or investigation.

1. The FSTRA shall make any information or records that the facility is required to have and any information reasonably related to assessment of compliance with these requirements available to the department.

2. The client's rights shall not be considered abridged by this requirement.

E. Procedures shall address the following.

1. Confidentiality of Records

a. The FSTRA shall maintain the confidentiality of all clients' records. Employees of the facility shall not disclose or knowingly permit the disclosure of any information concerning the client or his/her family, directly, or indirectly, to any unauthorized person.

b. The FSTRA may use material from records for teaching and research purposes, if names are deleted and other identifying information is disguised or deleted.

2. Release of Information

a. A FSTRA shall obtain the client's or legal representative's written, informed permission prior to releasing any information from which the client or his/her family might be identified, except to the department.

b. Identifying information may be given to appropriate authorities in cases of an emergency.

c. The FSTRA shall have a procedure by which representatives or family of clients is given an opportunity to receive information about the individual client in care of the facility.

3. Publicity

a. The FSTRA shall have written policies and procedures regarding the photographing and audio or audiovisual recordings of clients.

b. No client shall be photographed or recorded without the client's prior informed, written consent. Such consent cannot be made a condition for admission into, remaining in, or participating fully in the activities of the facility.

i. Consent agreements shall clearly notify the client of his/her rights under this regulation, shall specify precisely what use is to be made of the photograph or recordings, and are valid for a maximum of one year from the date of execution.

ii. Clients are free to revoke such agreements at any time, either orally or in writing.

c. All photographs and recordings shall be used in a way that respects the dignity and confidentiality of the client.

F. Personnel Policies. The FSTRA shall have written personnel policies that include:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members;

2. written job descriptions for each staff position including volunteers;

3. policies which provide for staff, either contracted or directly employed, to have a criminal background check, prior to offer of employment and, at least, annually thereafter. Such policy shall be defined in the facility's policy and procedures and in accordance with applicable state or federal laws;

4. policies which provide for staff, upon offer of employment, to have a health assessment, as defined in the facility's policy and procedures. Such policies shall apply for any staff, either contracted or directly employed.

a. these policies shall, at a minimum, require that the FSTRA's staff, either contracted or directly employed, have no evidence of active tuberculosis and be retested on a time schedule as mandated by the Office of Public Health. Test results dated within one year prior to the offer of employment are acceptable for initial employment;

5. policies which provide for any FSTRA staff, either contracted or directly employed, who provide transportation of clients, to have a driving history report upon hire and annually thereafter;

6. an employee grievance procedure;

7. abuse reporting procedures that require all employees to report any incidents of neglect, abuse or mistreatment whether that neglect abuse or mistreatment is done by another staff member, a family member, a client, or any other person;

a. These policies shall have, at a minimum, any reporting requirements to the facility administration, and to the department, as applicable; and

8. a written policy to prevent discrimination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter C. Admissions, Transfers and Discharges **§7235. Admissions**

A. The facility shall have a clear and specific written description of admission policies and procedures. This written description shall include, but is not limited to the following:

1. the application process and the possible reasons for the rejection of an application;
2. types of clients suitable to the facility;
3. services offered and allowed in the facility; and
4. the facility's house rules.

B. Intake Evaluation

1. An intake evaluation shall take place on the first day of admission and shall include the client's:

- a. demographic data;
- b. family information; and
- c. psychiatric and social background.

2. All of the facility's rules and regulations shall be reviewed with the client. A complete clothing inventory shall be completed and the client shall be assigned to a room.

C. Nursing Assessment

1. The licensed nurse shall complete a nursing assessment and review the client's medication(s). The client's medication administration records shall contain a detailed description of the client's:

- a. medication;
- b. dosage(s) of medication;
- c. frequency medications should be taken; and
- d. ability to self-administer medications.

D. Diagnostic Evaluation

1. The diagnostic evaluation shall include examination of the medical, psychosocial, social, behavioral and developmental aspects of the client's situation and reflect the need for services from a FSTRA.

2. Each medical evaluation shall include:

- a. diagnoses;
- b. summary of medical findings;
- c. medical history;
- d. mental and physical functional capacity;
- e. prognosis; and
- f. physician's recommendations.

E. An individualized plan of care for each client shall be developed upon admission and shall be revised to include recommended changes in the therapeutic plan. The plan to be followed in the event of emergency situations shall be specified in the plan of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7237. Mandatory Transfers and Discharges

A. The administrator/director shall, in coordination with the client, forensic aftercare facility, Community Forensic Service, and state level forensic coordinator (as appropriate), assist in planning and implementing the mandatory transfer or discharge of the client when:

1. the treatment plan goals and objectives are substantially met and a crisis relapse/prevention plan is developed and support systems are in place that allow the client to reside safely in a less restrictive environment;

2. the client's physician certifies that the client's physical condition necessitates transfer to a medical facility or the client's psychiatric condition necessitates transfer to a higher level of care; or

3. the client's condition is such that he or she is:

- a danger to self or others; or
- is consistently disruptive to the peace and order of the facility, staff services, or other clients.

B. Emergency Discharge. The FSTRA shall immediately report to the Community Forensic Service, probation officer, state level forensic coordinator, and provider(s) of behavioral health services any program violations (i.e. illegal drugs, suspected or confirmed weapon possession or access, gross deterioration of behavior, or non-compliance with medication). The FSTRA in collaboration with the probation officer and community forensic staff, as appropriate, shall be responsible for the relocation of the client to an appropriate secure placement.

C. The facility shall initiate outpatient services for the client upon discharge and provide consultation to the client concerning where to obtain necessary medications, resources and follow-up outpatient behavioral health services.

D. Discharge Records

1. The following discharge information shall be recorded in the client's record:

- date of discharge;
- destination; and
- reason(s) for leaving.

2. Discharge records shall be retained in a secured environment in accordance with the facility's policy and procedure for at least three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter D. Participation Requirements

§7241. Assessment, Service Coordination, and Monitoring

A. Once the client is admitted, the facility shall conduct an assessment to determine the needs of the client. The assessment shall be kept in the client's record and shall at a minimum, include:

- the client's interests, likes and dislikes;
- review of physical health, psycho-social status, and cognitive status and the determination of services necessary to meet those needs;
- a summary of the client's health needs, if any, including medication(s), treatment and special diet orders obtained from licensed professionals with responsibility for the client's physical or emotional health;

4. a written description of the activities of daily living and instrumental activities of daily living for which the client requires assistance, if any, obtained from the client or the client's physician;

5. recreational and social activities in accordance with the client's treatment plan;

6. a plan for handling special emergency evacuation needs, if any; and

7. additional information or documents pertinent to the client's treatment planning, such as guardianship papers, power of attorney, living wills, do not-resuscitate orders, or other relevant medical documents.

B. Within 30 days after admission, the facility, with input from the client, shall develop a service plan using information from the assessment.

C. The service plan shall be responsive to the client's needs and preferences. The service plan shall include:

- the client's needs;
- the scope, frequency, and duration of services and monitoring that will be provided to meet the client's needs;
- staff/providers responsible for providing the services; and
- a plan for the implementation towards the least restrictive settings.

D. The client's service plan shall be revised by the designated licensed facility staff when a client's needs or condition changes. The revised service plan shall be signed by the client and the designated facility staff.

E. The service plan shall be monitored on an ongoing basis by facility staff to determine its continued appropriateness and to identify when a client's condition or preferences have changed. A documented review of the service plan by the licensed professional staff shall be made at least every quarter. However, changes to the plan may be made at any time, as necessary.

F. All service plans and reviews shall be signed by the client and by the designated licensed facility staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7243. Personal and Supportive Services

A. The facility shall provide adequate services and oversight/supervision, including adequate security measures, around the clock as needed for any client in accordance with the client's treatment plan.

B. Client Self-administration of Medications

1. The FSTRA shall have clear written policies and procedures on direct care staff assistance with client self-administration of medications.

2. The FSTRA shall assist clients in the self-administration of prescription and non-prescription medication(s) as agreed to in their contract or service plan and as allowed by applicable state statute and in accordance with the regulations of this section.

3. Assistance with self-administration of medications shall be limited to the following:

- The client may be reminded to take his/her medication(s) when such medications have been prescribed for a specific time of day, a specific number of times per day, specific intervals of time or for a specific time in relation to mealtimes or other activities such as arising from bed or retiring to bed.

b. The medication regimen, as indicated on the container, may be read to the client.

c. The dosage may be checked according to the container label.

d. The staff may open the medicine container (i.e. bottle, pill organizer, blister pak, etc.) and/or provide assistance with pouring medications if the client lacks the physical ability to open the container or pour his/her own medications and the client is cognitive of what the medication is, what the medication is for and the need for the medication.

i. Offering of liquids to a client who is familiar with his/her medications to assist that client in ingesting oral medications is allowed.

e. Assistance with self-administration of medications shall not include:

i. administering injections of any kind;

ii. administering any prescription medications including, but not limited to, eye drops, ear drops, nose drops, liquid medications, inhalers, suppositories, or enemas;

iii. prompting or reminding a resident that it is time to take a PRN, or as-needed medication;

iv. crushing or splitting medications;

v. placing medications in a feeding tube; or

vi. mixing medications with foods or liquids.

4. An employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for assistance with client self-administration of medications including the limitations of this assistance. This training shall be repeated and documented at least annually. Documentation shall include the signature of the employee initially and at least annually at time of training.

5. A competency evaluation shall be developed and conducted to ensure that each direct care staff person that assists a client with the self-administration of medications is able to demonstrate competency in the training areas pursuant to §7243.B.1-4.

a. Documentation of such competency evaluation of each direct care staff person shall be maintained and readily available in the facility's records.

6. Unlicensed employees shall not perform medication administration which is separate and apart from the performance of assistance of a client with the self-administration of medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7245. Nutrition

A. The facility shall provide three varied, palatable meals a day, seven days a week. Meals shall take into account clients' preferences and needs.

B. Menus shall be planned and written at least one week in advance and dated as served. The current week's menu shall be posted in one or more conspicuous places in the facility.

C. The facility shall provide medically prescribed diets as ordered by the client's physician. These menus shall be planned or approved by a licensed registered dietician (LRD) and shall include nourishing snacks. The LRD shall be available for consultation as needed and may be either contracted or directly employed by the facility.

D. The facility shall purchase and provide to the clients only food and drink of safe quality. The storage, preparation and serving techniques shall ensure that nutrients are retained and spoilage is prevented. Milk and milk products shall be Grade A and pasteurized.

E. Staff shall be available in the dining area to provide supervision as needed.

F. Written reports of inspections by the Louisiana Department of Health, Office of Public Health, Sanitarian Services shall be kept on file in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7247. Transportation Requirements

A. The facility shall have the capacity to provide or to arrange transportation for the following:

1. transportation to behavioral health services (i.e., community mental health center or addictive disorder clinic); and

2. all other related medical appointments.

B. The facility shall:

1. have automotive liability insurance coverage and have proof of such continuous coverage for any vehicle that provides client transportation and which is owned/operated by the facility and staff, either contracted or directly employed;

2. conform to all applicable state laws and regulations pertaining to drivers, vehicles and insurance; and

3. provide for safety of clients by ensuring all transportation drivers have current driving records and current driver's licenses in good standing.

C. The number of occupants allowed in a car, bus, station wagon, van, or any other type of transportation shall not exceed the number of manufacturer's issued seat belts for passengers and the number of passengers for which the vehicle is designed.

D. Provisions shall be made to accommodate clients who use assistive devices for ambulation.

E. Each vehicle shall be maintained in safe, operating condition.

F. If the center contracts with a commercial proprietor for transportation, such shall be licensed to provide commercial transportation. All rules established for transportation furnished by the center shall be observed by the contracted commercial proprietor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter E. Client Protection

§7251. Client Rights

A. The facility shall have a written policy on clients' civil rights and the practices of the facility shall assure that no client of a facility shall be deprived of civil or legal rights, benefits or privileges guaranteed by law or the Constitution of the United States solely by reason of status as a client of a facility. A copy of these rights shall be posted conspicuously in the facility.

B. In addition to the basic rights enjoyed by other adults, the facility's written policy on rights shall assure that clients shall be afforded the rights enumerated in R.S. 28:171.

C. The client shall receive, upon admission and during his/her stay, a written statement of the services provided by the facility and the charges for these services.

D. The client shall be free from mental, emotional, and physical abuse and neglect and assured that no chemical restraints will be used.

E. The facility shall ensure that records and other information about the client are kept confidential and released only with a client's expressed written consent or in accordance with state law.

F. In accordance with facility policy and pursuant to R.S. 28:171, the facility shall ensure that the client:

1. receives a timely response to a request from the administrator/director and/or staff;
2. has access to private telephone communication;
3. is able to send and receive mail promptly and unopened;
4. is notified in writing by the facility when the facility's license status is suspended, revoked or limited, and to be informed of the basis of the licensing agency's action;
5. is allowed to select a health care provider and arrange for the services, at his/her own expense, which are not available through the facility as long as the client remains in compliance with the conditions of his/her admission to the facility;
6. is encouraged and assisted to exercise rights as a citizen;
7. is allowed to voice grievances and suggest changes in policies and services to either staff or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal;
8. is fully informed of all client rights and all rules governing client conduct and responsibilities; and
9. is allowed to consult freely with counsel of their choice.

G. Each client shall be fully informed of these rights and of all rules and regulations governing client conduct and responsibilities, as evidenced by written acknowledgment, prior to or at the time of admission, and when changes occur.

1. Each client's file shall contain a copy of the written acknowledgment which shall be signed and dated by the director or his/her designee, the client and/or representative.

H. The facility shall establish and have written grievance procedures that include, but are not limited to:

1. a formal process to present grievances; and
2. a process to investigate and to respond to grievances in a timely manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter F. Facility Responsibilities

§7255. General Provisions

A. Facilities shall comply and show proof of compliance with all relevant standards, regulations and requirements established by state, local and municipal regulatory bodies. It is the facility's responsibility to secure the approvals from the following entities:

1. LDH, Health Standards Section;
2. Office of Public Health;
3. Office of State Fire Marshal;

4. city fire department, if applicable; and

5. the applicable local governing authority (e.g., zoning, building department or permit office).

B. The administrator/director or person authorized to act on behalf of the administrator/director shall be accessible to facility staff or designated representatives of LDH at all times.

1. Updated electronic mail and/or telephonic contact information of key administrative personnel shall be provided to the department's Health Standards Section.

C. The facility shall have an administrative file that includes:

1. the Articles of Incorporation or certified copies thereof, if incorporated, or partnership documents, if applicable;
2. a current copy of the approved constitution and/or bylaws of the governing body;
3. a current roster of the governing body membership which includes the members' addresses;
4. written policies and procedures approved by the owner/governing body that address the following:
 - a. confidentiality and security of files;
 - b. publicity;
 - c. personnel;
 - d. client's rights;
 - e. grievance procedure;
 - f. safekeeping of personal possessions, if applicable;
 - g. clients' funds, if applicable;
 - h. emergency and evacuation procedures;
 - i. abuse and neglect;
 - j. critical incidents;
 - k. admissions and discharge procedures;
 - l. assistance with client self-administration of medication;

m. driver training, safety and responsibilities while transporting clients; and

n. policies related to client transportation; either contracted or provided by facility staff;

5. the minutes of formal governing body meetings;
6. an organizational chart of the FSTRA;
7. all leases, contracts and purchase-of-service agreements to which the FSTRA is a party, which includes all appropriate credentials;
8. insurance policies:

a. every facility shall maintain in force at all times a comprehensive general business insurance policy or policies in an amount adequate to cover all foreseeable occurrences. The insurance shall include coverage for any:

- i. personal or professional negligence, malpractice or misconduct by facility owners or employees;
- ii. injuries received by any client while being transported by facility staff or third-party contractors; and
- iii. injuries sustained by any client while in the facility; and

9. Incident/Accident Reports.

D. The facility shall maintain a personnel record for each employee. At a minimum, this file shall contain the following:

1. the application for employment and/or résumé of education, training, and experience;

2. evidence of a criminal history check prior to an offer of employment and annually thereafter, in accordance with state laws and regulations;

3. evidence of applicable professional credentials, licensing or certifications according to state law;

4. documentation of Tuberculosis test results and any other facility required medical examinations;

5. documentation of reference checks or employee screening in accordance with facility policy;

6. annual performance evaluation;

7. the employee's hire and termination dates;

8. documentation of orientation and annual training, including but not limited to safety and transportation of clients; and

9. documentation of a current, valid and unrestricted driver's license if driving or transporting clients.

E. The facility shall not release an employee's personnel record without the employee's written permission, except as required by state law.

F. The facility shall have a personnel record for each employee to be kept on the premises or at the corporate office. These records shall be made available and accessible to the survey staff within one hour of request by department surveyors.

1. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of in accordance with state laws.

2. A facility shall have sufficient space, facilities and supplies for providing effective record keeping services, either electronically or via paper documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7257. Core Staffing Requirements

A. Each facility shall be staffed to properly safeguard the health, safety and welfare of the clients, as required by these regulations. At a minimum, the following staff positions are required; however, one person may occupy more than one position.

B. Consulting Forensic Psychiatrist

1. Each facility shall have a qualified physician, currently licensed to practice medicine in Louisiana, who:

a. signs the order admitting the individual to the facility;

b. maintains overall responsibility for the client's medical management; and

c. is readily available for consultation and collaboration with the facility staff.

2. The forensic psychiatrist may act as consultant by employment on staff, by contract, or by arrangement with state agency.

C. Administrator/Director

1. Each facility shall have a qualified administrator/director who is an on-site employee and is responsible for the day-to-day management, supervision and operation of the facility.

2. During periods of temporary absence of the administrator/director, there shall be a responsible staff person designated to be in charge that has the knowledge and responsibility to handle any situation that may occur.

3. There shall be a responsible staff person designated to be in charge on the premises of the facility 24 hours per day.

4. The administrator/director shall be at least 21 years of age and have the responsibility and authority to carry out the policies of the facility.

5. The administrator/director shall meet one of the following criteria upon date of hire:

a. possess a bachelor's degree from an accredited institution plus one year of administrative experience in the fields of health care, behavioral health services, or forensics;

b. possess an associate's degree from an accredited institution plus two years of administrative experience in the fields of health care, behavioral health services, or forensics; or

c. in lieu of a degree, possess six years of administrative experience in health care, behavioral health services, or forensics.

6. Documentation of the administrator/director's qualifications shall be maintained on file at the facility.

D. Nursing Services

1. The facility shall provide a sufficient number of nursing service personnel consisting of registered nurses, licensed practical nurses and other staff to provide nursing care to all clients in accordance with the client's treatment plan.

2. Registered Nurse (RN). The facility shall employ or contract with at least one RN who is responsible for the overall delivery and supervision of nursing services.

a. The RN shall be currently licensed by, and in good standing with, the state nursing board of Louisiana. No individual who is unlicensed may be employed, either directly or by contract, by the facility as an RN.

b. The RN shall:

i. be on-site or available by telephone during the day time hours of the facility;

ii. develop policies and procedures related to the delivery of nursing services; and

iii. provide medication management through administration, supervision, education and training.

3. Licensed Practical Nurse (LPN). The facility shall employ or contract with LPNs to meet the nursing needs of the clients.

a. The LPN shall be currently licensed by, and in good standing with, the state nursing board of Louisiana. No individual who is unlicensed may be employed, either directly or by contract, by the facility as a LPN.

b. LPNs may administer medication and deliver nursing services as provided by Louisiana law or applicable regulations.

E. Direct Care Staff

1. The facility shall ensure that an adequate number of trained direct care staff, either contracted or directly employed, is available to meet the needs of the clients in accordance with the client's scheduled and unscheduled needs.

2. Direct care staff may include care assistants, activities personnel, or other staff who provide direct care services to clients on a regular basis.

3. Direct care staff shall have the following qualifications:

a. a minimum of a high school diploma, eighteen years of age and six months of experience working with adults with a serious and persistent behavioral health diagnosis; or

b. two years of experience working with adults with a serious and persistent behavioral health diagnosis.

4. The facility shall have at least two direct care staff on site when there is at least one client at the facility.

5. The facility shall demonstrate that sufficient staff is scheduled and available (working) to meet the 24-hour scheduled and unscheduled needs of the clients. At a minimum, there shall be one direct care staff person on duty for every 15 clients.

6. The facility shall not share direct care staff with another licensed facility. (Staff cannot fill two staff positions on the same shift at different licensed facilities.)

F. The facility shall maintain a current work schedule for all employees, either contracted or directly employed, including relief workers, ensuring adequate coverage for each day and night shift.

G. Facility professional staff shall be licensed and/or certified by the appropriate state licensing or certification board(s) of Louisiana. The license and/or certification shall be current, unrestricted and in good standing.

H. Designated Recreational/Activity Staff. There shall be an individual designated to organize and oversee the recreational and social programs of the facility.

I. A facility shall provide, as needed, consultation(s) with a licensed registered dietician, either directly employed or contracted.

J. Direct Care Staff Orientation and Training

1. Prior to providing services to clients, the FSTRA shall provide a 20-hour documented orientation including, but not limited to the following:

a. the policies and procedures of the facility, including program components;

b. emergency and evacuation procedures;

c. training in proper fire and emergency safety procedures including:

i. CPR;

ii. the Heimlich Maneuver;

iii. first aid;

iv. crisis management; and

v. risk reduction;

d. effective communication skills for forensic, behavioral health clients;

e. confidentiality and HIPAA requirements;

f. trainings and intervention programs as deemed appropriate and mutually agreed upon by Community Forensic Services and the state level forensic coordinator;

g. client's rights;

h. procedures and requirements regarding the reporting of abuse, neglect and critical incidents; and

i. transportation safety and responsibilities for staff that transport clients.

2. Orientation for direct care staff shall include an additional five days of supervised training. Training, at a minimum, shall include the following:

a. training in client care services (ADLs & IADLs) provided by the facility;

b. infection control to include blood borne pathogens;

c. crisis de-escalation and the management of aggressive behavior including acceptable and prohibited responses; and

d. any specialized training to meet clients' needs.

3. A new employee, either contracted or directly employed, shall not be given sole responsibility for the implementation of a client's program plan until this orientation and training is completed.

a. The new employee, either contracted or directly employed, shall sign a statement certifying that such training has occurred and this shall be maintained in the new employee's personnel file.

