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Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Animal Health and Food Safety

Movement of Turtle Eggs and Turtles (LAC 7:XXI.1909)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority set forth in R.S. 3:2358.2 and 3:2358.10, notice is hereby given that the Department of Agriculture and Forestry is extending an Emergency Rule amending LAC 7:XXI.1909 regarding requirements for international shipments of turtles. The Emergency Rule was initially published at LR 42:512 and was renewed at LR 42:1266.

Currently, LAC 7:XXI.1909 requires a health certificate and certified laboratory report accompany all international shipments, irrespective of whether the country of destination requires the same. Louisiana is the only state in the nation with these exit requirements in lieu of following the entry requirements for the country of destination. The current regulation is overly burdensome and adds additional cost to Louisiana turtle farmers attempting to ship their commodities internationally. By amending LAC 7:XXI.1909 to require a health certificate and certified laboratory report when required by the country of destination, instead of for every international shipment, Louisiana turtle farmers will no longer be subject to an unfair trade disadvantage.

This Rule shall have the force and effect of law on November 28, 2016, and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry, or until permanent rules are promulgated in accordance with law.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Animals and Animal Health
Chapter 19. Turtles
(Formerly Chapter 23)
§1909. Movement of Turtle Eggs and Turtles
(Formerly §2307)

A. The department shall regulate the movement of turtles or turtle eggs by licensed pet turtle farmers and procedures shall include, but not be limited to, shipment into local and international commerce, as well as shipment to certified laboratories.

1. All turtles or eggs leaving a licensed turtle farm bound for a certified laboratory shall be accompanied by a certificate of inspection. A health certificate from a Louisiana licensed veterinarian stating that the turtles and/or eggs originated from a Louisiana licensed pet turtle farm shall accompany all shipments into international commerce if required by the country of destination. Each health certificate shall identify the final destination of the turtles or eggs they accompany.

2. - 6. …

7. Turtles or eggs intended for international commerce shall be conspicuously marked "For Export Only" on the outside of the shipping package. Turtles or eggs intended for international commerce shall be accompanied by a health certificate and/or a certified laboratory report if either is required by the country of destination.

8. - 9. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2358.2 and 3:2358.10.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Animal Health Services, LR 17:351 (April 1991), amended by the Department of Agriculture and Forestry, Office of the Commissioner, LR 26:1569 (August 2000), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:980 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, LR 42:

Mike Strain, D.V.M.
Commissioner

1612#001

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(LAC 28:CXXXIX.Chapter 27)

The Board of Elementary and Secondary Education (BESE) has exercised the emergency provision in accordance with R.S. 49:953(B), the Administrative Procedure Act, and R.S. 17.6 to amend LAC 28:CXXXIX, *Bulletin 126—Charter Schools*: §2701, Students Eligible to Attend; §2703, Enrollment Capacity; §2707, Application Period; and §2709, Enrollment of Students, Lottery, and Waitlist. The initial Declaration of Emergency, effective for 120 days (from August 19, 2016, until December 16, 2016) is being extended beyond the initial period for an additional 120 days (from December 17, 2016, until April 15, 2017) and will remain in effect until the Rule is finally adopted.

The proposed revisions enable state-authorized charter schools to enroll students displaced as a result of the recent federally declared disaster, Louisiana Severe Storms and Flooding (DR-4277). BESE has exercised the emergency provision in the adoption of these policy revisions to ensure students impacted by DR-4277 continue to receive a high-quality education as their communities and schools rebuild.

Title 28
EDUCATION
Part CXXXIX. Bulletin 126—Charter Schools
Chapter 27. Charter School Recruitment and Enrollment
§2701. Students Eligible to Attend

A. Type 2 Charter Schools. Students meeting residency requirements established in a type 2 charter school's charter are eligible to attend a type 2 charter school. A type 2 charter school may establish residency requirements for students living within the state or may establish residency requirements restricted to a particular parish or parishes.

1. Type 2 charter schools shall collect and verify documents substantiating the residency of each student prior to submitting residency information to statewide student information system. Acceptable documents shall be as follows:

a. mortgage (if owned);

b. tax assessor's bill (if owned);

c. homestead exemption bill (if owned);

d. current lease of residence for the school year (if leased);

e. current rent receipt (if leased);

f. previous two months utility bill (Disconnect notices are not acceptable.):

i. gas;

ii. water or sewer;

iii. telephone (land line only);

iv. cable or satellite television bill;

v. internet service;

g. current driver's license or government-issued identification;

h. current official letter from a government agency such as Department of Children and Family Services or Department of Health regarding services provided; or

i. current bank statements.

2. The name of the parent or legal custodians must appear on each document and the addresses must match on all documents. The residency information must be updated annually prior to the start of school for the student to be enrolled in that school year.

3. If the parent or legal custodian neither owns nor rents a residence and is therefore living with another individual, the parent or legal custodian must provide a notarized affidavit of residency signed by the parent or legal custodian of the student as well as the individual with whom the parent or legal custodian is living. The affidavit of residency must attest to the following:

a. student's name;

b. name of parent or legal custodian;

c. address of parent or legal custodian;

d. name of the person with whom the parent or legal custodian is living;

e. a statement of attestation by the parent or legal custodian that the student is living with him at the address recorded on the affidavit and that the student has no other residence or domicile; and

f. a statement of attestation by the person with whom the parent or legal custodian is living that these persons in fact live with the individual listed.

4. The person with whom the parent or legal custodian and student are living (who has signed the notarized affidavit) must provide three forms of evidence of residency from the acceptable list of documents outlined above.