4. Orientation and five days of supervised training shall meet the first year's annual training requirements.

5. All direct care staff, either contracted or directly employed, shall receive certification in adult first aid and CPR within the first 30 days of employment.

a. Documentation of such certification shall be maintained in the personnel file of each direct care staff person.

K. Annual Training

1. A facility shall ensure that each direct care worker, contracted or directly employed, participates in and satisfactorily completes a minimum of 16 hours of training each year to ensure continuing competence.

NOTE: Orientation and normal supervision shall not be considered as meeting this requirement.

2. The facility shall document that direct care staff receives training on an annual basis in:

a. the facility's policies and procedures;

b. emergency and evacuation procedures;

c. client's rights;

d. the procedures and legal requirements concerning the reporting of abuse and critical incidents;

e. client care services (ADL'S & IADL'S);

f. infection control to include blood borne pathogens; and

g. any other areas that may require specialized training to meet clients' needs including but not limited to, driver safety in transporting clients.

3. All direct care staff, either contracted or directly employed, shall have documentation of current certification in adult first aid and CPR.

4. The administrator/director shall participate annually in at least 12 hours of continuing education in the field of behavioral health and specialized training in the population served and/or supervisory/management techniques.

5. Each employee shall sign a statement of understanding certifying that annual training has occurred.

L. A competency evaluation shall be developed and conducted to ensure that, at a minimum, each direct care staff person is able to demonstrate competencies in the training areas in §7257.I-J.Core Staffing Requirements.

1. Documentation of such competency evaluation of each direct care staff person shall be maintained and readily available in the agency's records.

M. An employee's annual performance evaluation shall include his/her interaction with clients, family, staff and other providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7259. Client Records

A. The facility shall maintain a separate record for each client. Such records shall be current and complete and shall be maintained in the facility or in a central administrative location readily available to facility staff and to the department.

B. All records shall be maintained in an accessible, standardized order and format, either electronically and/or in paper form, and shall be retained and disposed of in accordance with state laws.

C. The facility shall have sufficient space, equipment, and supplies for providing effective record keeping services.

D. The facility shall have a secured storage area that ensures the safeguarding of all electronic or paper client records and that prevents loss from, including but not limited to, fire or water.

E. Each record shall contain at least the following information:

1. the client's identifying and personal information including:

- a. the client's name;
- b. date of birth;
- c. sex;
- d. Social Security number;
- e. previous home address; and
- f. marital status, if applicable;

2. dates of admission and discharge;

3. names, addresses, and telephone numbers of responsible persons to be notified in case of accident, death or other emergency;

4. name, address, and telephone number of a physician and dentist to be called in an emergency;

5. ambulatory status;

6. the client's plan/authorization for routine and emergency medical care, as required;

7. the client's written authorization for a representative and their name, address and telephone number, if applicable;

8. the pre-admission assessment by a forensic psychiatrist and admission agreement;

9. findings of the assessment and any special problems or precautions identified;

10. the service plan, updates, and quarterly reviews;

11. continuing record of any illness, injury or medical or dental care when it impacts the client's ability to function or the services he/she needs;

12. a record of all personal property and funds which the client has entrusted to the facility;

13. reports of any client complaints or grievances and the conclusion or disposition of these reports;

14. incident reports; and

15. written acknowledgments that the client has received clear verbal explanations and:

- a. copies of his/her rights and the house rules;
- b. written procedures for safekeeping of valuable personal possessions of clients; and
- c. a written statement explaining the client's rights regarding personal funds and the right to examine his/her record.

F. All information and records obtained from or regarding clients shall be securely stored and kept confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7261. Abuse and Neglect

A. The facility shall have comprehensive written procedures concerning client abuse and neglect to include provisions for:

1. training and maintaining staff awareness of abuse prevention, current definitions of abuse and neglect, reporting requirements and applicable laws;

2. protecting clients from abuse inflicted by other clients, employees or third parties, including but not limited to, criminal prosecution of the offending person and his/her permanent removal from the facility;

3. ensuring that regulations stipulated in this rule for reporting any incidents involving abuse and neglect are followed;

4. ensuring that the administrator/director completes an investigation report within 10 working days; and

5. ensuring that the client is protected from potential harassment during such investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7263. Critical Incidents

A. A facility shall have written procedures for the reporting and documentation of unusual incidents and other situations or circumstances affecting the health, safety or well-being of a client(s) (i.e. death by unnatural causes, injuries, fights or physical confrontations, situations requiring the use of passive physical restraints, suspected incidents of abuse or neglect). Critical incidents shall be defined by facility policy, approved by the facility's governing body and reviewed at least annually.

1. Such procedures shall ensure timely verbal reporting to the director or designee and a preliminary written report within 24 hours of the incident.

2. Copies of all critical incident reports shall be kept as part of the client's record and a separate copy shall be kept in the administrative file of the facility.

B. Incident/Accident Report. When an incident occurs, a detailed report of the incident shall be documented. At a minimum, the incident report shall provide documentation of the following:

1. the circumstances under which the incident occurred;

2. the date and time the incident occurred;

3. the location where the incident occurred (bathroom, bedroom, street, lawn, etc.);

4. immediate treatment and follow-up care;

5. the names and addresses of witnesses;

6. the date and time the family or representative was notified;

7. any symptoms of pain and injury discussed with the physician; and

8. the signatures of the staff completing the report, client, and administrator/director.

C. When an incident results in the death of a client, involves abuse or neglect of a client, or entails any serious

threat to the client's health, safety or well-being, a facility shall:

1. immediately take appropriate corrective action to protect the client and to prevent further incidents;
2. report the incident verbally to the administrator within two hours of the time of the incident;
3. notify the appropriate law enforcement authority in accordance with state law, but no later than 24 hours after the time of the incident;
4. verbally notify the family or the client's representative as soon as possible but no later than two hours after the time of the incident, with written notification to follow within 24 hours;
5. notify the Department of Health, Health Standards Section, and other appropriate authorities in accordance with state law, with written notification to the above agencies to follow within 24 hours of the time of the incident;
6. provide follow-up written reports to all of the persons and agencies identified in this §7261.C; and
7. document its compliance with all of the above procedures for each incident and shall keep such documentation (including any written reports or notifications) in the client's file. A separate copy of all such documentation shall be kept in the facility's administrative file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7265. Personal Possessions

A. The facility may, at its discretion, offer to clients the service of safekeeping their valuable possessions. The facility shall have a written statement of its policy.

B. If the facility offers such a service, a copy of the written policy and procedures shall be given to a client at the time of his/her admission.

C. The facility shall give the client a receipt listing each item that it is holding in trust for the client. A copy of the receipt shall be placed in the client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7267. Client Funds

A. The facility's admission agreement shall include the client's rights regarding personal funds and list the services offered and charges, if any.

B. The facility shall offer safekeeping and management of a client's funds. If a client chooses to entrust funds with the facility, the facility shall obtain written authorization from the client and/or his/her representative for the safekeeping and management of the funds.

C. The facility shall:

1. provide each client with an account statement on a quarterly basis with a receipt listing the amount of money the facility is holding in trust for the client;
2. maintain a current balance sheet containing all financial transactions to include the signatures of staff and the client for each transaction;
3. provide a list or account statement regarding personal funds upon request of the client;
4. maintain a copy of each quarterly account statement in the client's record;

5. keep the funds received from the client in a separate interest-bearing account; and

6. not commingle the clients' funds with the facility's operating account.

D. The facility shall develop, implement, and follow written policies and procedures to protect client funds.

E. Unless otherwise provided by state law, upon the death of a client, the facility shall provide the executor or administrator of the client's estate or the client's representative, as agreed upon in the admission agreement, with a complete account statement of the client's funds and personal property of the client being held by the facility.

F. A client with a personal fund account managed by an FSTRA facility may sign an account agreement acknowledging that any funds deposited into the personal account by, or on the client's behalf, are jointly owned by the client and his legal representative or next of kin. The account agreement shall state that:

1. the funds in the account shall be jointly owned with the right of survivorship;
2. the funds in the account shall be used by, for or on behalf of the client;
3. the client or the joint owner may deposit funds into the account; and
4. the client or joint owner may endorse any check, draft or other monetary instrument to the order of any joint owner, for deposit into the account.

G. If a valid account agreement has been executed by the client, upon the client's death, the facility shall transfer the funds in the client's personal fund account to the joint owner within 30 days of the client's death.

H. If a valid account agreement has not been executed, upon the client's death, the facility shall comply with the federal and state laws and regulations regarding the disbursement of funds in the account and the properties of the deceased. The facility shall abide by the procedures of the Louisiana Department of the Treasury and the Louisiana Uniform Unclaimed Property Act for the handling of funds of a deceased client that remain unclaimed.

I. The provisions of this Section shall have no effect on federal or state tax obligations or liabilities of the deceased client's estate. If there are other laws or regulations which conflict with these provisions, those laws or regulations will govern over and supersede the conflicting provisions.

J. A termination date of the account and the reason for termination shall be recorded on the client's participation file. A notation shall read, "to close account." The endorsed cancelled check with check number noted on the ledger sheet shall serve as sufficient receipt and documentation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7269. Contraband

A. There shall be no contraband, illegal drugs, controlled dangerous substances or any medications that are not prescribed to a client, on the campus of the facility. Clients may be subjected to random periodic drug testing as a requirement for residency at the facility. A positive drug test shall be reported to the attending psychiatrist and the applicable court.

B. The facility shall have written policies defining contraband and procedures for staff to follow when contraband is discovered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter G. Safety and Emergency Preparedness

§7271. General Provisions

A. The facility shall have an emergency preparedness plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the clients and/or the community it serves. The emergency preparedness plan shall be made available, upon request or if mandated to do so, to local, parish, regional and/or state emergency planning organizations, the department and the Office of the State Fire Marshal.

B. At a minimum, the emergency preparedness plan shall include:

1. identification of potential hazards that could necessitate an evacuation, including internal and external disasters such as a natural disaster, acts of bioterrorism, weapons of mass destruction, labor work stoppage or industrial or nuclear accidents;
2. emergency procedures for evacuation of the facility;
3. procedures in the case of interruption of utility services in a way that affects the health and safety of clients;
4. identification of the facility and an alternate facility to which evacuated clients would be relocated;
5. the estimated number of clients and staff that would require relocation in the event of an evacuation;
6. the system or procedure to ensure that medical charts accompany clients in the event of a client evacuation and that supplies, equipment, records and medications would be transported as part of an evacuation; and
7. the roles and responsibilities of staff members in implementing the disaster plan.

C. The facility shall conduct and document fire drills once per quarter, one drill per shift every 120 days, at varying times of the day. Each employee, either contracted or directly employed, shall participate in at least one drill annually.

D. The facility shall immediately notify the Health Standards Section and other appropriate agencies of any fire, disaster or other emergency that may present a danger to clients or require their evacuation from the facility.

E. The facility shall have access to 24-hour telephone service, and shall either post telephone numbers of emergency services, including the fire department, police department, medical services, poison control and ambulance services or show evidence of an alternate means of immediate access to these services.

F. General Safety Practices

1. The facility shall not maintain any firearm or chemical weapon in the living units of the facility.
2. The facility shall ensure that all poisonous, toxic and flammable materials are safely stored in appropriate containers labeled as to the contents. Such materials shall be maintained only as necessary and shall be used in a manner that ensures the safety of clients, staff and visitors.

3. The facility shall ensure that an appropriately equipped first aid kit is available in the living units and in all vehicles used to transport clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter H. Physical Environment

§7275. General Provisions

A. Location

1. The area to be licensed as a FSTRA facility shall meet all of the licensing regulations established for FSTRA facilities.
2. A facility that is located within any other facility shall be secure and have its own identifiable staff, space and storage. The facility shall have a separate entrance, separate dining area and separate common areas.
3. A facility that accepts both male and female clients shall not assign male and female clients to reside within the same unit of the licensed facility.

B. General Appearance and Conditions

1. Heating, cooling and ventilation systems shall permit comfortable conditions.
2. Furniture that is clean, safe and operable, where applicable, shall be available to facilitate usage by the number of clients in the facility.
3. The facility shall have sufficient space and equipment to accommodate the full range of program activities and services.
4. The facility shall be flexible and adaptable for large and small groups and individual activities and services.
5. There shall be sufficient office space to permit staff to work effectively and without interruption.
6. There shall be adequate storage space for program and operating supplies.

C. Interior Space

1. Floors and steps shall have a non-slippery surface and kept dry when in use by the clients.
2. Doorways and passageways shall be kept clear to allow free and unhindered passage.
3. The facility shall provide an appropriate controlled-egress system on all required exit doors and doors leading to other areas of the facility unless prior approval of an alternative method for prevention of client elopement from the facility has been obtained from the authority (Office of the State Fire Marshal) having jurisdiction over such matters.
4. All staff shall have a key to locked exit doors.
5. All operable windows shall be equipped with a mechanism to limit exterior openings to prevent elopement.
6. Windows used for ventilation to the outside and exterior doors used for ventilation shall be screened and in good repair.
7. The facility shall be constructed, equipped, and maintained in operating condition and kept free of hazards.
8. The facility shall have sufficient storage space for administration records, locked areas for medications, cleaning supplies (janitorial), food service (supplies) and lawn maintenance (equipment).
9. There shall be evidence of routine maintenance and cleaning programs in all areas of the facility.

10. The facility shall have an effective pest control program. Pest control services may be provided by maintenance personnel of the facility or by contract with a pest control company. If pest control chemicals are stored in the facility, they shall be kept in a locked location.

11. The facility shall have an area for the safe and secure maintenance and storage of medical records and other facility files, records and manuals.

D. Bedrooms

1. Single rooms shall contain at least 100 square feet and multi-bed rooms shall contain at least 80 square feet per bed, exclusive of fixed cabinets, fixtures, and equipment. An existing state owned or operated hospital that converts a building, unit or wing to a facility shall contain a minimum of 65 square feet per bed in a multi-bed room.

2. Any client room shall not contain more than four beds.

a. Beds shall be of solid construction, appropriate to the size and age of the client and have a clean, comfortable, non-toxic fire-retardant mattress that fits the bed.

b. Cots or other portable beds are to be used in emergencies only.

3. Rooms shall have at least a 7 1/2 foot ceiling height over the required area.

a. In a room with varying ceiling heights, only portions of the room with a ceiling height of at least 7 1/2 feet are allowed in determining usable space.

4. There shall be at least three feet between beds.

5. There shall be sufficient and satisfactory separate storage space for clothing, toilet articles and other personal belongings of clients.

6. Doors to individual bedrooms shall not be equipped with locks or any other device that would prohibit the door from being opened from either side.

7. The facility shall not use any room that does not have a window as a bedroom space.

8. The facility shall provide sheets, pillows, bedspreads and blankets that are of good quality for each client. Linens that are torn or worn shall not be used.

9. Each client shall have his/her own dresser or other adequate storage space for private use and designated space for hanging clothing in proximity to the bedroom occupied by the client.

10. The facility shall not assign clients to a space that is not part of the licensed facility.

E. Bathrooms

1. The number of toilets and hand-washing facilities shall not be less than one designated, segregated male bathroom facility and one designated, segregated female bathroom facility per 13 clients.

a. Post promulgation of this rule, facilities seeking to change geographic location or new construction, and that have not received plan review approval, the number of toilets and hand-washing facilities shall be in accordance with current, applicable state laws, rules and regulations.

2. A bathroom facility shall have wash basins with hot and cold water, flush toilets, and bath or shower facilities with hot and cold water according to client care needs.

3. Bathrooms shall be so placed as to allow access without disturbing other clients during sleeping hours.

4. Each bathroom shall be properly equipped with toilet paper, towels, soap and other items required for

personal hygiene, unless clients are individually given such items.

a. Clients shall be provided individual items such as hair brushes and toothbrushes.

5. Tubs and showers shall have slip proof surfaces.

6. The facility shall have toilets and baths or showers that allow for individual privacy, unless the clients in care require assistance.

7. Toilets, wash basins and other plumbing or sanitary facilities in the facility shall, at all times, be maintained in operable condition and shall be kept free of any materials that might clog or otherwise impair their operation.

8. The facility shall have separate toilet facilities for staff.

F. Furnishings

1. The facility shall be sufficiently furnished to meet the needs of the clients. All furnishings and equipment shall be kept clean, safe and operable, where applicable.

2. Adequate furniture shall be available and shall be appropriate for use by the clients in terms of comfort and safety.

3. Furnishings shall include tables and chairs sufficient in number to serve all clients.

G. Kitchen

1. A facility that has a kitchen area shall meet all health and sanitation requirements and shall be of sufficient size to accommodate meal preparation for the proposed number of clients.

2. Kitchens used for meal preparations shall have the equipment necessary for the preparation, serving and storage and clean-up of all meals regularly served to all clients and staff. All equipment shall be maintained in proper working order.

3. The facility's refrigerator(s) shall be maintained at a temperature of 45 degrees Fahrenheit or below. Freezers shall be maintained at a temperature of 0 degrees Fahrenheit or below. Thermometers shall be provided for all refrigerators and freezers. The facility shall maintain logs of temperatures of the refrigerator and freezers. Abnormal temperatures shall be reported to management and arrangements made for repair/service. Documentation of such shall be maintained.

4. The facility shall ensure that all dishes, cups and glasses used by clients are free from chips, cracks or other defects and are in sufficient number to accommodate all clients.

5. If food is prepared in a central kitchen and delivered to the facility, provisions shall be made and approved by the Department of Health, Office of Public Health, Sanitarian Services for proper maintenance of food temperatures and a sanitary mode of transportation.

H. Medication Storage and Monitoring

1. The facility shall have policies and procedures for the storage, administration and disposal of both prescription and over-the-counter medications.

2. There shall be a designated secure area for the storage, preparation, and proper disposal of medications.

3. Medications that require refrigeration shall be stored in a separate secured refrigerator (not with food, beverages, etc.).

4. The facility shall have a process for monitoring the inventory and reconciliation of prescribed controlled

substances by authorized licensed staff. The process shall include the reporting of lost or missing medications by designated licensed staff in accordance with the Louisiana State Board of Pharmacy and applicable state law.

5. Medications may be administered from a secured medication dispensing central area of the facility.

I. Laundry

1. The facility shall provide for laundry services, either on-site or at an off-site location that is adequate to meet the needs of the clients.

2. For any provision of laundry service, available on-site or contracted, the facility shall ensure and maintain procedures to prevent cross contamination of soiled laundry with clean laundry.

3. If on-site, laundry facilities shall be located in a specifically designated area and there shall be adequate rooms and spaces for sorting, processing, and storage of soiled material.

4. Laundry rooms shall not open directly into client common areas or food service areas.

5. Domestic washers and dryers that are for the exclusive use of clients may be located in client areas, provided they are installed in such a manner that they do not pose a sanitation problem or safety risk.

J. Water Supply

1. An adequate supply of water, under pressure, shall be provided at all times.

2. Clean sanitary drinking water shall be available and accessible in adequate supply at all times. Disposable cups, if used, shall be stored in such a way as to prevent contamination.

3. When a public water system is available, a connection shall be made thereto. If water from a source other than a public water supply is used, the supply shall meet the requirements set forth under the rules and regulations of the Office of Public Health (OPH).

4. The facility shall have a plan and policy for an alternative water supply in the event of interruption of water supply and for the prolonged loss of water.

K. All sewage shall be disposed of by means of either:

1. a public system where one is accessible within 300 feet; or

2. an approved sewage disposal system that is constructed and operated in conformance with the standards established for such systems by OPH.

L. Facility Exterior

1. The FSTRA shall maintain all areas of the facility that are accessible to the clients in good repair and free from any reasonably foreseeable hazard to health or safety.

2. All structures on the grounds of the facility shall be maintained in operating condition.

3. Garbage and rubbish stored outside shall be secured in noncombustible, covered containers and shall be removed on a regular basis.

4. Fences shall be in good repair and constructed in such a way as to provide safety and security.

5. Areas determined unsafe, including steep grades, open pits, swimming pools, high voltage boosters or high speed roads shall be fenced or have natural barriers to protect clients.

6. Clients shall have access to safe, suitable outdoor recreational space.

7. The facility shall ensure that exterior areas are well lit at night.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter I. Secure Community Supervised Transitional/Residential Facility Module

§7279. General Provisions

A. Providers applying for the Secure Community Supervised Transitional/Residential (SCSTR) Facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure community supervised transitional/residential facility is a secure residential facility within the community that provides individualized services to develop daily living skills and to prepare for vocational adjustment and reentry into the community, to persons who are under a court-ordered forensic conditional release and who are referred by a state forensic hospital or a state forensic psychiatric unit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7281. Operational Requirements

A. Staff Requirements

1. When clients are present, the facility shall provide 24-hour, seven day per week supervision and the care and services sufficient to meet the needs of the clients. Staffing shall consist of at least three direct care staff persons during the day, one of which shall be a licensed nurse and at least two awake staff during the night.

a. Requirements for the level of supervision provided and the specified time frame for day hours shall be defined by facility policy and approved by the facility governing body with documented annual review.

2. The facility shall have a licensed nurse on call when there are no licensed nurses on duty at the facility.

B. Admissions. The facility shall:

1. only accept clients referred by LDH state forensic facilities or those who are under a court-ordered forensic conditional release;

2. admit only those clients who have the ability to self-administer medications and provide for their own personal care needs;

3. admit male and female clients to reside in separate segregated and designated units of the licensed facility;

4. not admit more clients into care than the number specified on the facility's license; and

5. provide contact information, including the telephone number and mailing address, for the appropriate state protection and advocacy organization.

Note: the facility shall request from the HSS an increase in licensed bed capacity prior to accepting more clients than specified on the facility's license.

C. Assistance with Medication Self-Administration

1. The facility shall have clear written policies and procedures on medication self-administration.

2. The facility shall assist clients in the self-administration of prescriptions and non-prescription

medication according to the client's service plan and as allowed by state laws and regulations. For assistance with self-administration, such clients shall have documented awareness of the medications to be taken.

3. Assistance with self-administration of medication shall be limited to the following:

- a. the client may be reminded to take his/her medication;
- b. the medication regimen, as indicated on the container, may be read to the client;
- c. the dosage may be checked according to the container label;
- d. staff may open the medicine container (i.e. bottle, mediset, blister pack, etc.) if the client lacks the ability to open the container; and
- e. the client may be physically assisted in pouring or otherwise taking medications, so long as the client is cognitive of what the medication is, what it is for, and the need for the medication.

4. An unlicensed employee that provides assistance with the self-administration of medications to a client shall have documented training on the policies and procedures for medication assistance including the limitations of this assistance. Documentation shall include the signature of the employee. This training shall be repeated at least annually.

a. A competency evaluation shall be developed and conducted to ensure that each direct care staff person that assists a client with the self-administration of medications is able to demonstrate competency in the training areas pursuant to §7281.C1-4.

b. Documentation of such competency evaluation of each direct care staff person shall be maintained and readily available in the agency's records.

NOTE: Such training does not permit the unlicensed employee to perform medication administration which is separate and apart from the performance of assistance of a client with the self-administration of medications.

5. Medications shall be stored in a secure central location and not stored in the client's own room.

6. The facility may require the clients to come to a designated medication area to take their medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter J. Secure Forensic Facility Module

§7285. General Provisions

A. Providers applying for the secure forensic (SF) facility module under the FSTRA facility license shall meet the core licensing requirement as well as the following module specific requirements.

B. A secure forensic facility is a secure residential facility located on the grounds of a state owned or operated hospital that provides individualized services, including personal care services and medication administration, to persons who are under a court order or court ordered forensic conditional release and who are referred by a state forensic hospital or state forensic psychiatric unit, in order to prepare such persons for transition to a less restrictive environment before transitioning to the community.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§7287. Operational Requirements

A. The facility shall provide 24-hour, seven day per week supervision and the care and services sufficient to meet the needs of the clients. Staffing shall consist of at least three direct care staff persons during the day and two awake staff during the night. There shall be at least two direct care staff persons in each building and/or unit at all times when clients are present.

1. The facility shall have a RN on duty during the day shift to oversee the nursing services of the facility.

a. Requirements for the level of RN supervision provided and the specified time frame for day shift shall be defined by facility policy, approved by the governing body, reviewed and documented annually.

2. The facility shall have at least one licensed nurse on duty for each shift.

3. The facility shall provide for, either directly or through contract, a licensed medical doctor on call.

B. Admission

1. The facility shall:

a. admit clients who are under a court order or court ordered forensic conditional release and who are referred by a LDH state forensic facility;

b. not admit more clients into care than the number specified on the facility's license; and

c. provide contact information, including the phone number and mailing address, for the appropriate state protection and advocacy organization.

C. Client Services

1. The facility shall provide or coordinate, to the extent needed or desired by clients, the following services:

a. assistance provided by direct care staff, either employed or contracted, with activities of daily living and all instrumental activities of daily living;

b. medication administration by the licensed nurse;

c. opportunities for individual and group socialization;

d. services for clients who have behavior problems requiring ongoing staff support, therapeutic intervention, and supervision to ensure no danger or infringement of the rights of other clients or individuals;

e. household services essential for the health and comfort of clients (e.g. floor cleaning, dusting, bed making, etc.);

g. basic personal laundry services; and

h. a planned program of recreational activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:31-28:37.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

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 and no direct or indirect cost to the provider to provide the same level of service. These provisions 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 Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Forensic Supervised Transitional Residential and Aftercare Facilities—Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated that \$12,272(SGF) will be expended in FY 16-17 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule repeals and replaces provisions governing forensic supervised transitional residential and aftercare (FSTRA) facilities licensing standards to include language related to the culture change movement in FSTRA facilities which includes clarifying core licensing requirements,

direct care training requirements, CPR training and client records requirements, and to update language to be consistent with licensing and enforcement processes. This proposed rule will also ensure the licensing standards are more concise in providing regulatory information to providers and the public. It is anticipated that the implementation of this proposed rule may have minimal fiscal impact to FSTRA facilities FY 16-17, FY 17-18 and FY 18-19

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Health Standards Section Director
1610#061

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Healthcare Services Provider Fees
Nursing Facility Services Providers
(LAC 48:I.4001)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.4001 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2625. 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 provider fees in order to place provider fees for pharmacy services in the appropriate section in the *Louisiana Administrative Code (Louisiana Register, Volume 33, Number 1)*.

Act 675 of the 2016 Regular Session of the Louisiana Legislature directed the Department of Health to increase provider fees for nursing facilities. In compliance with Act 675, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing provider fees in order to increase the limit of the provider fee for nursing facilities (*Louisiana Register, Volume 42, Number 9*). This proposed Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 1. General

Chapter 40. Provider Fees

§4001. Specific Fees

A. - B.1. ...

2. The provider fee imposed for nursing facility services shall not exceed 6 percent of the average revenues received by providers of that class of services and shall not exceed \$12.08 per occupied bed per day. The fee amount shall be calculated annually in conjunction with updating provider reimbursement rates under the Medical Assistance Program. Notice to providers subject to fees shall be given in conjunction with the annual rate setting notification by the Bureau of Health Services Financing.

C. - D. ...
E. - F. Reserved.

AUTHORITY NOTE: Promulgated in accordance with Chapter 45 of Title 46 as enacted in 1992, 46:2601-2605, redesignated as Chapter 47 of Title 46, containing R.S. 46:2621 to 46:2625 and P.L. 102-234.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Management and Finance, LR 19:347 (March 1993), amended LR 20:51 (January 1994), LR 26:1478 (July 2000), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:100 (January 2007), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider to provide the same level of service due to provider fees imposed on nursing facilities. This proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the provider fees adversely impacts the provider's financial standing.

Public Comments

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

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Healthcare Services Provider Fees Nursing Facility Services Providers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in a programmatic cost to the state associated with the use of provider fee revenue collections. The associated cost is reflected in the Nursing Facilities – Reimbursement Methodology – Pass Through Fee Increase Rule published in the October 20, 2016 edition of the Louisiana Register. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 16-17 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 increase statutory dedicated revenue collections by approximately \$9,856,892 for FY 16-17, \$19,832,067 for FY 17-18 and \$19,951,060 for FY 18-19. In addition, it is anticipated that federal revenue collections will increase by approximately \$16,261,215 in FY 16-17, \$32,717,130 in FY 17-18 and \$32,913,434 in FY 18-19. It is anticipated that \$216 will be expended in FY 16-17 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 continues the provisions of the September 1, 2016 Emergency Rule which amended the provisions governing provider fees in order to increase the limit of the provider fee for nursing facilities. Nursing facility expenditures associated with the nursing facility provider fee assessment will be reflected in the Nursing Facilities – Reimbursement Methodology – Pass Through Fee Increase Rule published in the October 20, 2016 edition of the Louisiana Register.

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.

Jen Steele
Medicaid Director
1610#062

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community-Based Services Waivers
Adult Day Health Care Waiver
Electronic Visit Verification
(LAC 50:XXI.2705)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to adopt LAC 50:XXI.2705 in the Medical

Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, through collaborative efforts, provide enhanced long-term services and supports to individuals with physical, mental or functional impairments through the Adult Day Health Care (ADHC) Waiver program.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services promulgated an Emergency Rule which amended the provisions governing the ADHC Waiver in order to adopt requirements which mandate that providers of personal assistant services must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking and billing for certain home and community-based services (*Louisiana Register*, Volume 41, Number 10). This proposed Rule is being promulgated to continue the provisions of the November 1, 2015 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services Waivers

Subpart 3. Adult Day Health Care

Chapter 27. Provider Responsibilities

§2705. Electronic Visit Verification

A. Effective for dates of service on or after November 1, 2015, Adult Day Health Care Waiver providers shall use the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking and billing for certain home and community-based services.

B. Reimbursement shall only be made to providers with documented use of the EVV system. The services that require use of the EVV system will be published in the ADHC Waiver provider manual.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 43:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability and autonomy as described in R.S. 49:972 by assuring that ADHC waiver participants receive the services they are in need of in an efficient and cost-effective manner.

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 by allowing working family members to maintain stable employment due to the improved delivery of ADHC waiver services which may reduce the financial burden on families.

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 Comment

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers—Adult Day Health Care Waiver—Electronic Visit Verification

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in estimated net state general fund programmatic savings of approximately \$97,996 for FY 16-17 and \$100,649 for FY 17-18 and \$103,668 for FY 18-19. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed Rule and the final Rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$161,804 for FY 16-17 and \$167,390 for FY 17-18 and \$172,412 for FY 18-19. It is anticipated that \$216 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the November 1, 2015 Emergency Rule which amended the provisions governing the Adult Day Health Care Waiver in order to adopt requirements which mandate that providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for certain home and community-based services. It is anticipated that implementation of this proposed rule will reduce expenditures in the Medicaid Program by approximately \$260,232 for FY 16-17 and \$268,039 for FY 17-18 and \$276,080 for FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1610#063

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Hospital Licensing Standards
(LAC 48:I.9319, 9381 and 9405)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.9319, §9381 and §9405 as authorized by R.S. 40:2100-2115. This proposed Rule is promulgated in accordance with 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 amended the provisions governing hospital licensing standards in order to address changes that had occurred within the hospital industry (*Louisiana Register*, Volume 29, Number 11).

Act 351 of the 2016 Regular Session of the Louisiana Legislature established the *Louisiana Family Caregiver Act* which requires that hospitals provide each patient or legal guardian with an opportunity to designate a caregiver following inpatient admission into a hospital and upon discharge planning, provides for notice and hospital instructions to the designated caregiver and patient record documentation. Act 415 of the 2016 Regular Session of the Louisiana Legislature authorizes a licensed dietitian or nutritionist employed by a healthcare facility licensed by the Department of Health to directly order the dietary plan and appropriate laboratory tests to monitor the effectiveness of the dietary plan. The department now proposes to amend the provisions governing hospital licensing standards in order to comply with Acts 351 and 415.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 93. Hospitals

Subchapter B. Hospital Organization and Services

§9319. Patient Rights and Privacy

A. - A.21. ...

22. except in emergencies, the patient may be transferred to another facility only with a full explanation of the reason for transfer, provisions for continuing care and acceptance by the receiving institution; and

23. the right for each inpatient or, if applicable, the patient's legal guardian, to have one opportunity to designate an uncompensated caregiver following the patient's inpatient admission into a hospital and prior to the patient's discharge, for provision of the patient's post hospital aftercare at the patient's residence.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:177 (February 1995), LR 29:2405 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

**Subchapter G. Food and Dietetic Services
§9381. Menus and Therapeutic Diets**

A. ...

B. Therapeutic diets shall be prescribed by the licensed practitioner(s) responsible for the care of the patient. Therapeutic diets, and laboratory tests to monitor the effectiveness of the dietary plan, may be prescribed by a licensed dietitian/nutritionist subject to the approval of, and authorization by, the facility's medical staff or bylaws and in accordance with state law. Each patient's nutritional intake shall be documented in the patient's medical record. Nutritional intake includes both enteral and parenteral nutrition.

C. There shall be a procedure for the accurate transmittal of dietary orders to the dietary service and for informing the dietary service when the patient does not receive the ordered diet, or is unable to consume the prescribed diet.

D. There shall be a current therapeutic diet manual, which shall be the guide used for ordering and serving diets and other nutritional intake. The manual shall be approved by the dietitian and medical staff and be readily available to all medical, nursing and food service personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2414 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 94. Hospitals

Subchapter I. Quality Assessment and Improvement

§9405. Patient Care Services

A. - B. ...

1. If a patient has designated an uncompensated caregiver for aftercare, a hospital shall make a good faith attempt to notify the patient's designated caregiver of the patient's discharge to the patient's residence as soon as possible prior to the patient's discharge. If the hospital is unable to contact the designated caregiver, the lack of contact may not interfere with, delay or otherwise affect the medical care provided to the patient, or an appropriate discharge of the patient.

a. For purposes of §9405.B.1-3, a residence does not include any rehabilitation facility, hospital, nursing home, assisted living facility or group home.

2. As soon as practicable prior to the patient's discharge, the hospital shall make a reasonable effort to consult with the designated caregiver along with the patient, taking into account the capabilities and limitations of the caregiver, to accomplish the aftercare tasks that may be included in a discharge care plan that describes the patient's aftercare needs at his residence.

3. The hospital shall educate and instruct the caregiver concerning the aftercare needs of the patient in a manner that is consistent with the discharge plan and is based on the learning needs of the caregiver. In addition, the hospital shall also provide an opportunity for the caregiver and patient to ask questions and receive explanations about the aftercare tasks.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2100-2115.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing LR 21:177 (February 1995), amended LR 29:2417 (November 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by increasing their healthcare options with a designated caregiver.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider to provide the same level of service. This proposed Rule will not impact the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written

comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Hospital Licensing Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated that \$756(SGF) will be expended in FY 16-17 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule, in compliance with Acts 351 and 415 of the 2016 Regular Session of the Louisiana Legislature, amends the provisions of the licensing standards for hospitals to establish provisions for a designated caregiver and amends provisions concerning dietary plans. It is anticipated that the implementation of this proposed rule may increase costs to hospitals in FY 16-17, FY 17-18 and FY 18-19 by an indeterminable amount as a result of dietary testing requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Health Standards Section Director
1610#064

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
Pass Through Rate Increase
(LAC 50:II.20005)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.20005 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 nursing facilities in order to reduce the per diem rates paid to non-

state nursing facilities (*Louisiana Register*, Volume 41, Number 5).

Act 675 of the 2016 Regular Session of the Louisiana Legislature directed the Department of Health to increase provider fees for nursing facilities. In compliance with Act 675, the department published Emergency Rules which amended the provisions governing provider fees in order to increase the provider fee for nursing facilities, and amended the provisions governing the reimbursement methodology for nursing facilities to include the provider fee increase in the nursing facility pass through rate (*Louisiana Register*, Volume 42, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology

§20005. Rate Determination

[Formerly LAC 50:VII.1305]

A. - D.4.b. ...

c. Effective September 1, 2016, the pass through rate shall be increased as a result of the provider fee increase on nursing facility days from \$10.00 per day up to \$12.08 per day per occupied bed.

D.5. - Q. ...

AUTHORITY NOTE: Promulgated in 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 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010), repromulgated LR 36:520 (March 2010), amended LR 36:1556 (July 2010), LR 36:1782 (August 2010), LR 36:2566 (November 2010), LR 37:902 (March 2011), LR 37:1174 (April 2011), LR 37:2631 (September 2011), LR 38:1241 (May 2012), LR 39:1286 (May 2013), LR 39:3097, 3097 (November 2013), LR 41:707 (April 2015), LR 41:949 (May 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service and enhance the provider's ability to provide the same level of service since this proposed Rule increases the payment to providers for the same services they already render.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Comments

A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Nursing Facilities Reimbursement Methodology Pass Through Rate Increase

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state programmatic cost of \$9,857,108 for FY 16-17, \$19,832,067 for FY 17-18 and \$19,951,060 FY 18-19. It is anticipated that \$432 (\$216 SGF and \$216 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase statutory dedicated revenue collections by approximately \$9,856,892 for FY 16-17, \$19,832,067 for FY 17-18 and \$19,951,060 for FY 18-19. In addition, it is anticipated that federal revenue collections will increase by approximately \$16,261,215 for FY 16-17, \$32,717,130 for FY 17-18 and \$32,913,434 for FY 18-19. It is anticipated that \$216 will be expended in FY 16-17 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the September 1, 2016 Emergency Rule which amends the provisions governing nursing facilities reimbursement to include the provider fee increase in the nursing facility pass through rate in compliance with Act 675. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for nursing facility services by approximately \$26,117,891 for FY 16-17, \$52,549,197 for FY 17-18 and \$52,864,494 for FY 18-19.

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.

Jen Steele
Medicaid Director
1610#065

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Pediatric Day Health Care Facilities
Licensing Standards
(LAC 48:I.5239)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.5239 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2193–40:2193.4. 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 licensing standards for pediatric day health care facilities in order to: 1) revise the provisions governing provider participation, development and educational services and transportation requirements; 2) adopt provisions for the inclusion of PDHC facilities in the Facility Need Review (FNR) Program; and 3) revise the additional grandfather provisions for the FNR process for the Pediatric Day Health Care Program (*Louisiana Register*, Volume 41, Number 1).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the licensing standards governing PDHC facilities in order to clarify the provider participation requirements regarding plans of care (*Louisiana Register*, Volume 42, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 52. Pediatric Day Health Care Facilities

Subchapter D. Participation Requirements

§5239. Plan of Care

A. - D.4. ...

E. The medical director shall review the plans of care in consultation with PDHC staff and the prescribing physician every 90 days or more frequently as the child’s condition dictates. Prescribed services and therapies included in the

plan of care shall be adjusted in consultation with the prescribing physician to accommodate the child’s condition.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2193–40:2193.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2769 (December 2009), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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 Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Pediatric Day Health Care Facilities
Licensing Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 16-17. It is anticipated

that \$432(SGF) will be expended in FY 16-17 for the state's administrative expense for the promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the September 1, 2016 Emergency Rule which amended the licensing standards for pediatric day health care (PDHC) facilities to clarify the provider participation requirements regarding the frequency of reviews for plans of care. It is anticipated that the implementation of this proposed rule will have no economic costs, but will be beneficial to PDHC facilities in FY 16-17, FY 17-18 and FY 18-19 by easing the administrative burden on facilities as a result of the changes in the frequency of reviews from (60 to 90 days).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Health Standards Section Director
1610#066

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Pediatric Day Health Care Program
(LAC 50:XV.27501, 27503, 27901 and 28101)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.27501, §27503, §§27901 and 28101 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 pediatric day health care (PDHC) services in order to revise the recipient criteria to better align the program's operational procedures with the approved Medicaid State Plan provisions governing these services (*Louisiana Register*, Volume 41, Number 1).

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing PDHC services in order to clarify these provisions and revise the recipient criteria and reimbursement methodology (*Louisiana Register*, Volume 42, Number 9). This proposed Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 19. Pediatric Day Health Care Program

Chapter 275. General Provisions

§27501. Program Description and Purpose

A. Pediatric Day Health Care (PDHC) Services

1. An array of services that are designed to meet the medical, social and developmental needs of children up to the age of 21 who have a complex medical condition which requires skilled nursing care and therapeutic interventions on an ongoing basis in order to:

- a. preserve and maintain health status;
- b. prevent death;
- c. treat/cure disease;
- d. ameliorate disabilities or other adverse health conditions; and/or
- e. prolong life.

2. PDHC services offer a community-based alternative to traditional long term care services or extended nursing services for children with medically complex conditions.

B. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1557 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§27503. Recipient Criteria

A. In order to qualify for PDHC services, a Medicaid recipient must meet the following criteria. The recipient must:

1. ...
2. have a medically complex condition which involves one or more physiological or organ systems and requires skilled nursing and therapeutic interventions performed by a knowledgeable and experienced licensed professional registered nurse (RN) or licensed practical nurse (LPN) on an ongoing basis in order to:
 - a. preserve and maintain health status;
 - b. prevent death;
 - c. treat/cure disease;
 - d. ameliorate disabilities or other adverse health conditions; and/or
 - e. prolong life;
3. have a signed physician's order and plan of care, not to exceed 90 days, for pediatric day health care by the recipient's physician specifying the frequency and duration of services; and

A.3.a. - A.3.e. Repealed.

4. be stable for outpatient medical services in a home or community-based setting.

A.4.a. - A.6. Repealed.

B. ...

C. Re-evaluation of PDHC services must be performed, at a minimum, every 90 days. This evaluation must include a review of the recipient's current medical plan of care and

provider agency documented current assessment and progress toward goals.

D. A face-to-face evaluation shall be held every 90 days by the child's prescribing physician. Services shall be revised during evaluation periods to reflect accurate and appropriate provision of services for current medical status.

E. - F. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1557 (July 2010), amended LR 41:137 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 279. Provider Participation

§27901. General Provisions

A. ...

B. A parent, legal guardian or legally responsible person providing care to a medically complex child in a home or any other extended care or long-term care facility, is not considered to be a PDHC facility and shall not be enrolled in the Medicaid Program as a PDHC services provider.

C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 281. Reimbursement Methodology

§28101. General Provisions

A. ...

1. A full day of service is more than six hours, not to exceed a maximum of 12 hours per day.

2. A partial day of service is six hours or less per day.

B. - C. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1558 (July 2010), amended LR 39:1286 (May 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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 negative impact on family functioning, stability and autonomy as described in R.S. 49:972 as it may reduce access to PDHC services if provider participation declines as a result of the changes to the reimbursement methodology.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule may have a negative impact on child, individual, or family poverty in relation to individual or

community asset development as described in R.S. 49:973 as families may incur increased travel costs to access PDHC services due to a potential reduction in provider participation as a result of the changes to the reimbursement methodology.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may increase direct or indirect cost to the provider to provide the same level of service due to changes in the reimbursements for the service. The proposed Rule may also have a negative impact on the provider's ability to provide the same level of service as described in HCR 170 if the change in reimbursements adversely impacts the provider's financial standing.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030 or by email to MedicaidPolicy@la.gov. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Tuesday, November 29, 2016 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pediatric Day Health Care Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic savings of \$215,783 for FY 16-17, \$295,367 for FY 17-18 and \$304,228 for FY 18-19. It is anticipated that \$756 (\$378 SGF and \$378 FED) will be expended in FY 16-17 for the state's administrative expense for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will reduce federal revenue collections by approximately \$356,225 for FY 16-17, \$491,230 for FY 17-18 and \$505,966 for FY 18-19. It is anticipated that \$378 will be expended in FY 16-17 for the federal administrative expenses for promulgation of this proposed rule and the final rule. The numbers reflected above are based on a blended Federal Medical Assistance Percentage (FMAP) rate of 62.26 percent in FY 16-17 and 62.45 percent in FY 17-18.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule continues the provisions of the September 1, 2016 emergency rule which amended the provisions governing Pediatric Day Health Care (PDHC) services in order to clarify these provisions and revise the recipient criteria and reimbursement methodology. It is anticipated that implementation of this proposed rule will reduce programmatic expenditures for PDHC services by approximately \$572,764 for FY 16-17, \$786,597 for FY 17-18 and \$810,194 for FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this proposed rule will not have an effect on competition. However, the change in the reimbursement methodology may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Jen Steele
Medicaid Director
1610#067

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Office of Public Health**

Ground Water and Revised Total Coliform Regulations
(LAC 51:XII.101, 311, 319, 325, 343, 901,
903, 905, 907, 911, 912, 913 and 1201)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), intends to amend Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51). The amendments to Part XII are necessary in order that LDH-OPH can maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f, et seq.) primary implementing regulations (40 CFR Part 141).