5. If parents are separated, divorced or if the legal custodian is other than the biological parents, legal custody documents, signed by a judge with a docket number, indicating the legal custodian or domiciliary parent must be provided.

6. The residency requirements must also be included in the application requirements section contained in exhibit D of the type 2 charter school contracts.

7. Nothing in this policy shall prohibit the admission or readmission to school of a student who meets the definition of homeless under the federal McKinney-Vento Act (42 U.S.C. 11431 et seq.).

B. Type 4 Charter Schools. Only students who would be eligible to attend a traditional public school operated by the local school board holding the type 4 charter or students from the same areas as those permitted to attend the preexisting school, if a conversion charter, are eligible to attend a type 4 charter school, unless an agreement with another city, parish, or other local school board is reached to allow students to attend the charter school.

C. Type 5 Charter School Transferred Pursuant to R.S. 17:10.5. Students eligible to attend a type 5 charter school transferred to the jurisdiction of the Recovery School District pursuant to R.S. 17:10.5 include those students who would have been eligible to enroll in or attend the pre-existing school under the jurisdiction of the city, parish, or other local public school board or other public school entity prior to its transfer to the recovery school district. In addition, if capacity exists, any students who are eligible to participate in a school choice program established by the prior system shall be permitted to enroll in such type 5 charter schools which have capacity for another student in the appropriate grade.

D. Type 5 Charter School Transferred Pursuant to R.S. 17:10.7. Students eligible to attend a type 5 charter school transferred to the jurisdiction of the recovery school district include any student eligible to attend any school in the system from which the school was transferred. Students eligible to attend such type 5 charter schools may be required to reside in a designated attendance zone, as set forth in a charter school's approved charter.

E. Beginning with the 2011-2012 school year, each elementary and middle charter school, other than a type 2 charter school, may request from and be granted by its chartering authority the authority to give preference in its enrollment procedures to students residing within the neighborhood immediately surrounding the school. The geographic boundaries of the neighborhood immediately surrounding such school shall be determined by the school's chartering authority. The recovery school district may grant or assign preference in its unified enrollment process, described in §2709 of this Bulletin, to students residing within geographic boundaries immediately surrounding each school, as determined by the recovery school district. Type 5 charter schools shall not reserve more than 50 percent of spots in each grade level served for such enrollment preference.

F. Notwithstanding the residency eligibility and verification requirements above, upon approval of the state superintendent, a charter school may enroll a student without such documentation who has been displaced due to a federally declared disaster in Louisiana or surrounding states. As a condition of enrollment, the parent or legal custodian must provide a form signed by the parent or legal custodian of the student that must attest to the following:

a. student's name;

b. name of parent or legal custodian;

c. current address of parent or legal custodian;

d. statement indicating that the student is displaced from another school due to a federally declared disaster; and

e. name of the school in which the student was previously enrolled prior to the federally declared disaster.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3973, R.S. 17:3981, R.S. 17:10.5, R.S. 17:10.7, and R.S. 17:1990.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1373 (July 2008), amended LR 37:875 (March 2011), LR 37:2390 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 42:1018 (July 2016), LR 42:

§2703. Enrollment Capacity

A. A charter school shall not enroll more than 120 percent of the total number of students that it is authorized to enroll pursuant to its approved charter.

B. In determining the enrollment permitted in each school year, a charter school shall determine the enrollment authorized in its approved charter with respect to the individual school year. Charter schools are not authorized to a cumulative 20 percent increase in each year of its approved charter.

C. In the event of a federally declared disaster in Louisiana or surrounding states, the state superintendent may approve a charter school to exceed 120 percent of the total number of students that it is authorized to enroll pursuant to its approved charter solely for the purpose of enrolling students who have been displaced from their homes or are unable to attend the school in which they were previously enrolled or zoned to attend. The state superintendent shall provide a report to the state board at its next regularly scheduled meeting outlining each charter school granted an increase in its enrollment capacity pursuant to this paragraph. Students enrolled pursuant to this paragraph shall be permitted to remain enrolled in the charter school for the remainder of the school year. Parents or legal custodians found to have misrepresented their displacement status shall be required to return to the school in which the student was previously enrolled or zoned to attend.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, and R.S. 17:3995.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1374 (July 2008), amended LR 42:

§2707. Application Period

A. Prior to each school year, a charter school shall establish a designated student application period.

B. A student application period shall not be less than one month nor more than three months.

C. Type 5 charter schools shall comply with any unified application period set by the recovery school district, as approved by BESE.

D. An application shall be considered timely if it is submitted during the charter school's designated application period.

E. In the event of a federally declared disaster, a charter school may accept applications for students displaced due to the disaster outside of the designated student application period.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1374 (July 2008), amended LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 42:

§2709. Enrollment of Students, Lottery, and Waitlist

A. Each student submitting a timely application and meeting all residency requirements and admission requirements, as applicable, shall be considered eligible to enroll in a charter school. Additionally, students displaced as a result of a federally declared disaster who submit an application and the form specified in §2701.F of this Bulletin shall be considered eligible to enroll in a charter school.

B. A charter school shall enroll all eligible students unless the total number of eligible applicants exceeds the capacity of a program, class, grade level, or school.

C. A charter school shall admit no pupil during the school's designated application period, but shall wait until the period has ended.

D. At the conclusion of a charter school's designated application period, it shall determine if fewer eligible applicants have applied than the maximum number of students that the school can admit.