The proposed rule herein is intended to amend and update LDH-OPH's existing rule for public water systems. The Safe Drinking Water Act Amendments of 1996 (Public Law 104-182/ August 6, 1996) required the USEPA to issue updated rules relative to the regulation of disinfection of ground water supplies. Subsequently, the USEPA amended the National Primary Drinking Water Regulations (40 CFR Part 141) on November 8, 2006 (71 FR 65650 - 65659) by promulgating a rule entitled "National Primary Drinking Water Regulations: Ground Water Rule; Final Rule", as well as USEPA technical corrections to this federal rule published in the Federal Register dated November 21, 2006 (Volume 71, Number 224, page 67427). The November 8, 2006 federal ground water regulation became effective for Louisiana public water systems at the federal level on December 1, 2009. Furthermore, in accordance with the 1996 Safe Drinking Water Act (SDWA) Amendments, which

require the USEPA to review and revise each national primary drinking water regulation no less often than every six years, the USEPA amended the National Primary Drinking Water Regulations (40 CFR Part 141) on February 13, 2013 (78 FR 10346-10363) by promulgating a rule entitled "National Primary Drinking Water Regulations: Revisions to the Total Coliform Rule; Final Rule", as well as certain USEPA minor corrections to this federal rule published in the Federal Register dated February 26, 2014 (79 FR 10668-10670). The February 13, 2013 federal revised total coliform regulations became fully effective for Louisiana public water systems at the federal level on April 1, 2016. It is the intent of this rulemaking to amend the current state regulations by adopting these newly amended federal regulations by reference into Part XII.

For the reasons set forth above, Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51:XII) is proposed to be amended as follows.

**Title 51
PUBLIC HEALTH—SANITARY CODE
Part XII. Water Supplies**

Chapter 1. General

§101. Definitions

[formerly paragraph 12:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part of the Sanitary Code, and all other Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

* * *

Level 1 Assessment—an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate; existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any State directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

* * *

Level 2 Assessment—an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 2 assessment provides a more detailed examination of the system (including the system's monitoring and operational practices) than does a Level 1 assessment through the use of more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage);

source and treatment considerations that bear on distributed water quality, where appropriate; existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must comply with any expedited actions or additional actions required by the State in the case of an *E. coli* MCL violation.

* * *

National Primary Drinking Water Regulations—

a. drinking water regulations promulgated by the U.S. Environmental Protection Agency pursuant to applicable provisions of title XIV of the Public Health Service Act, commonly known as the "Safe Drinking Water Act," 42 U.S.C.A. §300f et seq., and as published in the July 1, 2015 edition of the *Code of Federal Regulations*, Title 40, Part 141 (40 CFR 141), less and except:

i. 40 CFR §141.35 Reporting for unregulated contaminant monitoring results;

ii. 40 CFR §141.40 Monitoring requirements for unregulated contaminants;

iii. Subpart H—Filtration and Disinfection (40 CFR §§141.70-141.76);

iv. Subpart P—Enhanced Filtration and Disinfection—Systems Serving 10,000 or More People (40 CFR §§141.170-141.175);

v. Subpart T—Enhanced Filtration and Disinfection—Systems Serving Fewer Than 10,000 People (40 CFR §§141.500—571); and

vi. Subpart X—Aircraft Drinking Water Rule (40 CFR §§141.800—810).

b. when "Subpart H", "Subpart P", or "Subpart T" is used within the actual text of the drinking water regulations cited in Subparagraph "a." of this Paragraph (definition), "LAC 51:XII.Chapter 11" shall be substituted therein.

* * *

Sanitary Survey—an onsite review of the water source, facilities, equipment, operation, maintenance, and monitoring compliance of a public water system to evaluate the adequacy of the system, its sources and operations and the distribution of safe drinking water.

* * *

Significant Deficiency—a defect in design, operation, or maintenance, or a failure or malfunction of the sources, treatment, storage, or distribution system that the state health officer determines to be causing, or has the potential for causing the introduction of contamination into the water delivered to consumers.

* * *

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. 36:254 (B)(7), R.S. 40:4 (A)(8), R.S. 40:5.A. (2)(3)(5)(6)(17)(20), and R.S. 40:1148.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1318 (June 2002), amended LR 28:2513 (December 2002), LR 30:1194 (June 2004), LR 30:2326 (October 2004), LR 35:484 (March 2009), LR 35:1240 (July 2009), LR 38:2375 (September 2012), LR 38:2793 (November 2012), LR 38:3232 (December 2012), amended by the Department of Health, Office of Public Health, LR 43:

Chapter 3. Water Quality Standards

§311. Records

[formerly paragraph 12:003-2]

A. Complete daily records of the operation of a public water system, including reports of laboratory control tests and any chemical test results required for compliance determination, shall be kept and retained as prescribed in the national primary drinking water regulations on forms approved by the state health officer. When specifically requested by the state health officer or required by other requirements of this Part, copies of these records shall be provided to the office designated by the state health officer within 10 days following the end of each calendar month. Additionally, all such records shall be signed by a certified operator in charge of the public water system and made available for review during inspections/sanitary surveys performed by the state health officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1321 (June 2002), amended LR 30:1195 (June 2004), LR 42:408 (March 2016), amended by the Department of Health, Office of Public Health, LR 43:

§319. Significant Deficiencies Identified in Sanitary Surveys

A. The state health officer shall conduct a sanitary survey for all public water systems no less frequently than once every three years for community systems and no less frequently than once every five years for non-community systems.

1. The sanitary survey shall address the following eight specific elements:

- a. source;
- b. treatment;
- c. distribution system;
- d. finished water storage;
- e. pumps, pump facilities, and controls;
- f. monitoring, reporting, and data verification;
- g. system management and operation; and
- h. operator compliance with state requirements.

B. Public water systems shall respond in writing to confirm the correction of significant deficiencies identified in a sanitary survey report no later than 90 days after receipt of the report by the public water system. The public water system's written response shall specify the completed corrective action taken for each significant deficiency or specify a corrective action plan and schedule to address each significant deficiency noted in the sanitary survey report.

C. Upon receipt of the public water system's written response to significant deficiencies identified in a sanitary survey report, the state health officer shall review and approve the public water system's written schedule or shall notify the public water system in writing if the corrective action schedule is unacceptable and will make recommendations to amend the schedule so that the plan can be approved.

D. For all public water systems, the following have been determined by the state health officer to be significant

deficiencies and shall be corrected in accordance with §319.B of this Part:

1. §105.A 105.B or 105.C of this Part;
2. §309.A of this Part;
3. There shall be no pathway for contamination into the well casing or discharge piping. The well site grading, the well slab and all well appurtenances including casing, sanitary seal, vent, and drawdown tube shall be maintained to prevent the introduction of contamination into the well casing and discharge piping;
4. Every potable water well, and the immediate appurtenances thereto that comprise the well, shall be located at a safe distance from all possible sources of contamination. The state health officer has deemed that due to the horizontal distance to a possible source of pollution that is currently causing, or may reasonably be expected to cause contamination to be introduced into the water being delivered to consumers, action is necessary to eliminate or mitigate this potential source of contamination;
5. §315.A of this Part;
6. §325.A of this Part;
7. §327.A.15 of this Part;
8. §329.A.6 of this Part;
9. §331.A of this Part;
10. §335.E of this Part;
11. §337.C of this Part;
12. §343.A of this Part;
13. §344.A of this Part;
14. General equipment design shall be such that feeders will be able to supply, at all times, the necessary amounts of chemicals at an accurate rate throughout the range of feed;
15. For fluoride only, day tanks shall be provided where bulk storage of liquid chemical is provided, meet all the requirements of section 5.1.10 of the Ten State Standards, hold no more than a 30 hour supply, and be scale mounted or have a calibrated gauge painted or mounted on the side if liquid levels can be observed in a gauge tube or through translucent sidewalls of the tank. In opaque tanks, a gauge rod extending above a reference point at the top of the tank, attached to a float can be used. The ratio of the area of the tank to its height shall be such that unit readings are meaningful in relation to the total amount of chemical fed during a day;
16. No drain on a water storage structure shall have a direct connection to a sewer or storm drain. The design shall allow draining the storage facility for cleaning or maintenance without causing loss of pressure in the distribution system;
17. System shall have a monitoring plan that includes a list of all routine compliance samples required on a daily, weekly, monthly, quarterly, and annual basis and identify the sampling location where samples are to be collected. The public water system shall revise and re-submit its monitoring plan if changes to a plant or distribution system require changes to the sampling locations or if any significant changes to the disinfection methods are made. In addition, the public water system shall update and re-submit its monitoring plan when the system's sampling requirements or protocols change;
18. §1503.A.1 of this Part;
19. §1503.C of this Part;

20. Storage tanks and pipelines for liquid chemicals shall be specified for use with individual chemicals and shall not be used for different chemicals. Offloading areas shall be clearly labeled to prevent accidental cross-contamination;

21. Critical water system component is in poor condition or defective and indicative of failure or imminent failure. Component failure is expected to critically impact the quality or quantity of produced water;

22. All potable water systems shall be designed, constructed, and maintained so as to prevent leakage of water due to defective materials, improper jointing, corrosion, settling, impacts, freezing, or other causes. Valves and blow-offs shall be provided so that necessary repairs can be made with a minimum interruption of service; and

23. Other condition which is deemed by the state health officer to be a significant deficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:

§325. Treatment Chemicals and Components

[formerly paragraph 12:007]

A. Chemicals used in the treatment of water to be used for potable purposes shall either meet the standards of the American Water Works Association or meet NSF 60 requirements as verified by an ANSI accredited testing agency. System wetted components shall meet NSF 61 as verified by an ANSI accredited testing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(8) and R.S. 40:5.A. (5)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1322 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

§343. Cross Connections

[formerly paragraph 12:016-1]

A. There shall be no physical connection between a public water supply and any other water supply which is not of equal sanitary quality and under an equal degree of official supervision; and there shall be no connection or arrangement by which unsafe water, hazardous fluid or contamination may enter a public water supply system.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4 (A)(7)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1325 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

Chapter 9. Louisiana Total Coliform Rule

[formerly Appendix C]

§901. Federal Regulations Adopted by Reference

[formerly the preamble paragraph opening Appendix C]

A. The State of Louisiana, Louisiana Department of Health (LDH)-Office of Public Health (OPH) adopts the United States Environmental Protection Agency (USEPA) federal Total Coliform Regulations as published in the *Federal Register*, Volume 54, Number 124 Thursday, June 29, 1989. Pursuant to the definition of *national primary drinking water regulations* and the provisions of §377 of this Part, LDH-OPH adopts by reference the USEPA federal

Revisions to the Total Coliform Rule (RTCR) as published in the *Federal Register* dated February 13, 2013 (Volume 78, Number 30, pages 10346-10363). In addition, under §377 of this Part, LDH-OPH also adopts by reference certain USEPA minor corrections to the federal RTCR as published in the *Federal Register* dated February 26, 2014 (Volume 79, Number 38, pages 10668-10670). In order to clarify the state's discretionary decisions allowed by the federal requirements, the following is offered.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1333 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

§903. Coliform Routine Compliance Monitoring [formerly Coliform Routine Compliance Monitoring of Appendix C]

A. Public water systems shall collect routine compliance samples for total coliforms at sites which are representative

of water throughout the distribution system in accordance with a monitoring plan approved by the state health officer. Each public water system shall submit a monitoring plan in a format approved by the state health officer. The monitoring plan shall include a minimum number of point of collection (POC) monitoring sites calculated by multiplying 1.5 times the minimum number of samples required to be routinely collected in accordance with Subsection C of this Section, rounding any mixed (fractional) number product up to the next whole number. The monitoring plan shall include the POC monitoring sites for repeat samples required in §905. The monitoring plan shall include a map of the system with each POC sampling site identified along with a 911 street address, a latitude/longitude coordinate, and a brief description of the site location.

B. ...
C. Community systems and non-community systems shall be routinely monitored in accordance with Table 1.

Population Served	Minimum Number of Routine Samples per Month	Population Served	Minimum Number of Routine Samples per Month
25 to 1,000	1	59,001 to 70,000	70
1,001 to 2,500	2	70,001 to 83,000	80
2,501 to 3,300	3	83,001 to 96,000	90
3,301 to 4,100	4	96,001 to 130,000	100
4,101 to 4,900	5	130,001 to 220,000	120
4,901 to 5,800	6	220,001 to 320,000	150
5,801 to 6,700	7	320,001 to 450,000	180
6,701 to 7,600	8	450,001 to 600,000	210
7,601 to 8,500	9	600,001 to 780,000	240
8,501 to 12,900	10	780,001 to 970,000	270
12,901 to 17,200	15	970,001 to 1,230,000	300
17,201 to 21,500	20	1,230,001 to 1,520,000	330
21,501 to 25,000	25	1,520,001 to 1,850,000	360
25,001 to 33,000	30	1,850,001 to 2,270,000	390
33,001 to 41,000	40	2,270,001 to 3,020,000	420
41,001 to 50,000	50	3,020,001 to 3,960,000	450
50,001 to 59,000	60	3,960,001 or more	480

D. Unless the state health officer specifies otherwise, the public water supply shall collect routine samples at regular time intervals throughout the month and shall alternate routine sampling between all of the approved POC sites. Routine samples shall not be collected from the same POC more than once per calendar month.

E. Special purpose samples (investigative samples) shall not be used to determine compliance with the *Escherichia coli* (*E. coli*) MCL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1333 (June 2002), amended LR 42:410 (March 2016), amended by the Department of Health, Office of Public Health, LR 43:

§905. Coliform Repeat Compliance Monitoring [formerly Coliform Repeat Monitoring of Appendix C]

A. If a routine sample is total coliform positive and the public water supply has their own certified laboratory, repeat samples shall be collected by the public water supply within 24 hours of being notified of the positive result. If the State collects and analyzes the samples, repeat samples shall be

collected by the state within 24 hours of official notification. At least three repeat compliance samples shall be collected for each routine total coliform positive sample found.

B. For each routine total coliform positive sample, at least one repeat sample shall be collected from the sampling tap where the original total coliform positive sample was taken and at least one repeat sample shall be collected at a tap within five service connections upstream and at least one repeat sample shall be collected at a tap within five service connections downstream of the original sampling site.

C. The repeat samples shall be collected on the same day.

D. In a system with a single service connection, three 100 ml repeat samples shall be collected.

E. If total coliforms are detected in any repeat sample, the system shall collect another set of repeat samples from the same locations within 24 hours of being notified of the positive result. The system shall continue to collect additional sets of repeat samples until either total coliforms are not detected in one complete set of repeat samples or the system determines that a coliform treatment technique trigger under this Part has been exceeded as a result of a

repeat sample being total coliform-positive and the State is notified.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1334 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

§907. Analytical and Reporting Requirements

A. Compliance samples for total coliform and *Escherichia coli* (*E. coli*) shall be analyzed by a certified microbiology laboratory/drinking water. The microbiology laboratory shall be certified by the state health officer for each method (and associated contaminant(s)) used for compliance monitoring analyses under this Part.

B. Compliance samples shall be analyzed to determine the presence or absence of total coliforms and *E. coli*; a determination of density is not required. If a routine or repeat sample result is positive for total coliform, the sample shall also be analyzed for *E. coli* immediately.

C. For compliance samples, laboratories shall use a State-approved laboratory report that contains the following information:

1. public water system (PWS) name and State-assigned PWS ID number;
2. sample identification number;
3. State-assigned point of collection (POC) site ID No. and POC address;
4. sample type (e.g., routine, repeat, source, replacement, investigative or other special purpose sample);
5. date and time of collection;
6. disinfectant residual (specify free or total and units of measurement);
7. name of sampler/collector;
8. date and time of sample receipt by the laboratory;
9. any deficiency in the condition of the sample;
10. date and time analysis begins;
11. analytical technique/method used;
12. results of analysis;
13. any remarks [quality control failures, etc.]; and
14. name and signature of the analyst performing the analysis.

D. Except for a positive sample(s) which is required under to be reported sooner, compliance sample results shall be reported in a format approved by the state health officer by the tenth day of the following month after the end of the monitoring period.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

§911. Treatment Technique Triggers and Maximum Contaminant Level

[formerly Total Coliform MCL of Appendix C]

A. The following conditions are considered treatment technique triggers.

1. For systems collecting 40 or more distribution system samples per month, more than 5.0 percent of the monthly samples are total coliform positive.

2. For systems collecting less than 40 distribution system samples per month, two or more samples per month are total coliform positive.

3. Failure to collect every required repeat sample following a total coliform positive sample.

4. An *E.coli* maximum contaminant level (MCL) violation occurs as specified below:

- a. a coliform-positive original sample that is also positive for *E. coli* is followed by a coliform-positive repeat sample;

- b. a coliform-positive original sample followed by a coliform-positive repeat sample is also positive for *E. coli*;

- c. failure to take all repeat samples following an *E. coli* positive routine sample; or

- d. failure to test for *E. coli* on any repeat total coliform positive sample.

5. A second occurrence of conditions under Paragraph 1, 2 or 3 of this Subsection within a rolling 12-month period.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40: 4 (A)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended by the Department of Health, Office of Public Health, LR 43:

§912. Assessment Requirements

A. Assessments shall be conducted in accordance with the requirements of the National Primary Drinking Water Regulations as amended by this Chapter after exceeding any of the treatment technique triggers described in §911 of this Part.

1. A Level 1 assessment shall be conducted if the system exceeds one of the treatment technique triggers described in Paragraph 1, 2, or 3 of §912.A.

- a. A Level 1 assessment shall be conducted by an operator or operators holding a current license issued by the state health officer for water production, water treatment and water distribution in the class level (or higher) required for the population served by the system in accordance with the requirements of LAC 48:V.Chapter 73.

2. A Level 2 assessment shall be conducted if the system exceeds one of the treatment technique triggers described in Paragraph 4 or 5 of §912.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:

§913. Public Notification

[formerly Public Notification of Appendix C]

A. Public notification (PN) shall be provided in accord with the requirements of the National Primary Drinking Water Regulations, as amended under Chapter 19 of this Part. In accordance with the NPDWRs, public water systems shall provide a Tier 1 PN for an *E. coli* MCL violation, a Tier 2 PN for a treatment technique requirement violation for failure to conduct assessments or corrective actions, and a Tier 3 PN for a monitoring violation or a reporting violation.

1. If a replacement sample cannot be analyzed and give a readable result, the public water supply will be assessed a monitoring violation and must give appropriate public notification.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:4 (A)(8) and R.S. 40:5.A. (3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1335 (June 2002), amended LR 35:484 (March 2009), amended by the Department of Health, Office of Public Health, LR 43:

Chapter 12. Ground Water Rule

§1201. General

A. Pursuant to the definition of *National Primary Drinking Water Regulations* and the provisions of §377 of this Part, the Louisiana Department of Health (LDH) Office of Public Health (OPH) adopts by reference the United States Environmental Protection Agency (USEPA) federal Ground Water Rule (GWR) as published in the *Federal Register* dated November 8, 2006 (Volume 71, Number 216, pages 65650 - 65659). In addition, under §377 of this Part, LDH-OPH also adopted by reference certain USEPA technical corrections to the federal GWR. The applicable technical corrections were published in the *Federal Register* dated November 21, 2006 (Volume 71, Number 224, page 67427).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(8) and R.S. 40:5.A.(2)(3)(5)(6)(17)(20).

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 43:

Family Impact Statement

1. The Effect on the Stability of the Family. None
2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. None
3. The Effect on the Functioning of the Family. None
4. The Effect on the Family Earnings and Family Budget. The proposed Rule adopts two federal safe drinking water rules, the Ground Water Rule (GWR) and the Revised Total Coliform Rule (RTCR). The proposed Rule may increase the monthly water bill for households. The proposed rule cost to households varies depending on the results from monitoring and onsite assessments/surveys conducted on the public water systems (PWS) serving the household. PWSs that have to take corrective action due to potential coliform contamination in the source water or distribution system will have the greatest effect on household water bills.

For the RTCR, the United States Environmental Protection Agency (USEPA) estimated that households on average will incur less than a dollar increase (~\$0.08 per month), but those households served by a water system that has to take corrective actions will incur a slightly larger increase on their water bills. USEPA estimated that only 9 percent of the households that are connected to a PWS may incur at most a monthly cost increase of \$0.38.

For the GWR, USEPA has estimated that, as a whole, households face a minimal increase on their monthly water bill. USEPA has estimated that 24 percent of the households that are connected to a PWS that uses ground-water as its source of supply may incur a monthly cost increase of \$0.13. The state's adoption of this federal rule may not result in any additional costs to households because the PWSs have already been required to comply under the federal rule since December 2009.

5. The Effect on the Behavior and Personal Responsibility of Children. None

6. The Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. None for family. Local governmental units which own, manage, and/or operate a public water system may determine a need to increase their revenue collections (i.e., increase water bills) to cover the cost to perform the function as contained in this Rule.

Poverty Impact Statement

1. The Effect on Household Income, Assets, and Financial Security. The proposed rule adopts two federal safe drinking water rules, the Ground Water Rule (GWR) and the Revised Total Coliform Rule (RTCR). The proposed rule may increase the monthly water bill for households. The proposed Rule cost to households varies depending on the results from monitoring and onsite assessments/surveys conducted on the public water systems (PWS) serving the household. PWSs that have to take corrective action due to potential coliform contamination in the source water or distribution system will have the greatest effect on household water bills.

For the RTCR, the United States Environmental Protection Agency (USEPA) estimated that households on average will incur less than a dollar increase (~\$0.08 per month), but those households served by a water system that has to take corrective actions will incur a slightly larger increase on their water bills. USEPA estimated that only 9 percent of the households that are connected to a PWS may incur at most a monthly cost increase of \$0.38.

For the GWR, USEPA has estimated that, as a whole, households face a minimal increase on their monthly water bill. USEPA has estimated that 24 percent of the households that are connected to a PWS that uses ground-water as its source of supply may incur a monthly cost increase of \$0.13. The state's adoption of this federal rule may not result in any additional costs to households because the PWSs have already been required to comply under the federal rule since December 2009.

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. The proposed rule will likely cause an increase in competition to hire and retain qualified and certified water plant operators. The rule will require water plant operators to become more knowledgeable of plant and distribution system processes and controls. The competition to hire and retain a competent operator will be higher based on his/her qualifications. This will cause an increase in employment of more knowledgeable and qualified individuals to properly operate, maintain, monitor, conduct assessments and take appropriate corrective actions to remain in compliance with said rule.