1. If fewer eligible applicants have applied than the maximum number of students that the school can admit to a program, a grade level, or the school, all eligible students shall be admitted.

2. If the total number of eligible students exceed the capacity of a program, a grade level, or the school, applicants shall be admitted based on an admissions lottery from among the total number of eligible applicants.

a. A charter school shall use a lottery for the selection of students in order to reach its maximum capacity and to determine the order in which students will be placed on a waitlist.

b. If a charter school’s enrollment capacity is increased for the purpose of enrolling students displaced due to a federally declared disaster and the charter school’s designated application period has passed, the charter school may enroll students displaced due to a federally declared disaster on a first come, first served basis until the enrollment capacity is reached.

E. Following the admission of applicants after a determination that the number of applicants did not exceed the capacity of a program, a class, or the school, the charter school may continue to accept applications and admit eligible students in the order in which applications are received until maximum capacity is reached.

F. A charter school’s lottery and continued admission of applicants, following a determination that a lottery is not required at the conclusion of the student application period, shall be performed in such a fashion that assures compliance with all at-risk student population requirements. Nothing herein shall preclude the implementation of a weighted lottery to ensure all at-risk student population requirements are met.

G. Any charter school not participating in the recovery school district’s unified enrollment system in Subsection J of this Section shall maintain a waitlist of applicants not admitted to the charter school as a result of capacity being reached in a program, a grade, or the school.

1. Applicants shall be placed on the waitlist in the order in which they were selected in the charter school's lottery or in the order in which they applied if the application was submitted following the school's application period.

2. If an opening occurs at a charter school, selection from the waitlist shall begin with the first applicant on the waitlist.

H. A charter school shall maintain its waitlist throughout each school year. Any student admitted to the school must be an applicant on the waitlist, if a waitlist exists for the respective program, grade or school.

I. The charter school shall repeat the student admission process described in this Section each year.

J. Type 5 charter schools transferred to the RSD pursuant to R.S. 17:10.5 and R.S. 17:10.7 and type 3B charter schools shall comply with any unified enrollment system established by the RSD for the parish or region where the charter school is located. The RSD may create any policies and procedures to implement a unified enrollment system not prohibited by this Chapter, and may conduct one or more central lotteries to enroll students at participating schools, and enroll students applying or requesting transfers after the application period has ended.

1. Upon request of a charter operator, the department shall allow an enrollment preference for students matriculating into eighth grade or below between two BESE-authorized charter schools operated by the same charter operator.

2. In addition, the Department of Education shall manage a pilot program wherein the department shall allow an enrollment preference for those students matriculating or transferring into ninth grade or above between eligible BESE-authorized charter schools for a limited percentage of the seats in the charter school, to be determined by the department. The department shall develop an application process for participation in the pilot program which shall evaluate factors including the applying charter schools' past demonstration of success in preparing at-risk and low-performing students for college and/or career, and the submission of an innovative proposal to utilize the enrollment preference to further this success. The department shall collect relevant data on the pilot program in order to prepare a report to be presented by the state superintendent to BESE no later than January, at which time BESE shall consider the continuation of the pilot program based on the results of the report. The report shall include data and information including, but not limited to:

a. the demographic and academic backgrounds of students utilizing the preference;

b. the number and percentage of students who matriculated or transferred into participating schools;

c. the number and percentage of students who were admitted to the school utilizing the enrollment preference; and

d. the number and percentage of students attempting to enroll or transfer in the charter school who were ineligible to utilize the enrollment preference.

K. Beginning with the enrollment process to place students for the 2014-2015 school year, all BESE-authorized charter schools (type 2, type 4, and type 5 charter schools) and type 1b charter schools physically located in Orleans Parish shall participate in the unified enrollment system and expulsion process established by the recovery school district for Orleans Parish, with the exception of virtual charter schools. The department of education shall have discretion to determine on an individual basis whether to require virtual charter schools physically located in Orleans Parish to participate in the unified enrollment system and expulsion process. BESE-authorized charter schools and type 1B charter schools participating in the unified enrollment system and expulsion process may retain admission requirements, geographic preferences, sibling preferences, and disciplinary regulations unrelated to expulsions, if authorized by law or BESE policy. BESE shall retain authority over the approval of amendments to charter contracts for such type 2 and type 4 charter schools for adjustments to grade levels served and enrollment projections. Schools participating in the unified enrollment and expulsion process shall not be permitted to maintain student waitlists.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1374 (July 2008), amended LR 38:753 (March 2012), repromulgated LR 38:1395 (June 2012), amended LR 38:3120 (December 2012), LR 39:1021 (April 2013), LR 39:1437 (June 2013), LR 39:3252 (December 2013), LR 41:1265 (July 2015), LR 42:

James D. Garvey, Jr.
President

1612#015

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 996—Standards for Approval of Teacher and/or Educational Leader Preparation Programs
(LAC 28:XLV.Chapter 7)

The Board of Elementary and Secondary Education (BESE) hereby rescinds the provisions of the October 12, 2016, Declaration of Emergency to amend LAC 28:XLV, Bulletin 996, *Standards for Approval of Teacher and/or Educational Leadership Programs*: §741, Introduction; §743, Minimum Requirements for Traditional Preparation Programs; and §745, Minimum Requirements to Alternate Teacher Preparation Programs. This Declaration of Emergency was adopted on October 12, 2016, and published in the November 20, 2016, edition of the *Louisiana Register.* This Declaration of Emergency 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 Board of Elementary and Secondary Education promulgated a Declaration of Emergency, which revised the established qualifications and requirements for the approval of teacher education programs that result in eligibility for certification, subject to the constitutional power and authority of the Board of Regents (BoR) and university system supervisory boards.

Upon further consideration and consultation with the BoR, BESE determined that it would be appropriate to rescind the provisions of the October 12, 2016, Declaration of Emergency establishing a competency-based program design and practice requirements that would take effect beginning January 1, 2017, because it was not necessary for these rules to take effect by this date. BESE originally exercised this

emergency provision in the adoption of the provisions to establish a date by which BESE would no longer consider, for approval, preparation program applications designed in conformance with previously established requirements of teacher education programs. BESE also determined it was not necessary for the competency-based program design and practice requirements to take effect on January 1, 2017, due to the fact that no new teacher education programs would be submitted to BESE for approval by January 1, 2017, and until the policy approved by the board becomes Rule. The issue can be resolved administratively.

Effective December 9, 2016, BESE rescinds the Declaration of Emergency governing qualifications and requirements for the approval of teacher education programs that result in eligibility for certification, which appeared in the November 20, 2016, edition of the *Louisiana Register* on pages 1847-1850.

Interested persons may submit written comments to Shan N. Davis, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

James D. Garvey, Jr.
President

1611#043

DECLARATION OF EMERGENCY

Office of the Governor
Division of Administration
Tax Commission

Ad Valorem Taxation
(LAC 61:V.101, 111, 121, 203, 213, 303, 304, 703, 901, 907, 1103, 1307, 1503, 1701, 1703, 2503, 3101, 3103, 3105, 3106, 3107 and 3501)

The Louisiana Tax Commission exercised the provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 47:1837, adopted the following additions, deletions and amendments to the real/personal property rules and regulations. The adoption date for this Emergency Rule is December 8, 2016.

This Emergency Rule is necessary in order for ad valorem tax assessment tables to be disseminated to property owners and local tax assessors no later than the statutory valuation date of record of January 1, 2017. Cost indexes required to finalize these assessment tables are not available to this office until late October 2016. The effective date of this Emergency Rule is January 1, 2017.

Pursuant to the Administrative Procedure Act, this Emergency Rule shall be in effect for a maximum of 120 days or until adoption of the final Rule or another Emergency Rule, whichever occurs first.

Title 61
REVENUE AND TAXATION
Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§101. Constitutional Principles for Property Taxation

A. - F.3.h. …

G. Special Assessment Level

1. - 1.d. …

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, for the year prior to the application for the special assessment, exceeds $72,134 for tax year 2017 (2018 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. - 9. …

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:528 (March 2014), LR 41:671 (April 2015), LR 42:744 (May 2016), LR 43:

§111. Criteria for Determining Fair Market Value

A. - B. …

C. The fair market value of real and personal property shall be determined by the following generally-recognized appraisal procedures: the market approach, the cost approach, and/or the income approach.

1. In utilizing the market approach, the assessor shall use an appraisal technique in which the market value estimate is predicated upon prices paid in actual market transaction and current listings.

2. In utilizing the cost approach, the assessor shall use a method in which the value of a property is derived by estimating the replacement or reproduction cost of the property; deducting therefrom the estimated depreciation; and then adding the market value of the land, if any.

3. In utilizing the income approach, the assessor shall use an appraisal technique in which the anticipated net income is capitalized to indicate the capital amount of the investment which produces the net income (R.S. 47:2323).

NOTE: See Definitions, Chapter 3, for the appropriate use of these approaches.

D. When performing a valuation of any affordable rental housing property, the assessor shall not consider any of the following in determining fair market value:

1. income tax credits available to the property under section 42 of the *Internal Revenue Code*;

2. below-market interest rate on financing obtained under the Home Investment Partnership Program under the Cranston-Gonzales National Affordable Housing Act, or the Federal Home Loan Bank Affordable Housing Program established pursuant to the Financial Institution Reform, Recovery, and Enforcement Act of 1989;

3. any other federal, state, or similar program intended to provide or finance affordable rental housing to persons of low or moderate income and requiring restricted occupancy and rental rates based on the income of the persons occupying such housing.

NOTE: Also see, Chapter 2, §213.G-G.3 and Chapter 3, §303.C.4-4.c.

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:920 (November 1984), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 43:

§121. Reappraisal

A. Real property, as defined in R.S. 47:2322, shall be reappraised and reassessed once every four years.

B. Personal property, as defined in R.S. 47:2322, shall be reappraised and reassessed every year.

C. Incorporeal real or immovable property, as defined in R.S. 47:2322 and R.S. 47:1702, shall be reappraised and reassessed once every four years.

D. Taxable intangible public service properties, bank stocks, and credit assessments on premiums written in Louisiana by insurance companies and loan and finance companies, per R.S. 47:1709 or incorporeal personal or movable property, as defined in R.S. 47:1702, shall be reappraised and reassessed every year.

E. Public service property, as defined in R.S. 47:1851, shall be reassessed every year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2331.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:921 (November 1984), LR 15:1097 (December 1989), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 34:677 (April 2008), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 43:

Chapter 2. Policies and Procedures for Assessment and Change Order Practices

§213. Assessment Policies and Procedures

A. All property within the state of Louisiana shall be assessed at a percentage of fair market value or use value, as the law provides, and either placed on the regular tax rolls, exempt rolls, or adjudicated tax rolls.

B. Assessors shall value property at 100 percent fair market value and then assessed valuations shall be based upon the percentage classification requirements of the Louisiana Constitution, Article VII, Section 18(B).