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.

Small Business Analysis

The impact of the proposed Rule on small businesses as required in the Regulatory Flexibility Act has been considered. The proposed action includes adopting by reference two federal safe drinking water rules, the Ground Water Rule (GWR) and the Revised Total Coliform Rule (RTCR). Both rules are federally mandatory which means public water systems are required to comply regardless of state adoption. For the GWR adoption, the proposed rule requirements will not be any more restrictive than the federal rule. However, for the RTCR adoption, the rule requirements is more restrictive regarding monitoring than the federal rule to provide better public health protection. The proposed Rule requires an increased sample collection frequency for approximately 25 percent of the small public water systems. This impact will be eliminated as of January 1, 2017 when the agency begins collecting bacteriological samples for the public water systems.

The United States Environmental Protection Agency (USEPA) performed an Economic Analyses and assessed the impacts of each rule (GWR and RTCR) on small entities. For purposes of assessing the impacts of the rule on small entities, USEPA considered small entities to be public water systems (PWSs) serving 10,000 or fewer people. USEPA conducted a screening analysis to determine if the rule would have a significant economic impact on a substantial number of small entities. In this analysis, USEPA evaluated the potential economic impact of the rule on small entities by comparing annualized compliance costs as a percentage of annual revenues for different small-entity classifications.

After considering the economic impacts of the RTCR on small entities, USEPA certified that the RTCR will not have a significant economic impact on a substantial number of small entities. Thus, based upon USEPA's certification, the Office of Public Health's Engineering Services Section does not expect that the proposed adoption of state-equivalent Rule to this federal rule will have a significant economic impact on a substantial number of small businesses.

After considering the economic impacts of the GWR on small entities, USEPA determined that the GWR will have a significant economic impact on a substantial number of small entities. Based on USEPA's Economic Analysis for the GWR, small public water systems may incur additional costs in total of approximately \$423,883 annually which includes implementing the Rule, source water monitoring, and performing corrective actions. These include small community water systems (CWSs), non-transient non-community (NTNCWSs), and transient non-community water systems (TNCWSs), entities such as municipal water systems (publicly and privately owned), and privately-owned PWSs and for-profit businesses where provision of water may be ancillary, such as mobile home parks, day care centers, churches, schools and homeowner associations. Not every PWS will incur all of the costs because compliance activities for systems depend on results from monitoring and sanitary surveys. The state's adoption of this federal rule may not result in any additional costs to Louisiana public

water systems at this time because the systems have been required to comply under the federal rule since December 2009.

USEPA conducted a regulatory flexibility analysis (RFA) for the GWR due to the significant impact to small water systems. Based on the initial RFA, USEPA took steps to reduce the burden on small PWSs. Per USEPA, the final GWR has greater flexibility and is less burdensome for small PWSs than the originally proposed rule. The final GWR uses a risk-based regulatory strategy, whereby the monitoring requirements are based on the system characteristics and not directly by related to the PWS size.

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

Interested persons may submit written comments on the proposed Rule. Such comments must be received no later than Wednesday, November 30, 2016 at COB, 4:30 p.m., and should be addressed to Amanda Laughlin, Chief Engineer, Engineering Services Section, Office of Public Health, P.O. Box 4489, Baton Rouge, LA 70821-4489, or faxed to (225) 342-7303. If comments are to be shipped or hand-delivered, please deliver to the Bienville Building, 628 N. 4th Street - Room 125, Baton Rouge, LA 70802.

Public Hearing

LDH-OPH will conduct a public hearing at 9 am on Tuesday, November 28, 2016, in Room 118 of the Bienville Building, 628 North Fourth Street, 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 N. Sixth and N. Fifth / North and Main Streets. (cater-corner 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.

Jimmy Guidry, MD
State Health Officer,
and
Rebekah E. Gee, MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Ground Water and Revised Total Coliform Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule amends Part XII (Water Supplies) of the Louisiana State Sanitary Code (LAC 51) by adopting two

federal safe drinking water rules—(1) Ground Water Rule (GWR); and (2) Revised Total Coliform Rule (RTCR). The amendments to Part XII are necessary in order for the OPH to maintain primacy (primary enforcement authority) from the United States Environmental Protection Agency (USEPA) over public water systems within Louisiana. USEPA requires state primacy agencies to adopt state rules and regulations which are no less stringent than the federal Safe Drinking Water Act's (42 U.S.C. §300f, *et seq.*) primary implementing regulations (40 CFR Part 141). Not every public water system (PWS) will incur all of the following costs because compliance activities for systems depend on results from monitoring and the assessments/sanitary surveys. Implementation costs of this proposed rule are as follows:

Revised Total Coliform Rule (RTCR)—State governmental units, such as LDH medical care facilities (2) and other state-owned facilities, that own or operate 32 public water systems, are anticipated to incur an additional cost of \$6,352 in FY17, \$6,543 in FY18 and \$6,739 in FY19. This rule may impact local governmental units that own or operate 568 public water systems. The approximate cost for all 568 PWSs is \$112,748 annually. These costs include implementing, monitoring, conducting assessments, and performing corrective actions.

Ground Water Rule (GWR) - State governmental units, such as LDH medical care facilities (2) and other state agencies and facilities, that own or operate 32 public water systems, are anticipated to incur an additional cost of \$18,663 in FY17, \$19,223 in FY18 and \$19,799 in FY19. This rule may impact local governmental units that own or operate 493 public water systems. The approximate cost for all 493 systems is \$287,525 annually. These costs include implementing, source water monitoring, and performing corrective actions. Also, the proposed rule changes will result in an estimated cost to LDH-OPH of \$2,276 to publish the notice of intent and the final rule in the *Louisiana Register*. This is a one-time cost that will be absorbed by the agency's budget.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State or local governmental units which own, manage, and/or operate a public water system may increase their revenue collections (*i.e.*, increase water bills) to cover the cost of complying with this rule. Such systems are already required (and will continue to be required) to comply under the existing federal rules (GWR and RTCR).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The following rules will impact economic costs to persons or non-governmental groups as follows:

Revised Total Coliform Rule (RTCR)—Non-governmental groups that own or operate 733 public water systems may collectively incur additional costs totaling approximately \$145,500 annually which includes implementing the rule, monitoring, conducting assessments, and performing corrective actions

USEPA estimated that households on average will incur less than a dollar increase, but those households served by a water system that has to take corrective actions will incur a slightly larger increase on their water bills. USEPA has estimated that only 9 percent of the households that are connected to a PWS will incur at most a monthly cost increase of \$0.38.

Ground Water Rule (GWR)—Non-governmental groups that own or operate 707 public water systems may collectively incur additional costs totaling approximately \$412,333 annually which includes implementing the rule, source water monitoring, and performing corrective actions.

USEPA has estimated that, as a whole, households face a minimal increase on their monthly water bill. USEPA has

estimated that 24 percent of the households that are connected to a PWS that uses ground-water as its source of supply will incur a monthly cost increase of \$0.13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will likely cause an increase in competition to hire and retain qualified and certified water plant operators. The rule will require water plant operators to become more knowledgeable of plant and distribution system processes and controls. The competition to hire and retain a competent operator will be higher based on his/her qualifications. This will cause an increase in employment of more knowledgeable and qualified individuals to properly operate, maintain, monitor, conduct assessments and take appropriate corrective actions to remain in compliance with said rule.

Beth Scalco
Assistant Secretary
1610#036

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Corporate Deductions; Add-Back of Certain
Intangible Expenses; Interest and Management Fees
(LAC 61:I.1115)

Under the authority of R.S. 47:1511 and in accordance with the provisions of R.S. 47:287.82 and the Administrative Procedure Act, R.S. 49:950 *et seq.*, the Department of Revenue, Policy Services Division proposes to adopt LAC 61:I.1115.

The primary purpose of this proposed regulation is to implement Act 16 of the 2016 First Extraordinary Session of the Louisiana Legislature.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 11. Corporation Income Tax

**§1115. Corporate deductions; add-back of certain
intangible expenses; interest and management
fees**

A. General. R.S. 47:287.82 provides that otherwise deductible interest expenses and costs, intangible expenses and costs, and management fees directly or indirectly paid to a related member shall be added-back to the corporation's gross income.

B. Exceptions. The corporation shall make the add-back unless:

1. the corporation shows, in a written statement and/or other document attached to the corporation's Louisiana corporation income tax return, that the item of income corresponding to the corporation's expense, cost, or fee, was in the same taxable year subject to a tax based on or measured by the related member's net income in Louisiana or any other state; or

2. the corporation shows, in a written statement and/or other document attached to the corporation's Louisiana corporation income tax return, that the item of income corresponding to the corporation's expense, cost, or fee, was in the same taxable year subject to a tax based on or

measured by the related member's net income in a foreign nation which has in force an income tax treaty with the United States, if the recipient was a resident as defined in the income tax treaty with the foreign nation; or

3. the corporation shows, in a written statement and/or other document attached to the corporation's Louisiana corporation income tax return, that the transaction giving rise to the expense, cost, or fee between the corporation and the related member did not have as a principal purpose the avoidance of any Louisiana tax; or

4. the corporation shows, in a written statement and/or other document attached to the corporation's Louisiana corporation income tax return, that the expense, cost, or fee that was paid or accrued to a related member was "passed through" to an unrelated third party in an arms-length transaction via a corresponding expense, cost, or fee payment; or

5. the corporation shows, in a written statement and/or other document attached to the corporation's Louisiana corporation income tax return, that the add-back is unreasonable. The add-back will be considered unreasonable if the taxpayer establishes that, based on the entirety of the taxpayer's particular facts and circumstances, the adjustments would increase the taxpayer's Louisiana income tax liability to an amount that bears no reasonable relation to the taxpayer's Louisiana presence.

C. Definitions

Indirectly Paid—interest expenses and costs, intangible expenses and costs, and management fees subject to add-back include expenses, costs, and fees incurred by a taxpayer corporation if the expense is related to an intermediate expense, cost, or fee incurred in a transaction between one related member and a second related member.

EXAMPLE: Corporations B and C are related members with respect to Corporation A. Corporation A is a Louisiana taxpayer that sells products it purchases from Corporation B on a cost plus basis. Corporation B licenses intangible property from Corporation C and makes intangible expense payments to Corporation C based in part on the sales Corporation B makes to Corporation A. To the extent the intangible expenses Corporation B pays to Corporation C are reflected in the costs of the products Corporation A purchases from Corporation B, the direct intangible expenses of Corporation B are considered to be indirect intangible expenses of Corporation A. Furthermore, Corporation A is deemed to directly pay an intangible expense to Corporation B and indirectly pay an intangible expense to Corporation C.

Intangible Expenses—

a. includes, but is not limited to:

i. expenses, losses, and costs for, related to, or directly or indirectly in connection with the acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property:

(a). *intangible property*—includes stocks, bonds, financial instruments, patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, "know how", and similar types of intangible assets;

ii. losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions;

iii. royalty, patent, technical, and copyright fees;

iv. licensing fees;

v. other similar expenses, losses, and costs.

Management Fees—includes, but is not limited to, expenses and costs, including intercompany administrative charges, pertaining to accounts receivable, accounts payable, employee benefit plans, insurance, legal matters, payroll, data processing, purchasing, taxation, financial matters, securities, accounting, or reporting and compliance matters or similar activities.

Related Member—includes, but is not limited to, any corporation that is included in the taxpayer's federal consolidated corporation income tax return or any disregarded entity or subchapter K entity or other business entity a majority of whose income is included in the taxpayer's federal income tax return (separate or consolidated).

Reported and Included in Income for Purposes of a Tax on Net Income—reported and included in post-allocation and apportionment income for purposes of a tax applied to the net income apportioned or allocated to the taxing jurisdiction.

State—a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Subject to a Tax Based on or Measured by the Related Member's Net Income—the receipt or accrual of the payment by the recipient related member is reported and included in income for purposes of a tax on net income, and not offset or eliminated in a combined or consolidated return which includes the payor nor eliminated in the financial statements used for disclosure or reporting.

D. Operating Rules

1. The attachments required above shall be in a format to be prescribed by the secretary of the department of revenue.

2. The exceptions described in Paragraphs B.1 and B.2 of this Section (corresponding item of income subject to tax) are allowed only to the extent the recipient related member includes the corresponding item of income in post-allocation and apportionment income reported to the taxing jurisdiction.

EXAMPLE: Corporation A, a Louisiana taxpayer, incurs a \$100 intangible expense in a transaction with Corporation B, a related member with respect to Corporation A. Corporation B files an income tax return in State B where it apportions and/or allocates 5% of its income, but files no other income tax returns. Corporation A must add-back \$95 of the otherwise deductible \$100 intangible expense incurred in the transaction with Corporation B.

3. The exception described in Paragraph B.3 of this Section (non-tax business purposes for conducting a transaction) must be supported by contemporaneous documentation. Mere statements or assertions that a transaction was intended to allow for better management or greater utilization of intangible assets, or similarly unsubstantiated claims are not sufficient to establish a principal non-tax business purpose.

EXAMPLE: Taxpayer purchases administrative services such as accounting, legal, human resources, purchasing, etc., from a Related Member and does so at rates comparable to rates that would be charged by third party service providers.

EXAMPLE: Taxpayer borrows funds from a Related Member and does so at an interest rate and with other terms that are comparable to rates and terms that would be required by an unrelated third party lender.

EXAMPLE: Taxpayer incurs royalty expense in connection with the use of intangible assets provided by a Related Party. The royalty rates and other terms of agreement are comparable to rates and terms that are comparable to rates and terms that would be required by an unrelated third party.

4. The exception described in Paragraph B.4 of this Section (expense "passed through" to an unrelated third party) is limited if the expenses, costs, and fees paid to a related member are greater than the expenses, costs, and fees the related member pays to unrelated third parties because only a portion of the expenses, costs, and fees incurred in connection with a transaction with a related member is considered to have "passed through" to the unrelated third parties.

EXAMPLE: Taxpayer A, a Louisiana taxpayer, incurs a \$100 management fee to Related Member B. Related Member B receives a total of \$400 of related member management fee income (\$100 from Taxpayer A plus \$300 from other related payors). Related Member B pays \$200 of management fees to unrelated third parties. Related Member B will be deemed to have passed through to unrelated third parties only 50 percent of the interest expense/income it received from Taxpayer A. Only \$50 of Taxpayer A's \$100 related member management fee payment to Related Member B will be deemed to have been passed through to unrelated third parties and qualify for the exception described in B.4. above (expense "passed through" to an unrelated third party).

5. With respect to both interest and intangible expenses, if the interest or intangible expense rate charged the taxpayer by the related member exceeds the interest or intangible expense rate charged the related member by unrelated third party payees, then the excess expense will not qualify for the exception described in Paragraph B.5. of this Section (add-back is unreasonable) and must be added back. If multiple transaction arrangements exist between the taxpayer and the related member, or the related member and the unrelated third party, then a weighted average rate should be calculated by dividing total expense by total amounts of each base amount used to determine the expense amounts. The weighted average rate should then be used to determine the existence of non-qualifying excess interest or intangible expense.

EXAMPLE: Taxpayer B incurs interest expense of \$100 during its taxable year to its parent Company A (a related member) in order to service a \$1,000 debt between B and A. Company A's related member interest rate is 10 percent calculated by dividing its related member interest expense (\$100) by its related member debt (\$1000). Company A makes interest expense payments of \$200 to Unrelated Lenders C and D to service the \$4,000 of total debt existing between A and Unrelated Lenders C and D. A's weighted average unrelated third party interest rate is five percent calculated by dividing total unrelated third party interest expense (\$200) by total unrelated third party interest bearing debt (\$4,000). Company B's non-qualifying excess interest is \$50. Company B's debt to company A (\$1,000) is multiplied by the excess interest rate Company B incurred over Company A's average interest rate to unrelated lenders (10-5 percent).

6. With respect to interest expense, if the taxpayer's debt over asset percentage exceeds the consolidated unrelated third party debt over asset percentage of its federal consolidated group (as represented by interest bearing debt reported on the schedule L balance sheet(s) included in the consolidated and pro forma federal income tax returns), then the interest expense associated with the excess debt must be added back and cannot qualify for the exception described in Paragraph B.5 of this Section (add-back is unreasonable).

EXAMPLE: Taxpayer B's separate company federal income tax return Schedule L balance sheet shows \$1,500 of assets and \$1,000 of interest bearing debt which produces a

debt over asset percentage of 66.7 percent. The Company A and Subsidiaries' federal consolidated income tax return Schedule L balance sheet shows \$6,000 of assets and \$3,000 of unrelated third party interest bearing debt which produces a debt over asset percentage of 50 percent. Because Taxpayer B's debt over asset percentage of 66.7 percent, exceeds the group's unrelated third party debt over asset percentage, 50 percent, the amount of Taxpayer B's related member interest expense that may qualify for the exception described in B.5. above (add-back is unreasonable) is limited. The limitation is calculated by multiplying B's assets (\$1,500) by the lower of the taxpayer's debt over asset percentage or the group's unrelated third party debt over asset percentage (50 percent) and then multiplying the product (\$750) by the lower of the taxpayer's related member interest rate or the related member's unrelated third party interest rate (5 percent), which yields an ultimate limitation of \$37.50.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 43:

Family Impact Statement

The proposed adoption of LAC 61:I.1115 regarding corporate deductions; add-back of certain intangible expenses; interest and management fees, 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 regulation will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

It is anticipated that the proposed Rule should 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 regulation 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 regulation to David Hansen, 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., November 10, 2016.

Public Hearing

A public hearing will be held on November 30, 2016, at 9 a.m. in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kimberly Lewis Robinson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Corporate Deductions; Add-Back of Certain Intangible Expenses; Interest and Management Fees**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of the proposed rule is to implement the provisions of R.S. 47:287.82, enacted by Act 16 of the 2016 First Extraordinary Session of the Louisiana Legislature. This new statute and this proposed rule provide that when computing Louisiana net income a corporation shall add back, subject to certain exceptions, otherwise deductible interest expenses, intangible expenses, and management fees resulting from transactions with related entities. The proposed rule provides guidance and clarification in the form of definitions and operating rules, for taxpayer compliance with the statute. Implementation costs of the Department of Revenue (LDR) are for computer system modification and testing, tax form redesign, and taxpayer inquiries. These costs are relatively small and will be absorbed in LDR's budget allocation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

By requiring corporate tax filers to add back various deductions to their state tax returns, the proposed rule will result in greater net income subject to Louisiana corporate income taxation, and an increase in net corporate tax receipts. This increase is indeterminable. The Department of Revenue does not electronically capture the return information necessary to quantify an estimate of the likely fiscal effect of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Louisiana corporate taxpayers that incur the expenses that are required to be added back to net income by this proposed rule would be affected by an indeterminable amount. The increased tax liabilities of affected entities are indeterminable. Other costs have not been determined but are expected to be relatively minor. The Department of Revenue does not electronically capture the return information necessary to quantify an estimate of the likely fiscal effect of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

At a minimum, the proposed rules will affect corporate tax filers differently, resulting in shifts in the corporate tax burden among firms, consequently affecting competition and employment among them. However, the degree to which the proposed rules will affect aggregate competition and employment as a result of shifting the corporate tax burden is indeterminable.

Kimberly Lewis Robinson
Secretary
1610#069

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue Policy Services Division

Corporation Income Tax; Apportionment of Income;
Sourcing of Sales other than Sales of
Tangible Personal Property (LAC 61:I.1135)

Under the authority of R.S. 47:1511 and R.S. 47:287.95 and pursuant to the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, proposes to adopt LAC 61:I.1115.

The primary purpose of this proposed regulation is to implement Act 8 of the 2016 Second Extraordinary Session of the Louisiana Legislature.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 11. Corporation Income Tax

§1135. Sourcing of sales other than sales of tangible personal property

A. General. R.S. 47:287.95(L) provides for the inclusion in the numerator of the sales factor of sales other than sales of tangible personal property.

B. Market-Based Sourcing. Sales other than sales of tangible personal property are sourced to Louisiana if and to the extent that the taxpayer's market for the sales is in Louisiana. In general, the provisions in this Section establish rules for:

1. determining whether and to what extent the market for a sale other than the sale of tangible personal property is in Louisiana;

2. reasonably approximating the state or states of assignment where the state or states cannot be determined;

3. excluding certain sales of intangible property from the numerator and denominator of the receipts factor pursuant to R.S. 47:287.95(L)(1)(e); and

4. excluding sales from the numerator and denominator of the sales factor, pursuant to R.S. 47:287.95(M.), where the state or states of assignment cannot be determined or reasonably approximated, or where the taxpayer is not taxable in the state to which the sales are assigned.

C. General Principles of Application; Contemporaneous Records. In order to satisfy the requirements of this regulation, a taxpayer's assignment of sales other than sales of tangible personal property must be consistent with the following principles.

1. A taxpayer shall apply the rules set forth in this regulation based on objective criteria and shall consider all sources of information reasonably available to the taxpayer at the time of its tax filing, including, without limitation, the taxpayer's books and records kept in the normal course of business. A taxpayer shall determine its method of assigning sales in good faith, and apply it consistently with respect to similar transactions and year to year. A taxpayer shall retain contemporaneous records that explain the determination and application of its method of assigning its sales, including its

underlying assumptions, and shall provide those records to the secretary of the Louisiana Department of Revenue upon request.

2. This regulation provides various assignment rules that apply sequentially in a hierarchy. For each sale to which a hierarchical rule applies, a taxpayer must make a reasonable effort to apply the primary rule applicable to the sale before seeking to apply the next rule in the hierarchy (and must continue to do so with each succeeding rule in the hierarchy, where applicable). For example, in some cases, the applicable rule first requires a taxpayer to determine the state or states of assignment, and if the taxpayer cannot do so, the rule requires the taxpayer to reasonably approximate the state or states. In these cases, the taxpayer must attempt to determine the state or states of assignment (i.e., apply the primary rule in the hierarchy) in good faith and with reasonable effort before it may reasonably approximate the state or states.

3. A taxpayer's method of assigning its sales, including the use of a method of approximation, where applicable, must reflect an attempt to obtain the most accurate assignment of sales consistent with these regulatory standards rather than an attempt to lower the taxpayer's tax liability. A method of assignment that is reasonable for one taxpayer may not necessarily be reasonable for another taxpayer, depending upon the applicable facts.

D. Rules of Reasonable Approximation

1. In General. In general, this regulation establishes uniform rules for determining whether and to what extent the market for a sale other than the sale of tangible personal property is in Louisiana. This regulation also sets forth rules of reasonable approximation, which apply if the state or states of assignment cannot be determined. In some instances, the reasonable approximation must be made in accordance with specific rules of approximation as prescribed in this regulation. In other cases, the applicable rule in this regulation permits a taxpayer to reasonably approximate the state or states of assignment, using a method that reflects an effort to approximate the results that would be obtained under the applicable rules or standards set forth in this regulation.

2. Approximation Based Upon Known Sales. In an instance where, applying the applicable rules set forth for sale of a service, a taxpayer can ascertain the state or states of assignment of a substantial portion of its sales from sales of substantially similar services ("assigned sales"), but not all of those sales, and the taxpayer reasonably believes, based on all available information, that the geographic distribution of some or all of the remainder of those sales generally tracks that of the assigned sales, it shall include those sales which it believes tracks the geographic distribution of the assigned sales in its sales factor in the same proportion as its assigned sales.

3. Related-Party Transactions—Information Imputed from Customer to Taxpayer. Where a taxpayer has sales subject to this regulation from transactions with a related-party customer, information that the customer has that is relevant to the sourcing of receipts from these transactions is imputed to the taxpayer.

E. Rules with Respect to Exclusion of Receipts from the Receipts Factor

1. The sales factor only includes those amounts defined as sales under applicable statutes and regulations.

2. Certain sales arising from the sale of intangibles are excluded from the numerator and denominator of the sales factor pursuant to R.S. 47:287.95(L)(1)(e).

3. In a case in which a taxpayer cannot ascertain the state or states to which sales are to be assigned pursuant to the applicable rules set forth in this regulation, (including through the use of a method of reasonable approximation, where relevant) using a reasonable amount of effort undertaken in good faith, the receipts must be excluded from the numerator and denominator of the taxpayer's sales factor pursuant to R.S. 47:287.95(M).

4. In a case in which a taxpayer can ascertain the state or states to which sales are to be assigned pursuant to this regulation, but the taxpayer is not taxable in one or more of those states, the sales that would otherwise be assigned to those states where the taxpayer is not taxable must be excluded from the numerator and denominator of the taxpayer's sales factor pursuant to R.S. 47:287.95(M).

F. Sale of Immovable Property. In the case of the sale of immovable property, the sale is in Louisiana if and to the extent that the immovable property is located in Louisiana.

G. Sale of a Service

1. General Rule. The sale of a service is sourced to Louisiana if and to the extent that the service is delivered to a location in Louisiana. In general, the term "delivered to a location" refers to the location of the taxpayer's market for the service, which may not be the location of the taxpayer's employees or property. The rules to determine the location of the delivery of a service in the context of several specific types of service transactions are set forth below.

2. Direct Personal Services Received by a Natural Person

a. In General. Except as otherwise provided in this regulation, direct personal services are services that are physically provided in person by the taxpayer, where the customer or the customer's tangible property upon which the services are performed is in the same location as the service provider at the time the services are performed. This rule includes situations where the services are provided on behalf of the taxpayer by a third-party contractor. Examples of direct personal services include, without limitation: cleaning services; pest control; medical and dental services, including medical testing, x-rays and mental health care and treatment; child care; hair cutting and salon services; live entertainment and athletic performances; and in-person training or lessons. Direct personal services include services within the description above that are performed at:

i. a location that is owned or operated by the serviceprovider; or

ii. a location of the customer, including the location of the customer's tangible property. Various professional services, including legal, accounting, financial and consulting services, and other similar services, although they may involve some amount of direct person contact, are not treated as direct personal services within the meaning of this regulation.

b. Assignment of Sales

i. Rule of Determination. Except as otherwise provided in this regulation, if the service provided by the taxpayer is a direct personal service, the service is delivered to the location where the service is received. Therefore, the sale is in Louisiana if and to the extent the customer receives the direct personal service in Louisiana. In assigning its sales from direct personal services, a taxpayer must first attempt to determine the location where a service is received, as follows.

(a). If the service is performed with respect to the body of an individual customer in Louisiana (e.g. hair cutting or x-ray services) or in the physical presence of the customer in Louisiana (e.g. live entertainment or athletic performances), the service is received in Louisiana.

(b). If the service is performed with respect to the customer's immovable property in Louisiana or if the service is performed with respect to the customer's tangible personal property at the customer's residence or in the customer's possession in Louisiana, the service is received in Louisiana.

(c). If the service is performed with respect to the customer's tangible personal property and the tangible personal property is to be shipped or delivered to the customer, whether the service is performed within or outside Louisiana, the service is received in Louisiana if the property is shipped or delivered to the customer in Louisiana.

c. Rule of Reasonable Approximation. In an instance in which the state or states where a service is actually received cannot be determined, but the taxpayer has sufficient information regarding the place of sale from which it can reasonably approximate the state or states where the service is received, the taxpayer shall reasonably approximate such state or states. If the state to which the sales are to be assigned can be determined or reasonably approximated, but the taxpayer is not taxable in that state, the receipts that would otherwise be assigned to the state are excluded from the numerator and denominator of the taxpayer's sales factor pursuant to R.S. 47:287.95(M).

3. Non-Direct Personal Services Received by a Natural Person. Non-direct personal services delivered to a natural person shall be sourced to the customer's billing address.

a. Non-direct personal services include, without limitation, management services, bank and financial services, financial custodial services, investment and brokerage services, fiduciary services, tax preparation, payroll and accounting services, lending services, credit card services (including credit card processing services), data processing services, legal services, consulting services, video production services, graphic and other design services, engineering services, and architectural services.

b. *Billing Address*—the location indicated in the books and records of the taxpayer as the primary mailing address relating to a customer's account as of the time of the transaction as kept in good faith in the normal course of business and not for tax avoidance purposes.

4. Services Delivered to an Unrelated Business Entity. In any instance in which the service provided is delivered to a business customer, the state or states in which the service is delivered must be reasonably approximated as set forth in

this section. In particular, unless the taxpayer may use the safe harbor set forth below, the taxpayer shall assign the sales as follows: first, by assigning the sales to the state where the contract of sale is principally managed by the customer; second, if the place of customer management is not reasonably determinable, to the customer's place of order; and third, if the customer place of order is not reasonably determinable, to the customer's billing address; provided, however, in any instance in which the taxpayer derives more than 5 percent of its receipts from sales of all services from a customer, the taxpayer is required to identify the state in which the contract of sale is principally managed by the customer.

a. Safe Harbor; Large Volume of Transactions. A taxpayer may assign its sales to a particular customer based on the customer's billing address in any taxable year in which the taxpayer:

i. engages in substantially similar service transactions with more than 250 customers, whether individual or business; and

ii. does not derive more than 5% of its receipts from sales of all services from that customer.

5. Services Delivered to a Related Business Entity. In any instance in which the service is sold to a related entity, the state or states to which the service is assigned is the place of receipt by the related entity as reasonably approximated using the following hierarchy:

a. if the service primarily relates to specific operations or activities of a related entity conducted in one or more locations, then to the state or states in which those operations or activities are conducted in proportion to the related entity's payroll at the locations to which the service relates in the state or states; or

b. if the service does not relate primarily to operations or activities of a related entity conducted in particular locations, but instead relates to the operations of the related entity generally, then to the state or states in which the related entity has employees, in proportion to the related entity's payroll in those states. The taxpayer may use the safe harbor provided above provided that the Secretary of the Louisiana Department of Revenue may aggregate the sales to related entities in applying the 5 percent rule if necessary or appropriate to avoid distortion.

H. Sale of Intangible Property

1. Assignment of Sales. The assignment of sales to a state or states in the instance of a sale or exchange of intangible property depends upon the nature of the intangible property sold.

2. Sale Where Receipts are Contingent on Productivity, Use or Disposition of the Intangible Property. In the case of a sale or exchange of intangible property where the receipts from the sale or exchange are contingent on the productivity, use or disposition of the property, the receipts from the sale are assigned as follows:

a. the receipts are in Louisiana if and to the extent the intangible is used in Louisiana. In general, the term "use" is construed to refer to the location of the market for the use of the intangible property that is being sold and is not to be construed to refer to the location of the property or payroll of the owner.

3. Contract Right or Government License that Authorizes Business Activity in Specific Geographic Area.

In the case of a sale or exchange of intangible property where the property sold or exchanged is a contract right, government license or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area, the sale is assigned to a state if and to the extent that the intangible property is used or is authorized to be used within the state. If the intangible property is used or may be used only in this state, the taxpayer shall assign the sale to Louisiana. If the intangible property is used or is authorized to be used in Louisiana and one or more other states, the taxpayer shall assign the sale to Louisiana to the extent that the intangible property is used in or authorized for use in Louisiana through the means of a reasonable approximation.

4. Excluded Sales. The sale of intangible property that is excluded from the numerator and denominator of the taxpayer's sales factor under this provision includes, without limitation, the sale of a partnership interest, the sale of business "goodwill," the sale of an agreement not to compete, or similar intangible value. Also, in any instance in which, the state to which the receipts from a sale is to be assigned can be determined or reasonably approximated, but where the taxpayer is not taxable in such state, the receipts that would otherwise be assigned to such state shall be excluded from the numerator and denominator of the taxpayer's receipts factor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511 and R.S. 47:287.95.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 43:

Family Impact Statement

The proposed adoption of LAC 61:I.1135 regarding corporation income tax; apportionment of income; sourcing of sales other than sales of tangible personal property 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 regulation will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

It is anticipated that the proposed Rule should 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 regulation 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 regulation to David Hansen, 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., November 10, 2016.

Public Hearing

A public hearing will be held on November 30, 2016, at 11 a.m. in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kimberly Lewis Robinson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Corporation Income Tax; Apportionment of Income; Sourcing of Sales Other Than Sales of Tangible Personal Property

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of the proposed rule is to implement some of the provisions of Act 8 of the 2016 Second Extraordinary Session of the Louisiana Legislature. Act 8 enacted rules for the sourcing of sales, other than sales of tangible personal property, for purposes of determining the sales ratio component of the corporate income tax apportionment ratio. Generally, the new rules source a sale to Louisiana, to the extent the market for the sale is in Louisiana. Also, a sale is excluded from the numerator and denominator if the taxpayer is not taxable in the state to which the sale is assigned or the state of assignment cannot be determined or reasonably approximated. The proposed rule provides guidance and clarification for complying with these sourcing rules. Implementation costs of the Department of Revenue (LDR) are for the revision of tax form instructions and taxpayer inquiries. These costs are relatively small and will be absorbed in LDR's budget allocation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The impact on revenue collections is indeterminable. LDR does not have the information necessary to estimate the impact. Market sourcing may incorporate an increased amount of net incomes of firms selling into the state into the state's tax base. However, to the extent firms have large out-of-state sales, market sourcing may reduce their tax liabilities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No additional tax forms or paperwork is anticipated for affected taxpayers. The question of whether or not sales are

being sourced to the appropriate locations will be reviewed by LDR staff. Tax liabilities of affected taxpayers will increase or decrease by an indeterminable amount, dependent on the individual business model of each taxpayer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules may have an effect on competition and employment as a result of shifting tax burdens among firms, both in-state and out-of-state. However, the degree to which the proposed rules will affect aggregate competition and employment as a result of shifting the tax burden is indeterminable.

Kimberly Lewis Robinson
Secretary
1610#068

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

Imposition of Tax; Determination of Taxable Capital;
Newly Taxable Corporations
(LAC: 61:I.Chapter 3)

Under the authority of R.S. 47:601, R.S. 47:602, and R.S. 47:611 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.301, 302, and 311.

The primary purpose of these proposed amendments is to implement Act 12 of the 2016 First Extraordinary Session of the Louisiana Legislature.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 3. Corporation Franchise Tax

§301. Imposition of Tax

A. General. Except as specifically exempted by R.S. 47:608, R.S. 47:601 imposes a corporation franchise tax, in addition to all other taxes levied by any other statute, on all domestic corporations, for the right granted by the laws of this state to exist as such an organization and on both domestic and foreign corporations for the enjoyment under the protection of the laws of this state of the powers, rights, privileges, and immunities derived by reason of the corporate form of existence and operation. Liability for the tax is created whenever any such organization qualifies to do business in this state, owns or uses any part of its capital, plant, or any other property in this state, whether owned directly or indirectly by or through a partnership, joint venture, or any other business organization of which the domestic or foreign corporation is a related party as defined in R.S. 47:605.1, through the buying, selling, or procuring of services in this state, or actually does business in this state through exercising or enjoying each and every act, power, right, privilege, or immunity as an incident to or by virtue of the powers and privileges acquired by the nature of such organizations.

1. The term "domestic corporation" shall include any of the following:

a. corporations, joint stock companies or associations, or other business organizations organized under the laws of the State of Louisiana which have privileges, powers, rights, or immunities not possessed by individuals or partnerships;

b. all entities taxed as corporations pursuant to 26 U.S.C. Subtitle A, Chapter 1, Subchapter C, for federal income tax purposes, notwithstanding any provisions of law to the contrary. Such entities will be treated and taxed in the same manner that such entities are treated and taxed for federal income tax purposes.

2. Exclusions

a. Nothing in this subsection shall extend franchise tax liability to any limited liability company qualified and eligible to make an election to be taxed in accordance with the provisions of 26 U.S.C. Subtitle A, Chapter 1, Subchapter S on the first day of its fiscal or annual year or to any other entity that was acquired before January 1, 2014, but not earlier than January 1, 2012, by an entity that was taxed pursuant to 26 U.S.C. subtitle A, chapter 1, subchapter S.

b. To be qualified and eligible for subchapter S status, the corporation must meet the following requirements:

i. the corporation must be a domestic corporation;

ii. the corporation must have only allowable shareholders, including individuals, certain trusts, and estates, not partnerships, corporations or non-resident alien shareholders;

iii. the corporation must have no more than 100 shareholders;

iv. the corporation must have only one class of stock; and

v. the corporation must not be an ineligible corporation, such as certain financial institutions, insurance companies, and domestic international sales corporations.

c. Examples

i. Corporation A is not subject to Louisiana corporation franchise tax pursuant to the provisions of R.S. 47:601(A). Corporation A owns an interest in partnership B, which is qualified to do business in Louisiana. Corporation A would be subject to Louisiana corporation franchise tax.

ii. Corporation A is not subject to Louisiana corporation franchise tax pursuant to the provisions of R.S. 47:601(A). Corporation A owns an interest in limited liability company B, which is doing business in Louisiana and owns property located in Louisiana. Corporation A would be subject to Louisiana corporation franchise tax.

iii. Subsidiary is a domestic corporation and is a 100 percent owned subsidiary of parent. Parent is a domestic limited liability company and elects to be taxed as an S corporation pursuant to I.R.C. §1362 for federal income tax purposes. Subsidiary is a QSub, as provided for in I.R.C. §1361(b)(3). For Louisiana corporation franchise tax purposes, Parent would not be subject to the franchise tax, because Parent is a limited liability company, eligible to be taxed as an S corporation. Subsidiary would be subject to the franchise tax, because Subsidiary is a corporation.

B. ...

C. Thus, both domestic and foreign corporations which enjoy or exercise within this state any of the powers, privileges, or immunities granted to business corporations organized under the provisions of the “Business Corporation Act”, as found in R.S. 12:1-101 through 1-1704, are subject to and liable for the payment of the franchise tax imposed by this Section.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:601.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income and Corporation Franchise Taxes Section, Office of Group III, LR 6:25 (January 1980), amended LR 11:108 (February 1985), repromulgated by the Department of Revenue, Policy Services Division, LR 30:448 (March 2004), amended by the Department of Revenue, Policy Services Division, LR 43:

§302. Determination of Taxable Capital

A. ...

B. Holding Corporation Deduction. Any corporation which owns at least 80 percent of the capital stock of a banking corporation organized under the laws of the United States or of the state of Louisiana may deduct from its total taxable base, determined as provided in §302.A and before the allocation of taxable base to Louisiana as provided in R.S. 47:606 and R.S. 47:607, the amount by which its investment in and advances to such banking corporation exceeds the excess of total assets of the holding corporation over total taxable capital of the holding corporation, determined as provided in §302.A.

1. Any corporation, as defined in R.S. 47:601(C), that is subject to the franchise tax imposed by R.S. 47:601(A) and that is not subject to R.S. 47:602(B), (C), (D), (E), or (F), that has one or more subsidiaries, will be entitled to deduct from its taxable capital its investments in and advances to one or more subsidiaries, whether made directly or indirectly, when computing its franchise tax.

2. The term “subsidiaries” shall include any corporation, as provided for in R.S. 47:601(C), that is subject to the franchise tax imposed by R.S. 47:601(A), and in which at least 80 percent of the voting and nonvoting power of all classes of their stock, membership, partnership, or other ownership interests are owned, directly or indirectly, by a corporation subject to the franchise tax imposed by R.S. 47:601(A).

3. The amount of deduction allowed will be the sum of the amounts determined by multiplying the parent corporation’s investments in and advances to each subsidiary by each subsidiary’s average ratio, as determined pursuant to R.S. 47:606.

4. Any direct or indirect subsidiary of a regulated company, as provided for in R.S. 47:602(C), that directly owns at least 80 percent of the voting power of the stock, membership, partnership, or other membership interests in a “public-utility company”, as defined by the Public Utility Holding Company Act of 1935 prior to its repeal, may use the holding corporation deduction with respect to investments in and advances to subsidiary corporations or subsidiary limited liability companies to calculate its taxable capital.

5. Example. Company A is a corporation owning one hundred percent of company B. Company B is a non-Louisiana corporation qualified to do business in Louisiana.

Company B is a 100 percent member of XYZ LLC. XYZ LLC is an out of state limited liability company that owns property in Louisiana and has elected to be treated as a corporation pursuant to 26 U.S.C. Subtitle A, Chapter 1, Subchapter C, for federal income tax purposes. XYZ LLC would be subject to Louisiana corporation franchise tax. XYZ LLC reports a franchise tax apportionment percentage of 25 percent. Company B would be subject to Louisiana corporation franchise tax. Company B reports a franchise tax apportionment ratio of 15 percent and has an investment in XYZ LLC on its books of \$400,000. Company A would be subject to Louisiana corporation franchise tax. Company A has an investment in company B on its books of \$600,000. Company A and company B would both be eligible for the holding company deduction.

6. Nothing in this Subsection shall extend franchise tax liability to any limited liability company wholly owned by any entity subject to the bank shares tax pursuant to R.S. 47:1967.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:602.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income and Corporation Franchise Taxes Section, Office of Group III, LR 6:25 (January 1980), amended LR 11:108 (February 1985), repromulgated by the Department of Revenue, Policy Services Division, LR 30:449 (March 2004), amended by the Department of Revenue, Policy Services Division, LR 43:

§311. Newly Taxable Corporations

A. Every corporation or other entity subject to the franchise tax shall pay only the minimum tax in the first accounting period or fraction thereof in which it becomes subject to the tax. It is immaterial whether the corporation became liable for the tax on the first day or the last day of the accounting period regularly used by the taxpayer in keeping its books; the minimum tax is due for that accounting period. The tax accrues immediately upon the corporation’s becoming subject thereto.

B. - C. ...

D. Notwithstanding the provisions of this Section, the initial tax of an entity in existence and actually conducting business in Louisiana during its previous calendar or fiscal year shall be calculated pursuant to R.S. 47:609, based on its corporate books on the first day of the calendar or fiscal year in which the tax levied under this Chapter becomes due and shall be payable on or before the date otherwise required by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:611.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Income and Corporation Franchise Taxes Section, Office of Group III, LR 6:25 (January 1980), amended LR 11:108 (February 1985), repromulgated by the Department of Revenue, Policy Services Division, LR 30:469 (March 2004), amended by the Department of Revenue, Policy Services Division, LR 43:

Family Impact Statement

The proposed amendment of LAC 61:I.301 regarding the imposition of tax, LAC 61:I.302 regarding the determination of taxable capital, and LAC 61:I.311 regarding newly taxable corporations, 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 these proposed rules 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

These proposed regulations will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

It is anticipated that these proposed amendments should 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 these proposed amendments to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

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 these proposed amendments to William E. Little, 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., November 29, 2016.

Public Hearing

A public hearing will be held on November 30, 2016, at 1:30 p.m. in the LaBelle Room, on the first floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Kimberly Lewis Robinson
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Imposition of Tax; Determination of Taxable Capital; Newly Taxable Corporations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of the proposed rule amendments is to implement the provisions of Act 12 of the 2016 First

Extraordinary Session of the Louisiana Legislature. The Act and these proposed rule changes expand corporate franchise tax applicability to also include partnerships, joint ventures, and limited liability companies (LLCs) electing to be treated as C-corporations for federal income tax purposes. An exception is provided for LLCs that qualify to elect to be treated as S-corporations. An exception is also provided for non-corporate entities acquired during the period January 1, 2012 through December 31, 2014 by an entity that was taxed as an S-corporation. A holding company deduction from taxable capital for debt to related parties is also added. The initial (first year) franchise tax is raised by \$100, from \$10 to \$110, but taxpayers becoming subject to the tax must pay the actual franchise tax if in existence and doing business in Louisiana during the year before becoming subject to the tax.

Implementation costs of the Department of Revenue (LDR) are for computer system modification and testing, tax form redesign, and taxpayer inquires. These costs are relatively small and will be absorbed in LDR's current appropriation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Act and these proposed rule changes expand corporate franchise tax applicability to also include partnerships, joint ventures, and limited liability companies (LLCs) electing to be treated as C-corporations for federal income tax purposes. As a result of the proposed rule changes, corporate franchise tax receipts are estimated to increase by \$10.3 million in FY 17, \$89.3 million in FY 18, and \$94 million in FY 19.

Furthermore, The initial (first year) franchise tax is also raised by \$100, from \$10 to \$110, but taxpayers becoming subject to the tax must pay the actual franchise tax if in existence and doing business in Louisiana during the year before becoming subject to the tax. However, based upon a review prior year tax data spanning the years from FY 11 - 13, it is unclear if raising the initial franchise tax will lead to an overall increase in corporate franchise tax receipts, and as a result no growth has been included in the estimates.