C. All property shall be reappraised and valued in accordance with the Constitution at intervals of not more than once every four years. This quadrennial cycle reappraisal date shall be determined solely by the Louisiana Tax Commission.

D. "Sales chasing" and "sales listing chasing" is expressly prohibited. *Sales chasing* is the procedure by which an individual property assessment is based upon the price the property sold for. *Sales listing chasing* is the procedure by which an individual property assessment is based upon listed sales price of the property. The assessors' office may reappraise property during a non-reassessment year if that property in all or a part of the assessing district, or within a certain classification, was appraised inaccurately or was not uniformly appraised during the current reappraisal cycle. Such a reappraisal shall not be applied on a parcel by parcel basis, but rather, to all property in a given geographical area. All such property shall be valued based upon the most current valuation date established by the Louisiana Tax Commission and on the same criterion as other similar property.

E. The assessors shall submit applicable reporting forms to all taxpayers located within their parish, whether taxable or exempt, to ensure equity and uniformity in the assessment and valuation of all properties utilizing proper reporting data. If a taxpayer fails to report or files a false report, the assessors should apply those penalties provided for in state law.

F. Allowable methodology sources for assessors to obtain property information includes, but is not limited to:

1. aerial photography;
2. building permits;
3. CAMA and/or mapping records;
4. conveyance records;
5. city directories;
6. deed fax records;
7. demolition permits;
8. inspection of books and accounts of taxpayers;
9. insurance liability policy levels;
10. legal news publications;
11. newspaper publications;
12. 911 emergency response system records;
13. occupational licenses;
14. occupancy permits;
15. physical Inspections;
16. real estate firms—multiple listings reports;
17. taxpayer reports, using proper forms;
18. utility records;
19. voter registrations.

G. When performing a valuation of any affordable rental housing property, the assessor shall not consider any of the following in determining fair market value:

1. income tax credits available to the property under section 42 of the *Internal Revenue Code*;

2. below-market interest rate on financing obtained under the Home Investment Partnership Program under the Cranston-Gonzales National Affordable Housing Act, or the Federal Home Loan Bank Affordable Housing Program established pursuant to the Financial Institution Reform, Recovery, and Enforcement Act of 1989;

3. any other federal, state, or similar program intended to provide or finance affordable rental housing to persons of low or moderate income and requiring restricted occupancy and rental rates based on the income of the persons occupying such housing.

NOTE: Also see, Chapter 1, §111.D-D.3 and Chapter 3, §303.C.4-4.c.

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution of 1974, Article VII, Section 18, R.S. 47:1703, R.S. 47:1703.1, R.S. 47:1703.C., R.S. 47:1837, R.S. 47:1951, R.S. 47:1952, R.S. 47:1953, R.S. 47:1955, R.S. 47:1956, R.S. 47:1957, R.S. 47:1959, R.S. 47:1961, R.S. 47:1971, R.S. 47:1972, R.S. 47:2306, R.S. 47:2323, R.S. 47:2324, R.S. 47:2325, R.S. 47:2329, R.S. 47:2330 and R.S. 47:2331.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), LR 34:678 (April 2008), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 43:

Chapter 3. Real and Personal Property

§303. Real Property

A. - A.2. ….

B. The following procedure shall be used for assessing, listing and placing transferred property and property upon which improvements have been made after the date of the reappraisal as set by the Louisiana Tax Commission.

1. Improvements shall be added to the rolls based upon the condition of things existing on January 1 of each year (except Orleans Parish). New improvements for Orleans Parish shall be added to the next year's tax roll, based upon the condition of things existing on August 1 of each year. Value of the improvements will be indexed to the date of the last reappraisal.

2. The assessor's office may reappraise property during a non-reassessment year if that property in all or a part of the assessing district, or within a certain classification, was appraised inaccurately or was not uniformly appraised during the current reappraisal cycle. Such a reappraisal shall not be applied on a parcel by parcel basis, but rather, to all property in a given geographical area. All such property shall be valued based upon the most current valuation date established by the Louisiana Tax Commission and on the same criterion as other similar property.

C. In assessing affordable rental housing, the income approach is recommended. As defined in this Section, *affordable rental housing* means residential housing consisting of one or more rental units, the construction and/or rental of which is subject to section 42 of the *Internal Revenue Code* (26 USC 42), the Home Investment Partnership Program under the Cranston-Gonzalez National Affordable Housing Act (42 USC 12741 et seq.), the Federal Home Loan Banks Affordable Housing Program established pursuant to the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989 (Public Law 101-73), or any other federal, state or similar program intended to provide affordable housing to persons of low or moderate income and the occupancy and maximum rental rates of such housing are restricted based on the income of the persons occupying such housing.

1. When utilizing the income approach in appraising affordable rental housing as defined herein, the total potential and/or anticipated rental income a property may generate shall be limited by the covenants and restrictions that burden the property. Hypothetical (or anticipated) market rent shall not be utilized in appraising affordable rental housing without taking into account the covenants and restrictions burdening the property.

2. Audited financial statements shall be submitted to the assessor as an attachment to the LAT filing, or as soon thereafter as practicable, but no later than June 15 of each year. For properties under construction and newly constructed property prior to the first full year of operation, the owner shall provide net operating income based on projected or pro-forma operating income and expense information.