The holding company tax base deduction will reduce increased receipts by an indeterminable amount.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The franchise tax liabilities of the newly taxed entities are estimated to total \$10.3 million in FY 17, \$89.3 million in FY 18, and \$94 million in FY 19. These taxpayers will also incur relatively small costs to prepare additional schedules on the corporate tax return. Furthermore, each entity becoming subject to the franchise tax, that did not exist or do business in Louisiana before becoming subject to the tax, will pay an additional \$100 for the initial (first year) tax.

Taxpayers affected by the addition of the holding company tax base deduction will benefit by an indeterminable amount.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Extension of the franchise tax to various business structures not currently subject the tax may discourage these types relative to other structures currently subject to the tax. The aggregate amount of business activity, without regard to specific types of organizational structures, is not likely to be materially affected.

Kimberly Lewis Robinson
Secretary
1610#070

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the Louisiana State Employees'
Retirement System**

General Provisions (LAC 58:I.Chapter 1)

The Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) proposes amendment in part and repeal in part of provisions contained in Chapter 1 Part I of LAC Title 58. Seven definitions in Section 101 are recommended for repeal, as they are unused in the Part or are already defined in statutory law. Sections 103 and 105 are recommended for repeal in their entirety because they are unneeded. Section 107 is recommended for repeal because it is unsuited for the LASERS appeal process. The proposed Rule changes comply with and are enabled by R.S. 11:515.

Title 58

RETIREMENT

**Part I. Louisiana State Employees' Retirement System
Chapter 1. General Provisions**

§101. Definitions

A. Wherever in these regulations the masculine is used, it includes the feminine and vice versa. Wherever the singular is used, it includes the plural and vice versa. The following definitions shall apply to all regulations promulgated under Part I, unless the usage clearly indicates another meaning.

Active Member—a member of the Louisiana State Employees' Retirement System who is in state service.

Active Member Trustees—those members of the board of trustees of the Louisiana State Employees' Retirement System who are active employees, or participating in DROP.

Board of Trustees or Board—the board of trustees of the Louisiana State Employees' Retirement System.

Director—the executive director of the Louisiana State Employees' Retirement System.

DROP—Deferred Retirement Option Plan.

Inactive Member—a member who is out of state service but is not retired and has left his contributions in the system.

LASERS—the Louisiana State Employees' Retirement System.

Retired Member Trustees—those members of the board of trustees of the Louisiana State Employees' Retirement System who are retired, but not those members who are participating in DROP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:120 (January 1998), amended LR 43:

§103. Petitions for Adoption, Amendment, or Repeal of Rules; Form and Procedure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), repealed LR 43:

§105. Petitions for Declaratory Rulings on the Applicability of Agency Statutes, Rules or Orders

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:962 and R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), repealed LR 43:

§107. Appeal to the Board of Trustees

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), repealed LR 43:

Family Impact Statement

The proposed Rule repeal is not anticipated to have an impact on family formation, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule repeal is not anticipated to have an impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule repeal is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule repeal is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments on the proposed changes until 4:30 pm, November 30, 2016 to Steve Stark, Board of Trustees for the Louisiana State Employees' Retirement System, P.O. Box 44213, Baton Rouge, LA 70804. No rule preamble has been prepared.

Cindy Rougeou
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: General Provisions**

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 change is part of the streamlining of the Louisiana State Employees' Retirement System (LASERS) regulatory structure. The proposed rule change removes language that is redundant or no longer needed. Seven definitions in Section 101 are recommended for repeal, since they are already defined in statutory law. The proposed rule change amends a definition to correct a typographical error. Sections 103 and 105 are recommended for

repeal since the rules have never been invoked in the twenty years since they were originally promulgated. Section 107 is being repealed because it is designed for adjudicatory hearings, which are not a part of the LASERS appeal process.

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)

The rule definitions proposed for repeal and amendment are general provisions. They do not single out specific persons or non-governmental groups, but are designed to aid persons navigating the body of LASERS rules and regulations. Sections 103 and 105 have never been invoked, which strongly implies that no particular persons or non-governmental groups would be directly affected by their proposed repeal. Section 107 affects persons seeking an appeal, but the right to appeal a LASERS action is not rendered null by its repeal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition or employment.

Cindy Rougeou
Executive Director
1610#037

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Alligator Egg Collections (LAC 76:V.701)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission do hereby advertise their intent to amend the rules for alligator egg collections in the alligator regulations.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

A. - A.13.d. ...

14. Alligator Egg Collections

a. - i. ...

j. The alligator egg collection permittee and the landowner are responsible for the return of the percentage of live alligators to the wild described on the alligator egg collection permit. This requirement is nontransferable. Minimum return rates will be based upon the state average hatching success which is 78 percent. In no case shall the return rate be less than 10 percent at 48 inches total length. Each alligator shall be returned to the original egg collection area within a maximum time of two years from date of hatching. Each alligator shall be a minimum of 36 inches and a maximum of 60 inches (no alligator over 60 inches total length will be accepted for release) in total length and the returned sex ratio should contain at least 50 percent females. The alligator egg collection permittee/landowner are responsible for and must compensate in kind for alligator mortality which occurs for department-authorized return to

the wild alligators while being processed, stored, or transported. The department shall be responsible for supervising the required return of these alligators. A department transfer authorization permit is not required for return to the wild alligators which are delivered to the farm of origin no more than 48 hours prior to being processed for wild release. Releases back to the wild will only occur between March 15 and August 25 of each calendar year provided that environmental conditions as determined by the department are favorable for survival of the released alligators. Any farmer who owes 1000 or more alligators at 48 inches must release at least 1/4 of the total owed for that year by April 30; at least another quarter by June 15, at least another quarter by July 31; and the remainder by August 25. A farmer may do more than the required 1/4 of his releases earlier if available unscheduled days allow. Should an alligator egg collection permittee be unable to release the required number of alligators to the wild from his own stock, he shall be required to purchase additional alligators from another farmer to meet compliance with the alligator egg collection permit and these regulations, as supervised by the department. Department-sanctioned participants in ongoing studies involving survivability and return rates are exempt from these requirements during the period of the study. Violation of this Subparagraph is a class four violation as described in R.S. 56.

14.k. - 18.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115, R.S. 56:259, R.S. 56:262, R.S. 56:263 and R.S. 56:280.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:1070 (December 1990), amended LR 17:892 (September 1991), LR 19:215 (February 1993), LR 20:321 (March 1994), LR 26:1492 (July 2000), LR 28:1996 (September 2002), LR 30:2338 (October 2004), LR 30:2878 (December 2004), LR 31:2267 (September 2005), LR 33:677 (April 2007), LR 35:690 (April 2009), LR 37:2421 (August 2011), LR 39:2291 (August 2013), LR 42:909 (June 2016), LR 43:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including, but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

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 on the proposed Rule to Buddy Baker, Department of Wildlife and Fisheries, P.O. Box 98000, Baton Rouge, LA 70898-9000 or

Bart R. Yakupzack
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Alligator Egg Collections**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in additional costs for state or local governmental units.

The proposed rule change lowers the percentage of live alligators that must be returned to the wild from 12% to 10% of the number of eggs collected from the wild.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may increase revenues for the statutorily dedicated Alligator Resource fund within the LA Dept. of Wildlife & Fisheries (LDWF) by an indeterminable amount. The proposed rule allows for alligator farmers to return a lower percentage of live alligators hatched from harvested eggs to the wild. As a result, merchants will be able to sell a greater amount of alligator hides and meat. Presently the LDWF collects \$4.25 fee per alligator hide sold in Louisiana. To the extent more alligators are harvested for their hides, the LDWF will realize an increase in statutorily dedicated revenues. Due to LDWF's alligator population counts being derived from egg collections from two years earlier, any revenues generated as a result of the proposed rule change will be classified as FY 19 collections.

For reference, the most recent three-year average compiled from 2012, 2014, and 2015 (2013 data is excluded due to irregularities in the data collection) yields a total of 320,936 alligator hides sold in Louisiana. A 2% increase in alligator hides available for sale totals 6,419 (320,936 hides * 2%). To the extent alligator hides available for sale increases by the full 2% and all hides are sold, the LDWF would realize an increase of \$27,281 (\$4.25 per hide * 6,419 hides) in revenues to the statutorily dedicated Alligator Resource Fund. However, because the actual increase in alligators hides sold cannot be predicted, the exact increase is indeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may increase revenues for alligator farmers by an indeterminable amount. Because the proposed rule allows alligator farmers to retain an additional 2% of alligators hatched from harvested eggs, alligator farmers may potentially realize a 2% increase in alligator meat and hide harvests.

For reference, the most recent three-year average compiled from 2012, 2014, and 2015 (2013 data is excluded due to irregularities in the data collection) yields a total of \$67.8 M in alligator hide sales and \$6.7 M in alligator meat sales. To the extent alligator farmers realize a 2% increase in meat and hide sales based upon historical averages, the maximum amount of additional revenue the farmers may generate totals approximately \$1.49 M.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not have an effect on competition or employment.

Bryan McClinton
Undersecretary
1610#051

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Freshwater Sport and Commercial Fishing—Poverty Point Reservoir Netting Prohibition (LAC 76:VII.106)

The Wildlife and Fisheries Commission does hereby give notice of its intent to modify the current net ban and to establish and permit a special recurring commercial fishing season, allowing the use of certain nets in Poverty Point Reservoir, Richland Parish, Louisiana.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§106. Poverty Point Reservoir Netting Prohibition

A. The Wildlife and Fisheries Commission hereby prohibits the use of freshwater trammel and gill nets in Poverty Point Reservoir, Richland Parish, Louisiana, except their use will be allowed for the legal harvest of commercial fish during a special recurring trammel and gill netting season to commence each year at sunrise on October 1 and close at sunset on the last day of February the following year.

1. Commercial fishing with certain nets will be allowed on Poverty Point Reservoir only during the above described special season and only by licensed commercial fishermen. The use of nets in Poverty Point Reservoir will be limited to gill and trammel nets greater than or having at least a minimum mesh size of 3 1/2-inch bar and 7-inch stretch.

2. Commercial fishing will be allowed during daylight hours in designated areas only except that gear can remain set overnight but fish captured shall be removed during daylight hours only.

B. The Wildlife and Fisheries Commission hereby prohibits the use of hoop nets, wire nets and fish seines in Poverty Point Reservoir. No person shall use or possess any hoop nets, wire nets or fish seines in or on Poverty Point Reservoir. Violation of this provision shall be a class 2 violation as specified in R.S. 56:32.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 31:2569 (October 2005), amended LR 43:

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 in 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 Ryan Daniel, District 2 Biologist Manager, Louisiana Department of Wildlife and Fisheries, 368 Century Tel Dr., Monroe, LA 71203-8732, prior to December 5, 2016.

Bart R. Yakupzack
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Freshwater Sport and Commercial Fishing—Poverty Point Reservoir Netting Prohibition

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to have no effect on implementation costs to state or local governmental units.

The proposed rule change rescinds a ban on the possession or use of commercial trammel nets and gill nets in Poverty Point Reservoir in Richland Parish. The proposed rule would allow the use of commercial fishing gear in the Poverty Point Reservoir between October 1 and the last day of February of the following year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is expected to have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule may result in a minor increase in commercial fishing activity, harvests, and revenues.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is expected to have no effect on competition or employment.

Bryan McClinton
Undersecretary
1610#046

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oyster Harvest—Establishment of Recreational Reef Sites and Restrictions (LAC 76:VII.537)

Notice is hereby given that the Wildlife and Fisheries Commission proposes to amend LAC 76:VII.537 to remove oyster reefs 1-3 in Calcasieu Lake from the list of established recreational reef sites, and thus allow for the harvest of oysters thereon. Furthermore, a new area of water bottoms in Calcasieu Lake (East Calcasieu reef site) would be designated and set aside as a recreational reef whereby the restriction of all harvest of oysters thereon would be applied. Two new areas of water bottoms in Lake Pontchartrain (West End and St. John) would also be added to the list of established recreational reef sites. Additional changes to this Section include removal of duplicative reef site coordinates (Redfish Pointe [original]), consistency corrections (Bay Ronquille, St. Tammany East, St. Tammany West, Orleans, South Shore, Bully Camp, St. Charles, Rabbit Island, Finfish, Turner's Bay Island, Sweet Lake, Bird Island, Cypremort Point, and Redfish Point), and subsequent renumbering of reef sites.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oyster

§537. Establishment of Recreational Reef Sites and Restriction of Oyster Harvest

A. The Wildlife and Fisheries Commission hereby establishes the following recreational reef sites as that area within the following coordinates (North America Datum 1983):

1. California Point—Plaquemines Parish:
 - a. 29 degrees 29 minutes 08.86 seconds N,
89 degrees 29 minutes 11.15 seconds W;
 - b. 29 degrees 29 minutes 08.63 seconds N,
89 degrees 28 minutes 54.46 seconds W;
 - c. 29 degrees 28 minutes 54.02 seconds N,
89 degrees 28 minutes 54.73 seconds W;
 - d. 29 degrees 28 minutes 54.25 seconds N,
89 degrees 29 minutes 11.42 seconds W;
2. Bay Ronquille—Plaquemines Parish:
 - a. 29 degrees 20 minutes 04.46 seconds N,
89 degrees 50 minutes 33.38 seconds W;
 - b. 29 degrees 20 minutes 04.54 seconds N,
89 degrees 50 minutes 39.29 seconds W;
 - c. 29 degrees 20 minutes 07.96 seconds N,
89 degrees 50 minutes 40.22 seconds W;
 - d. 29 degrees 20 minutes 09.09 seconds N,
89 degrees 50 minutes 44.75 seconds W;
 - e. 29 degrees 20 minutes 01.34 seconds N,
89 degrees 50 minutes 44.21 seconds W;
 - f. 29 degrees 20 minutes 01.59 seconds N,
89 degrees 50 minutes 41.69 seconds W;
 - g. 29 degrees 19 minutes 50.07 seconds N,
89 degrees 50 minutes 38.19 seconds W;

- h. 29 degrees 19 minutes 53.35 seconds N,
89 degrees 50 minutes 34.71 seconds W;
 - i. 29 degrees 19 minutes 52.76 seconds N,
89 degrees 50 minutes 34.16 seconds W;
 - j. 29 degrees 20 minutes 02.34 seconds N,
89 degrees 50 minutes 24.99 seconds W;
 - k. 29 degrees 20 minutes 05.37 seconds N,
89 degrees 50 minutes 31.18 seconds W;
3. St. Tammany East—St. Tammany Parish:
 - a. 30 degrees 13 minutes 48.36 seconds N,
89 degrees 57 minutes 15.24 seconds W;
 - b. 30 degrees 13 minutes 48.36 seconds N,
89 degrees 56 minutes 27.24 seconds W;
 - c. 30 degrees 13 minutes 06.36 seconds N,
89 degrees 56 minutes 27.24 seconds W;
 - d. 30 degrees 13 minutes 06.36 seconds N,
89 degrees 57 minutes 15.24 seconds W;
 4. St. Tammany West—St. Tammany Parish:
 - a. 30 degrees 18 minutes 41.88 seconds N,
90 degrees 09 minutes 24.00 seconds W;
 - b. 30 degrees 18 minutes 41.88 seconds N,
90 degrees 08 minutes 36.00 seconds W;
 - c. 30 degrees 17 minutes 59.88 seconds N,
90 degrees 08 minutes 36.00 seconds W;
 - d. 30 degrees 17 minutes 59.88 seconds N,
90 degrees 09 minutes 24.00 seconds W;
 5. St. Tammany Pier—St. Tammany Parish:
 - a. 30 degrees 12 minutes 28.34 seconds N,
89 degrees 47 minutes 54.03 seconds W;
 - b. 30 degrees 12 minutes 27.96 seconds N,
89 degrees 47 minutes 53.57 seconds W;
 - c. 30 degrees 12 minutes 20.66 seconds N,
89 degrees 48 minutes 01.30 seconds W;
 - d. 30 degrees 12 minutes 21.03 seconds N,
89 degrees 48 minutes 01.76 seconds W;
 6. North Shore—St. Tammany Parish:
 - a. 30 degrees 16 minutes 38.00 seconds N,
90 degrees 04 minutes 08.00 seconds W;
 - b. 30 degrees 16 minutes 38.00 seconds N,
90 degrees 03 minutes 21.00 seconds W;
 - c. 30 degrees 15 minutes 58.00 seconds N,
90 degrees 03 minutes 21.00 seconds W;
 - d. 30 degrees 15 minutes 58.00 seconds N,
90 degrees 04 minutes 08.00 seconds W;
 7. North Twin Span—St. Tammany Parish:
 - a. 30 degrees 11 minutes 39.13 seconds N,
89 degrees 50 minutes 15.54 seconds W;
 - b. 30 degrees 11 minutes 39.13 seconds N,
89 degrees 50 minutes 10.78 seconds W;
 - c. 30 degrees 11 minutes 35.02 seconds N,
89 degrees 50 minutes 10.78 seconds W;
 - d. 30 degrees 11 minutes 35.02 seconds N,
89 degrees 50 minutes 15.54 seconds W;
 8. South Twin Span—Orleans Parish:
 - a. 30 degrees 10 minutes 12.23 seconds N,
89 degrees 50 minutes 47.04 seconds W;
 - b. 30 degrees 10 minutes 12.23 seconds N,
89 degrees 50 minutes 42.27 seconds W;
 - c. 30 degrees 10 minutes 08.11 seconds N,
89 degrees 50 minutes 42.27 seconds W;
 - d. 30 degrees 10 minutes 08.11 seconds N,
89 degrees 50 minutes 47.04 seconds W;
 9. Orleans—Orleans Parish:
 - a. 30 degrees 07 minutes 47.46 seconds N,
90 degrees 05 minutes 05.70 seconds W;
 - b. 30 degrees 07 minutes 47.46 seconds N,
90 degrees 04 minutes 17.70 seconds W;
 - c. 30 degrees 07 minutes 05.46 seconds N,
90 degrees 04 minutes 17.70 seconds W;
 - d. 30 degrees 07 minutes 05.46 seconds N,
90 degrees 05 minutes 05.70 seconds W;
 10. Lake Front—Orleans Parish:
 - a. 30 degrees 03 minutes 34.72 seconds N,
89 degrees 59 minutes 40.25 seconds W;
 - b. 30 degrees 03 minutes 35.72 seconds N,
89 degrees 59 minutes 38.25 seconds W;
 - c. 30 degrees 03 minutes 35.57 seconds N,
89 degrees 59 minutes 38.05 seconds W;
 - d. 30 degrees 03 minutes 30.22 seconds N,
89 degrees 59 minutes 33.25 seconds W;
 - e. 30 degrees 03 minutes 28.22 seconds N,
89 degrees 59 minutes 35.25 seconds W;
 11. West End—Orleans Parish:
 - a. 30 degrees 01 minutes 54.23 seconds N,
90 degrees 07 minutes 17.97 seconds W;
 - b. 30 degrees 01 minutes 54.70 seconds N,
90 degrees 07 minutes 11.13 seconds W;
 - c. 30 degrees 01 minutes 47.65 seconds N,
90 degrees 07 minutes 09.28 seconds W;
 - d. 30 degrees 01 minutes 47.19 seconds N,
90 degrees 07 minutes 16.12 seconds W;
 12. St. John—St. John the Baptist Parish:
 - a. 30 degrees 05 minutes 53.21 seconds N,
90 degrees 24 minutes 20.29 seconds W;
 - b. 30 degrees 05 minutes 53.16 seconds N,
90 degrees 24 minutes 12.77 seconds W;
 - c. 30 degrees 05 minutes 46.63 seconds N,
90 degrees 24 minutes 12.83 seconds W;
 - d. 30 degrees 05 minutes 46.68 seconds N,
90 degrees 24 minutes 20.35 seconds W;
 13. South Shore 1, 2, and 3—Jefferson Parish
 - a. 30 degrees 05 minutes 25.00 seconds N,
90 degrees 12 minutes 42.00 seconds W;
 - b. 30 degrees 05 minutes 25.00 seconds N,
90 degrees 11 minutes 56.00 seconds W;
 - c. 30 degrees 04 minutes 44.00 seconds N,
90 degrees 11 minutes 56.00 seconds W;
 - d. 30 degrees 04 minutes 44.00 seconds N,
90 degrees 12 minutes 42.00 seconds W;
 14. Laketown—Jefferson Parish:
 - a. 30 degrees 02 minutes 40.92 seconds N,
90 degrees 14 minutes 23.11 seconds W;
 - b. 30 degrees 02 minutes 38.30 seconds N,
90 degrees 14 minutes 18.46 seconds W;
 - c. 30 degrees 02 minutes 35.07 seconds N,
90 degrees 14 minutes 20.28 seconds W;
 - d. 30 degrees 02 minutes 37.69 seconds N,
90 degrees 14 minutes 24.93 seconds W;
 15. Independence Island—Jefferson Parish:
 - a. 29 degrees 18 minutes 34.48 seconds N,
89 degrees 56 minutes 13.37 seconds W;
 - b. 29 degrees 18 minutes 34.22 seconds N,
89 degrees 55 minutes 48.52 seconds W;
 - c. 29 degrees 18 minutes 24.32 seconds N,