3. The capitalization rate shall be set by the Louisiana Tax Commission in conjunction with its rulemaking session.

a. It is recommended that the capitalization rate for affordable rental housing properties categorized as tier 1 shall be within a range of 5.5-6.5 percent, increased by the effective tax rate; for affordable rental housing properties categorized as tier 2 shall be within a range of 6.5-7.5 percent, increased by the effective tax rate; and for affordable rental housing properties categorized as tier 3 shall be within a range of 7.5-8.5 percent, increased by the effective tax rate. The Tiers are as established and defined by the Real Estate Research Corporation for Apartment Investment Properties. These capitalization rates shall remain in effect until modified by the Louisiana Tax Commission in accordance with its rulemaking authority.

4. When performing a valuation of any affordable rental housing property, the assessor shall not consider any of the following in determining fair market value:

a. income tax credits available to the property under section 42 of the *Internal Revenue Code*;

b. below-market interest rate on financing obtained under the Home Investment Partnership Program under the Cranston-Gonzales National Affordable Housing Act, or the Federal Home Loan Bank Affordable Housing Program established pursuant to the Financial Institution Reform, Recovery, and Enforcement Act of 1989;

c. any other federal, state, or similar program intended to provide or finance affordable rental housing to persons of low or moderate income and requiring restricted occupancy and rental rates based on the income of the persons occupying such housing.

NOTE: Also see, Chapter 1, §111.D. thru D.3. and Chapter 2, §213.G. thru G.3.

D. The Louisiana Tax Commission has ordered all property to be reappraised for the 2016 tax year in all parishes. All property is to be valued as of January 1, 2015.

E. …

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

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999), LR 26:506 (March 2000), LR 29:367 (March 2003), LR 30:487 (March 2004), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 42:745 (May 2016), LR 43:

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

A. Electronic Change Order Specifications

* * *

B. Property Classifications Standards

Class Code	Class Description (TC-33)	Sub-Class Code	Sub-Class Description (Grand Recap)	Class Definition
Real Estate				
10	Agricultural Lands Class I	1000	Agricultural Lands Class I (Use Value)	Agricultural Land—Class I containing 3 acres or more in area using the first four classifications of the U.S. Soil Conservation Service.
* * *	* * *	* * *	* * *	* * *
40	Improvements Residential	4000	Single Family Residence	Single Family Residence (Free standing structure or improvement) including decks, patios, pavement, swimming pools, hot tubs (Jacuzzi), gazebos, etc.
		* * *	* * *	* * *
		4015	Modular Homes	Modular Homes
		* * *	* * *	* * *
		4061	A-Frame Cabins	A-Frame Cabins
		* * *	* * *	* * *
		4091	Prefabricated Cottages	Prefabricated Cottages
		4092	Elevated Homes	Elevated Homes
* * *	* * *	* * *	* * *	* * *
Personal Property				
50	Inventories & Merchandise	5000	Inventories & Merchandise	Inventories of items that are tangible personal property which are held for sale, process of production, consumed in the production of the goods or services to be available for sale or are utilized in marketing or distribution activities.
* * *	* * *	* * *	* * *	* * *
60	Watercraft	6000	Watercraft (Inshore)	Watercraft (Inshore) other than those employed in interstate commerce, are subject to valuation and assessment by Parish Assessor.
		6100	Watercraft (Offshore)	Watercraft (Offshore) other than those employed in interstate commerce, are subject to valuation and assessment by Parish Assessor.
* * *	* * *	* * *	* * *	* * *
Public Service				
* * *	* * *	* * *	* * *	* * *

C. Electronic Tax Roll Export Specifications

* * *

Parcel Information (Parcel.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
tax_year	Numeric	4	Yes	Tax year submitting (ex. 1999, 2000)
* * *	* * *	* * *	* * *	* * *
assess_date	Character	10	Yes	Date of last assessment/reassessment (Format: 01/01/1999)
* * *	* * *	* * *	* * *	* * *

* * *

Improvement Information (Improve.txt) (Required)				
Field Name	**Field Type**	**Field Length**	**Required**	**Comments**
tax_year	Numeric	4	Yes	Tax year submitting (ex. 1999, 2000)
* * *	* * *	* * *	* * *	* * *
fact_cond	Character	40	Yes	Condition of improvement (Worn Out, Badly Worn, Average, Good, Very Good, Excellent)
fact_qual	Character	40	Yes	Quality of construction (Low, Fair, Average, Good, Very Good, Excellent)
* * *	* * *	* * *	* * *	* * *

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), amended LR 32:427 (March 2006), LR 36:765 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:529 (March 2014), LR 41:672 (April 2015), LR 42:745 (May 2016), LR 43:

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Table 703.A Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2016	1.001	1	94	.94
2015	0.993	2	87	.86
2014	1.002	3	80	.80
2013	1.015	4	73	.74
2012	1.024	5	66	.68
2011	1.053	6	58	.61
2010	1.086	7	50	.54
2009	1.077	8	43	.46
2008	1.109	9	36	.40
2007	1.152	10	29	.33
2006	1.215	11	24	.29
2005	1.271	12	22	.28
2004	1.367	13	20	.27

B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2016	1.001	1	97	.97
2015	0.993	2	93	.92
2014	1.002	3	90	.90
2013	1.015	4	86	.87
2012	1.024	5	82	.84
2011	1.053	6	78	.82
2010	1.086	7	74	.80
2009	1.077	8	70	.75
2008	1.109	9	65	.72
2007	1.152	10	60	.69
2006	1.215	11	55	.67
2005	1.271	12	50	.64
2004	1.367	13	45	.62
2003	1.415	14	40	.57
2002	1.438	15	35	.50
2001	1.447	16	31	.45
2000	1.459	17	27	.39
1999	1.486	18	24	.36
1998	1.490	19	22	.33
1997	1.503	20	21	.32
1996	1.527	21	20	.31

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:772 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:802 (March 2012), LR 39:490 (March 2013), LR 40:530 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:

Chapter 9. Oil and Gas Properties

§901. Guidelines for Ascertaining the Fair Market Value of Oil and Gas Properties

A. - B.3. …

C. Explanations

Inactive Wells—wells that are shut-in. Shut-in status becomes effective on the date the application for shut-in status is filed, consistent with the Office of Conservation requirements.

Injection Wells—wells completed as single or wells reclassified by the Louisiana Department of Conservation after a conversion of another well. Wells are used for gas and water injection for production purposes, also used for disposal wells.

Multiple Completions—wells consisting of more than one producing zone. Deepest or primary completion may or may not be the base well number depending upon the Louisiana Department of Conservation permits and classification.

Production Depth—the depth from the surface to the active lower perforation in each producing zone in which the well is completed. As an example, a well completed in three separate zones is a triple completion and will have three different production depths as determined by the depth of the active lower perforation for each completion. Provided, however, that in the case of wells drilled with a minimum of 80 degrees deviation from vertical for a distance of at least 50 feet, *production depth* shall mean the true vertical distance from the surface of the earth to the lowest point in the formation that is penetrated by a horizontal lateral.

Single Completions—

a. well originally completed as a single;

b. well reclassified by the Louisiana Department of Conservation after a conversion of multiple completed well to a single producing zone.

Water Wells—wells used for production purposes only, both fresh and salt water supply.

D. - G. …

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

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 2:359 (November 1976), amended by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), LR 9:69 (February 1983), LR 17:1213 (December 1991), LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 31:717 (March 2005), LR 33:492 (March 2007), LR 35:495 (March 2009), LR 36:773 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 43:

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

A. - A.7. …

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

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	$ Oil	$ Gas	$ Oil	$ Gas
0-1,249 ft.	35.28	123.49	5.29	18.52
1,250-2,499 ft.	31.86	90.80	4.78	13.62
2,500-3,749 ft.	25.04	60.13	3.76	9.02
3,750-4,999 ft.	34.63	59.92	5.19	8.99
5,000-7,499 ft.	40.72	58.49	6.11	8.77
7,500-9,999 ft.	89.27	78.84	13.39	11.83
10,000-12,499 ft.	260.32	95.63	39.05	14.34
12,500-14,999 ft.	423.36	144.40	63.50	21.66
15,000-17,499 ft.	541.86	164.66	81.28	24.70
17,500-Deeper ft.	N/A	460.60	N/A	69.09

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

Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	$ Oil	$ Gas	$ Oil	$ Gas
0-1,249 ft.	271.28	122.68	40.69	18.40
1,250-2,499 ft.	93.68	203.90	14.05	30.59
2,500-3,749 ft.	91.48	162.57	13.72	24.39
3,750-4,999 ft.	80.63	130.05	12.09	19.51
5,000-7,499 ft.	110.16	147.73	16.52	22.16
7,500-9,999 ft.	150.28	154.67	22.54	23.20
10,000-12,499 ft.	204.92	202.18	30.74	30.33
12,500-14,999 ft.	268.82	261.56	40.32	39.23
15,000-17,499 ft.	435.43	350.20	65.31	52.53
17,500-19,999 ft.	531.65	496.04	79.75	74.41
20,000-Deeper ft.	283.88	744.71	42.58	111.71

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

Table 907.A.3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters*				
Producing Depths	Cost—New By Depth, Per Foot		15% Of Cost—New By Depth, Per Foot	
	$ Oil	$ Gas	$ Oil	$ Gas
0 -1,249 ft.	N/A	N/A	N/A	N/A
1,250 -2,499 ft.	1,359.86	993.64	203.98	149.05
2,500 -3,749 ft.	699.26	763.65	104.89	114.55
3,750 -4,999 ft.	998.12	700.23	149.72	105.03
5,000 -7,499 ft.	496.71	648.57	74.51	97.29
7,500 -9,999 ft.	629.73	613.74	94.46	92.06
10,000 -12,499 ft.	712.91	622.11	106.94	93.32
12,500 -14,999 ft.	620.03	605.43	93.00	90.81
15,000 -17,499 ft.	427.35	628.19	64.10	94.23
17,500 - 19,999 ft.	212.87	600.57	31.93	90.09
20,000 - Deeper ft.	N/A	944.03	N/A	141.60

B. The determination of whether a well is a region 2 or region 3 well is ascertained from its onshore/offshore status as designated on the permit to drill or amended permit to drill form (location of wells section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the permit to drill or amended permit to drill form on file at the Department of Natural Resources.

1. Parishes Considered to be Located in Region I

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

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

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	20 Year Life Percent Good
2016	249476	Higher	97
2015	248832	249475	93
2014	247423	248831	90
2013	245849	247422	86
2012	244268	245848	82
2011	242592	244267	78
2010	240636	242591	74
2009	239277	240635	70
2008	236927	239276	65
2007	234780	236926	60
2006	232639	234779	55
2005	230643	232638	50
2004	229010	230642	45
2003	227742	229009	40
2002	226717	227741	35
2001	225352	226716	31
2000	223899	225351	27
1999	222882	223898	24
1998	221596	222881	22
1997	220034	221595	21
1996	Lower	220033	20 *
VAR.	900000	Higher	50

*Reflects residual or floor rate.