- 89 degrees 55 minutes 48.66 seconds W;
- d. 29 degrees 18 minutes 24.58 seconds N,
89 degrees 56 minutes 13.51 seconds W;
- 16. Bully Camp 1—Lafourche Parish:
 - a. 29 degrees 27 minutes 30.08 seconds N,
90 degrees 22 minutes 43.33 seconds W;
 - b. 29 degrees 27 minutes 30.04 seconds N,
90 degrees 22 minutes 38.63 seconds W;
 - c. 29 degrees 27 minutes 25.92 seconds N,
90 degrees 22 minutes 38.67 seconds W;
 - d. 29 degrees 27 minutes 25.96 seconds N,
90 degrees 22 minutes 43.37 seconds W;
- 17. Bully Camp 2—Lafourche Parish:
 - a. 29 degrees 27 minutes 44.08 seconds N,
90 degrees 23 minutes 03.33 seconds W;
 - b. 29 degrees 27 minutes 44.04 seconds N,
90 degrees 22 minutes 58.63 seconds W;
 - c. 29 degrees 27 minutes 39.92 seconds N,
90 degrees 22 minutes 58.67 seconds W;
 - d. 29 degrees 27 minutes 39.96 seconds N,
90 degrees 23 minutes 03.37 seconds W;
- 18. St. Charles—St. Charles Parish:
 - a. 30 degrees 08 minutes 26.10 seconds N,
90 degrees 19 minutes 26.28 seconds W;
 - b. 30 degrees 08 minutes 26.10 seconds N,
90 degrees 18 minutes 38.28 seconds W;
 - c. 30 degrees 07 minutes 44.10 seconds N,
90 degrees 18 minutes 38.28 seconds W;
 - d. 30 degrees 07 minutes 44.10 seconds N,
90 degrees 19 minutes 26.28 seconds W;
- 19. Rabbit Island—St. Mary Parish:
 - a. 29 degrees 30 minutes 41.31 seconds N,
91 degrees 34 minutes 00.39 seconds W;
 - b. 29 degrees 30 minutes 41.34 seconds N,
91 degrees 33 minutes 43.68 seconds W;
 - c. 29 degrees 30 minutes 26.73 seconds N,
91 degrees 33 minutes 43.65 seconds W;
 - d. 29 degrees 30 minutes 26.70 seconds N,
91 degrees 34 minutes 00.35 seconds W;
- 20. Finfish—Cameron Parish:
 - a. 29 degrees 58 minutes 15.58 seconds N,
93 degrees 18 minutes 12.25 seconds W;
 - b. 29 degrees 58 minutes 15.83 seconds N,
93 degrees 17 minutes 55.47 seconds W;
 - c. 29 degrees 58 minutes 01.22 seconds N,
93 degrees 17 minutes 55.19 seconds W;
 - d. 29 degrees 58 minutes 00.97 seconds N,
93 degrees 18 minutes 11.97 seconds W;
- 21. Turner's Bay Island—Calcasieu Parish:
 - a. 30 degrees 03 minutes 20.56 seconds N,
93 degrees 18 minutes 29.54 seconds W;
 - b. 30 degrees 03 minutes 20.11 seconds N,
93 degrees 18 minutes 26.51 seconds W;
 - c. 30 degrees 03 minutes 18.54 seconds N,
93 degrees 18 minutes 26.82 seconds W;
 - d. 30 degrees 03 minutes 18.99 seconds N,
93 degrees 18 minutes 29.85 seconds W;
- 22. East Calcasieu—Cameron Parish:
 - a. 29 degrees 53 minutes 16.49 seconds N,
93 degrees 16 minutes 58.85 seconds W;
 - b. 29 degrees 53 minutes 16.52 seconds N,
93 degrees 16 minutes 34.79 seconds W;
- c. 29 degrees 52 minutes 57.20 seconds N,
93 degrees 16 minutes 34.74 seconds W;
- d. 29 degrees 52 minutes 57.17 seconds N,
93 degrees 16 minutes 56.85 seconds W;
- 23. Sweet Lake—Cameron Parish:
 - a. 29 degrees 56 minutes 38.05 seconds N,
93 degrees 17 minutes 33.42 seconds W;
 - b. 29 degrees 56 minutes 38.27 seconds N,
93 degrees 17 minutes 16.65 seconds W;
 - c. 29 degrees 56 minutes 23.66 seconds N,
93 degrees 17 minutes 16.36 seconds W;
 - d. 29 degrees 56 minutes 23.41 seconds N,
93 degrees 17 minutes 33.14 seconds W;
- 24. Bird Island 1 and 2—Terrebonne Parish:
 - a. 29 degrees 03 minutes 40.34 seconds N,
90 degrees 43 minutes 34.07 seconds W;
 - b. 29 degrees 03 minutes 41.97 seconds N,
90 degrees 43 minutes 29.63 seconds W;
 - c. 29 degrees 03 minutes 41.89 seconds N,
90 degrees 43 minutes 12.99 seconds W;
 - d. 29 degrees 03 minutes 27.28 seconds N,
90 degrees 43 minutes 13.08 seconds W;
 - e. 29 degrees 03 minutes 25.65 seconds N,
90 degrees 43 minutes 17.53 seconds W;
 - f. 29 degrees 03 minutes 25.73 seconds N,
90 degrees 43 minutes 34.16 seconds W;
- 25. Point Mast—Terrebonne Parish:
 - a. 29 degrees 06 minutes 34.01 seconds N,
90 degrees 38 minutes 16.87 seconds W;
 - b. 29 degrees 06 minutes 33.92 seconds N,
90 degrees 38 minutes 00.24 seconds W;
 - c. 29 degrees 06 minutes 19.31 seconds N,
90 degrees 38 minutes 00.34 seconds W;
 - d. 29 degrees 06 minutes 19.40 seconds N,
90 degrees 38 minutes 16.97 seconds W;
- 26. Cypremort Point 1—Iberia Parish:
 - a. 29 degrees 43 minutes 21.03 seconds N,
91 degrees 52 minutes 23.19 seconds W;
 - b. 29 degrees 43 minutes 21.04 seconds N,
91 degrees 52 minutes 20.82 seconds W;
 - c. 29 degrees 43 minutes 18.97 seconds N,
91 degrees 52 minutes 20.81 seconds W;
 - d. 29 degrees 43 minutes 18.96 seconds N,
91 degrees 52 minutes 23.18 seconds W;
- 27. Cypremort Point 2—Iberia Parish:
 - a. 29 degrees 44 minutes 26.95 seconds N,
91 degrees 52 minutes 54.25 seconds W;
 - b. 29 degrees 44 minutes 27.02 seconds N,
91 degrees 52 minutes 37.51 seconds W;
 - c. 29 degrees 44 minutes 12.41 seconds N,
91 degrees 52 minutes 37.43 seconds W;
 - d. 29 degrees 44 minutes 12.34 seconds N,
91 degrees 52 minutes 54.17 seconds W;
- 28. Redfish Point—Vermilion Parish:
 - a. 29 degrees 40 minutes 44.28 seconds N,
92 degrees 07 minutes 13.40 seconds W;
 - b. 29 degrees 40 minutes 44.38 seconds N,
92 degrees 06 minutes 56.67 seconds W;
 - c. 29 degrees 40 minutes 29.76 seconds N,
92 degrees 06 minutes 56.56 seconds W;
 - d. 29 degrees 40 minutes 29.66 seconds N,
92 degrees 07 minutes 13.29 seconds W;

29. Prien Point—Vermilion Parish:
- a. 29 degrees 39 minutes 45.53 seconds N, 92 degrees 08 minutes 05.36 seconds W;
 - b. 29 degrees 39 minutes 45.64 seconds N, 92 degrees 07 minutes 48.63 seconds W;
 - c. 29 degrees 39 minutes 31.02 seconds N, 92 degrees 07 minutes 48.52 seconds W;
 - d. 29 degrees 39 minutes 30.92 seconds N, 92 degrees 08 minutes 05.25 seconds W.

B. No person shall harvest oysters from these recreational reefs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:805.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41:1309 (July 2015), amended LR 43:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

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 Craig Gothreaux, Artificial Reef Program Manager, Department of Wildlife and Fisheries, Fisheries Extension Section, P.O. Box 98000, Baton Rouge, LA, 70898-9000 prior to November 28, 2016.

Bart R. Yakupzack
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Oyster Harvest—Establishment of Recreational Reef Sites and Restrictions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will involve expenditures of \$250,000 from the Artificial Reef Development Fund to create two recreational reefs in FY 17, one in Saint John the Baptist Parish and one in Cameron Parish. The \$250,000 from the Artificial Reef Development Fund is included in the LA Dept.

of Wildlife and Fisheries (LDWF) current appropriation. For reference, the Artificial Reef Development Fund has a current balance of approximately \$20.25 M and budgeted authority of approximately \$10.97 M in FY 17. The Coastal Conservation Association (CCA), which has partnered with LDWF in the reef projects, funds additional costs for reef construction. Furthermore, the proposed rule change adds the recently completed 10-acre West End reef site within Lake Pontchartrain in Orleans Parish to the list of recreational reefs.

The proposed rule change establishes a new 10-acre recreational reef site, the Saint John Reef, within Lake Pontchartrain in Saint John the Baptist Parish. This reef has not been completed. In addition, the proposed rule change establishes a new recreational reef site, the East Calcasieu Reef, within Calcasieu Lake in Cameron Parish, which has yet to begin construction. This site would have a planning area of 87 acres and would be a constructed with a minimum 6,000 tons of material.

The proposed rule removes the recreational reef status from the 87-acre Chenier Reef complex (i.e., Oyster Reefs 1, 2, and 3) in Calcasieu Lake, within Cameron Parish. The removal of recreational reef status would allow the commercial harvest of oysters from this area. Recreational fishing would be allowed to continue at these locations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not anticipated to affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule establishing the Saint John Recreational Reef in Lake Pontchartrain would create new habitat for commonly-targeted fish species and provide additional fishing opportunities for anglers.

The proposed rule establishing the East Calcasieu Recreational Reef in Calcasieu Lake would create new habitat for commonly-targeted fish species and provide additional fishing opportunities for anglers.

The proposed rule removing recreational reef status from the Chenier Reef complex in Calcasieu Lake would benefit commercial oyster harvesters who would thus be allowed to harvest market-sized oysters that are known to exist in this area. The removal of recreational reef status from the Chenier Reef complex in Calcasieu Lake is not expected to reduce significantly the recreational fishing opportunities currently available at those locations though there may be an increase in competition for space over the reefs between recreational fishing vessels and commercial oyster boats when the season for harvesting oysters from the public oyster reefs opens. Commercial oystermen may realize an increase in gross revenues as a result of the Chenier Reef lending greater oyster harvesting opportunities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to impact competition and employment. However, increased competition for oysters may occur as a result of the Chenier Reef being available for commercial oystermen to harvest. The exact effect of opening the Chenier Reef to commercial oyster harvesting is indeterminable.

Bryan McClinton
Undersecretary
1610#045

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: January-September 2016

LAC Title	Part #.Section #	Action	Location:		LAC Title	Part #.Section #	Action	Location:		
			Mon th	LR 42 Page #				Mon th	LR 42 Page #	
4	V.Chapter 15 (PPM)	Amended	July	981	28	CXIX.Chapters 1-17	Repealed	July	1065	
	V.Chapter 53 (PPM)	Adopted	Jan.	2		CXXXI.243	Amended	Feb.	232	
	V.Chapter 55 (PPM)	Adopted	Jan.	3		CXXXIX.103,2701	Amended	July	1017	
	V.Chapter 59 (PPM)	Adopted	Mar.	370		CXXXIX.2301	Amended	July	1019	
7	V.919	Amended	Feb.	219		CXXXIX.2301,2713,2801	Amended	April	549	
	V.Chapter 29	Adopted	Mar.	393		CXLV.505,1103,1105	Amended	April	551	
	V.Chapter 29	Repromulgated	April	540		CXLV.1111	Amended	July	1019	
	XIII.121,123,519,749,763	Amended	Feb.	211		CLIII.1305	Amended	April	553	
	XV.127	Amended	May	730		CLV.103,303	Amended	April	553	
	XXI.1301,1312	Adopted	Mar.	391		CLXI.709,905,1303,1307,1713,1719,1721	Amended	April	554	
	XXI.1311,1321	Amended	Mar.	391		CLXI.1901,2103	Amended	April	554	
	XXIII.103,307,1101,1103	Amended	May	730		CLXV.103,501,505,513,515,517,521,903	Amended	Jan.	42	
	XXIII.309	Adopted	May	730		CLXV.503,507,509,511,519	Adopted	Jan.	42	
	XXIII.727	Repealed	May	730		CLXIX.Chapters 1-23	Adopted	July	1019	
	XXV.Chapter 1	Amended	Feb.	212		CLXXI.Chapters 1-25	Adopted	July	1043	
	XXVII.Chapter 1	Amended	Sept.	1498	32	I.317	Amended	Jan.	51	
	XXVII.114	Adopted	Sept.	1498						
	XXVII.157,161	Repealed	Sept.	1498	33	I.Chapter 8	Amended	Feb.	235	
	XXXV.125	Amended	Feb.	218		III.502,509	Amended	April	563	
	XXXIX.Chapter 5	Adopted	Sept.	1503		III.504	Amended	Mar.	401	
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10	XIII.Chapter 13	Amended	July	1087		III.509	Amended	Mar.	402	
	XIII.1309	Repealed	July	1087		III.5901	Amended	July	1084	
13	I.Chapter 7	Amended	June	867		V.109,1107,1301,1307,1516	Amended	April	565	
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	I.3309	Adopted	Jan.	35	34	IX.2701	Amended	May	735	
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	19	V.100,500,700,900,1100	Adopted	June	905	37	XIII.Chapter 3	Amended	July	1095
		V.701,703	Adopted	Jan.	69		XIII.317,319,321,323	Adopted	July	1095
22	I.337	Amended	Mar.	424		XIII.Chapter 27	Repealed	Jan.	65	
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28	I.503	Amended	April	563	46	VIII.Chapter 5	Amended	Sept.	1515	
	IV.705,803,805	Amended	Jan.	47		VIII.509,511,513,515,517	Adopted	Sept.	1515	
	IV.2005,2007	Amended	Jan.	46		VIII.Chapter 8	Adopted	Sept.	1513	
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	CXV.Chapter 23	Amended	Feb.	232						
	CXV.2318,2353	Amended	July	1062						

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	XLV.8315	Adopted	April	570		XXI.6101	Amended	June	900		
	XLV.Chapter 97	Amended	April	570		XXI.9501	Amended	June	897		
	XLVII.1703	Amended	Feb.	274		XXI.12101	Amended	June	896		
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		I.6037	Amended	July		1090					
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		I.12524	Repealed	Jan.		61		I.1633-1637	Amended	Jan.	37
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50	I.105	Amended	June	892		Repromulgated					
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	II.20029	Adopted	Jan.	63	V.101,303,304,703,907,1103,1307,1503	Amended	May	744			
	III.101	Adopted	June	901	V.2501,2503,2713,2717,3101,3103	Amended	May	744			
	III.301	Adopted	June	901	67	I.Chapter 3	Amended	June	860		
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Potpourri

POTPOURRI

Department of Environmental Quality Office of the Secretary Legal Division

State Implementation Plan for Regional Haze Program Electrical Generating Units BART

Under the authority of the Louisiana Environmental Quality Act, R. S. 30:2001 et seq., the secretary gives notice that the Office of Environmental Services, Air Permits Division, will submit a proposed revision to the State Implementation Plan (SIP) for the Regional Haze Program as required under the Clean Air Act, Part C, Section 169 and 40 CFR Part 51.308. Regional haze is visibility impairment caused by the cumulative air pollutant emissions from numerous sources over a wide geographic area. (1610Pot1)

On July 3, 2012, the Environmental Protection Agency (EPA) made final a partial limited approval and partial disapproval of the original SIP submitted on June 13, 2008. This revision answers the requirements for the electrical generating units (EGU) facilities that were addressed under the Best Available Retrofit Technology (BART) section and that are the subject of the EPA partial disapproval.

All interested persons are invited to submit written comments concerning the SIP revision no later than 4:30 p.m., on November 30, 2016, to Vivian H. Aucoin, Office of Environmental Services, Box 4313, Baton Rouge, LA 70821-4314, Fax (225) 219-3482; or e-mail at vivian.aucoin@la.gov. A public hearing will be held upon request. The deadline for requesting a public hearing is Friday, November 4, 2016.

A copy of the proposal may be viewed on the LDEQ website, or at LDEQ headquarters at 602 North 5th Street, Baton Rouge, LA 70802.

Herman Robinson, CPM
General Counsel

1610#022

POTPOURRI

Office of the Governor Coastal Protection and Restoration Authority

Deepwater Horizon Oil Spill: Louisiana Trustee
Implementation Group Draft Restoration Plan #1:
Restoration of Wetlands, Coastal, and Nearshore Habitats;
Habitat Projects on Federally Managed Lands; and Birds

ACTION:

Notice of Availability of Draft Restoration Plan

SUMMARY:

In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the Federal and State *Deepwater Horizon (DWH)* oil spill

natural resource trustee agencies for the Louisiana Trustee Implementation Group (Louisiana TIG) are preparing a "Louisiana Trustee Implementation Group Draft Restoration Plan #1: Restoration of Wetlands, Coastal, and Nearshore Habitats; Habitat Projects on Federally Managed Lands; and Birds" (Draft RP). The Louisiana TIG prepared this Draft RP in accordance with the *DWH* Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS), the *DWH* Record of Decision (ROD), and OPA. This Draft RP describes the *DWH* Natural Resource Damage Assessment (NRDA) restoration planning process, identifies a reasonable range of restoration alternatives to address a portion of the injuries to resources and habitats caused by the *DWH* oil spill, and proposes from those alternatives a suite of preferred restoration alternatives on which the Louisiana TIG proposes to conduct engineering and design (E&D). For the projects identified as preferred restoration alternatives in this Draft RP, the Louisiana TIG may, after completion of the E&D process discussed in this plan, propose some or all of those projects for implementation using *DWH* NRDA funds. Those proposed projects would then be fully evaluated under NEPA and OPA in a future Restoration Plan which would be provided to the public for review and comment in accordance with the appropriate Louisiana and federal laws. The purpose of this notice is to inform the public of the availability of the Draft RP and to seek public comments on the proposed restoration alternatives.

DATES:

Comments Due Date: We will consider public comments received on or before November 21, 2016. Additional details regarding the comment period will be available at <http://la-dwh.com> once the document is published.

Public Meetings: If requested, the Trustees will schedule a public meeting to facilitate public review and comment on the Draft RP.

ADDRESSES:

Obtaining the Document: You will be able to download the Draft RP, which is expected to be released October 20, 2016, at <http://la-dwh.com/>. Alternatively, you may request a CD of the Draft RP (see FOR FURTHER INFORMATION CONTACT). You will also be able to review copies of the document at the public repositories listed at <http://la-dwh.com/>.

Submission of Comments: You may submit comments on the Draft RP by one of the following methods:

Via the web: <http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>.

Via U.S. Mail: Louisiana Coastal Protection & Restoration Authority, ATTN: Liz Williams, P.O. Box 44027, Baton Rouge, LA 70804; or U.S. Fish & Wildlife Service, P.O. Box 49567, Atlanta, GA 30345. Submissions must be postmarked no later than 30 days after the release date of the Draft RP.

FOR FURTHER INFORMATION CONTACT:

Liz Williams at LATIG@la.gov.

SUPPLEMENTARY INFORMATION:

Background

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252 – MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The *Deepwater Horizon* state and Federal natural resource trustees (Trustees) conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and state agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority (CPRA), Oil Spill Coordinator's Office (LOSCO), Department of Environmental Quality (LDEQ), Department of Wildlife and Fisheries (LDWF), and Department of Natural Resources (LDNR);
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- For the State of Texas: Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Upon completion of the NRDA, the Trustees reached and finalized a settlement of their natural resource damage claims with BP in a Consent Decree approved by the United States District Court for the Eastern District of Louisiana.

Pursuant to that Consent Decree, restoration projects in Louisiana are now chosen and managed by the Louisiana Trustee Implementation Group (TIG). The Louisiana TIG is composed of the following Trustees:

- DOI, as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- NOAA, on behalf of the U.S. Department of Commerce;
- USDA;
- EPA;
- CPRA;
- LDNR;
- LDEQ;
- LOSCO; and
- LDWF.

Overview of the Draft RP

The Draft RP is being released in accordance with the Oil Pollution Act (OPA), the Natural Resources Damage Assessment (NRDA) regulations found in the Code of Federal Regulations at 15 C.F.R. 990, the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), the Consent Decree, and Final PDARP/PEIS.

The total estimated cost for the proposed engineering and design activities for the six proposed restoration projects is \$22,300,000. Details on the proposed engineering and design activities for the restoration projects are provided in the Draft RP.

Invitation to Comment

The Louisiana TIG will seek public review and comment on the restoration planning process, reasonable range of restoration alternatives, and propose from those alternatives a suite of preferred restoration alternatives presented in this Draft RP. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time.

Next Steps

As described above, a thirty-day comment period shall run from the date of release of the document. If requested, a public meeting will be scheduled to facilitate the public review and comment process. After the public comment period ends, the Trustees will consider and address the comments received before issuing the Final Restoration Plan. The Final version of the plan will include a summary of comments submitted, and the manner in which they were addressed.

Administrative Record

When they are completed, the documents comprising the Administrative Record will be available electronically at the following locations:

- <http://www.doi.gov/deepwaterhorizon>; or
- <http://la-dwh.com/AdminRecord.aspx>.

Authority

The authorities for this action are the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) the implementing Natural Resource Damage Assessment regulations found at 15 CFR 990, the Louisiana Oil Spill Prevention and Response Act (La. R.S. 30:2451 *et seq.*), and the

implementing Natural Resource Damage Assessment Regulations found at La. Admin. Code 43:101 et seq.

Michael Ellis
Executive Director

1610#042

POTPOURRI
Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
C. L. Morris, Inc.	Caddo Pine Island	S	Raines	046	55927
Excalibur Resources, Inc.	Red River-Bull Bayou	S	A C Whatley	001	166256
Sutton-Zwolle Oil Co	Blue Lake	S	Bowman Hicks	002	22100 (28)
Shreveport Oil Corp.	Caddo Pine Island	S	Muslow	B-8	20809
Chenola Oil Corporation	EOLA	L	Ritchie Grocer Co	003	23765
C. H. Tuttle et al	Red River-Bull Bayou	S	Fee	002	31124

Operator	Field	District	Well Name	Well Number	Serial Number
Ross Exploration, Inc.	Caddo Pine Island	S	Sample	006	45525 (30)
Quest Exploration L.L.C.	Fresh Water Bayou, North	L	La Furs Inc	F016	163553
C. H. Tuttle Oil Company	Red River-Bull Bayou	S	C H Tuttle Fee	006	36618
Wayne Pender	Monroe	M	J H Thatcher	001	168206
Wayne Pender	Monroe	M	J H Thatcher	002	191730
Neosho Operating LA, LLC	Centerville	L	Aus C Ra Sua;Basco 6	001	220147
Neosho Operating LA, LLC	Centerville	L	Basco 6 Swd	001	974025
Neosho Operating LA, LLC	Cheneyville, West	L	Aus C RA Sun; Foreman	001	234595
Neosho Operating LA, LLC	Cheneyville, West	L	Foreman Swd	001	973527

Richard P. Ieyoub
Commissioner

1610#030

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