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

* * *

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

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

Office of the Governor, Division of Administration, Tax Commission, LR 37:1395 (May 2011), LR 38:803 (March 2012), LR 39:490 (March 2013). LR 40:531 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:

Chapter 11. Drilling Rigs and Related Equipment

§1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
3,000	269,700	40,500
4,000	328,200	49,200
5,000	384,300	57,600
6,000	471,300	70,700
7,000	610,800	91,600
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
8,000	813,900	122,100
9,000	1,082,500	162,400
10,000	1,410,900	211,600
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
11,000	1,786,400	268,000
12,000	2,191,600	328,700
13,000	2,605,100	390,800
14,000	3,002,700	450,400
15,000	3,359,200	503,900
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
16,000	3,649,600	547,400
17,000	3,850,000	577,500
18,000	3,939,500	590,900
19,000	3,901,200	585,200
20,000	3,723,400	558,500
Depth 21,000 + Feet		
Depth (Ft.)	**Fair Market Value**	**Assessment**
	$	$
21,000	3,401,400	510,200
25,000 +	2,938,200	440,700

1. - 2. …

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	**Water Depth Rating**	**Fair Market Value**	**Assessment**
IC	0-199 FT.	$ 55,500,000	$ 8,325,000
	200-299 FT.	111,000,000	16,650,000
	300 FT. and Deeper	221,700,000	33,255,000
IS	0-199 FT.	16,700,000	2,505,000
	200-299 FT.	27,800,000	4,170,000
	300 FT. and Deeper	33,300,000	4,995,000
MC	0-199 FT	5,600,000	840,000
	200-299 FT.	11,100,000	1,665,000
	300 FT. and Deeper	44,400,000	6,660,000
MS	0-249 FT.	11,600,000	1,740,000
	250 FT. and Deeper	22,900,000	3,435,000

IC - Independent Leg Cantilever
IS - Independent Leg Slot
MC - Mat Cantilever
MS - Mat Slot

C. Semisubmersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	**Fair Market Value**	**Assessment**
	$	$
0- 800 FT.	50,700,000	7,605,000
801-1,800 FT.	90,900,000	13,635,000
1,801-2,500 FT.	166,600,000	24,990,000
2,501FT. and Deeper	522,700,000	78,405,000

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

1. - 3.b.i. …

D. Well Service Rigs Land Only

Table 1103.D Well Service Rigs Land Only				
Class	**Mast**	**Engine**	**Fair Market Value (RCNLD)**	**Assessment**
I	71’ X 125M# 71’ X 150M# 72’ X 125M# 72’ X 150M# 75’ X 150M#	C-7 50 SERIES 6V71	105,000	15,800
II	96’ X 150M# 96’ X 180M# 96’ X 185M# 96’ X 200M# 96’ X 205M# 96’ X 210M# 96’ X 212M# 96’ X 215M#	C-11 50 SERIES 8V71	145,000	21,800
III	96’ X 240M# 96’ X 250M# 96’ X 260M# 102’ X 215M#	C-11 50 SERIES 8V92	185,000	27,800
IV	102’ X 224M# 102’ X 250M# 103’ X 225M# 103’ X 250M# 104’ X 250M# 105’ X 225M# 105’ X 250M#	C-15 60 SERIES 12V71	225,000	33,800
V	105’ X 280M# 106’ X 250M# 108’ X 250M# 108’ X 260M# 108’ X 268M# 108’ X 270M# 108’ X 300M#	C-15 60 SERIES 12V71 12V92	265,000	39,800
VI	110’ X 250M# 110’ X 275M# 112’ X 300M# 112’ X 350M#	C-15 60 SERIES 12V71 (2) 8V92	305,000	45,800
VII	117’ X 215M#	C-15 60 SERIES (2) 8V92 (2) 12V71	335,000	50,300

D.1. - E.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009), LR 36:778 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1399 (May 2011), LR 38:808 (March 2012), LR 39:495 (March 2013), LR 40:536 (March 2014), LR 41:678 (April 2015), LR 42:748 (May 2016), LR 43:

Chapter 13. Pipelines

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines (Onshore)

Table 1307.A
Current Costs for Other Pipelines
(Onshore)

Diameter (inches)	Cost per Mile	15 percent of Cost per Mile
2	$ 174,640	$ 26,200
4	206,040	30,910
6	243,070	36,460
8	286,760	43,010
10	338,310	50,750
12	399,110	59,870
14	470,850	70,630
16	555,490	83,320
18	655,340	98,300
20	773,130	115,970
22	912,100	136,820
24	1,076,050	161,410
26	1,269,460	190,420
28	1,497,640	224,650
30	1,766,840	265,030
32	2,084,430	312,660
34	2,459,100	368,870
36	2,901,110	435,170
38	3,422,580	513,390
40	4,037,770	605,670
42	4,763,550	714,530
44	5,619,790	842,970
46	6,629,920	994,490
48	7,821,630	1,173,240

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines (Offshore)

Table 1307.B
Current Costs for Other Pipelines
(Offshore)

Diameter (inches)	Cost per Mile	15 percent of Cost per Mile
2	$1,007,620	$151,140
4	1,011,070	151,660
6	1,015,340	152,300
8	1,033,090	154,960
10	1,058,260	158,740
12	1,090,850	163,630
14	1,130,850	169,630
16	1,178,280	176,740
18	1,233,120	184,970
20	1,295,380	194,310

Table 1307.B
Current Costs for Other Pipelines
(Offshore)

Diameter (inches)	Cost per Mile	15 percent of Cost per Mile
22	1,365,060	204,760
24	1,442,150	216,320
26	1,526,670	229,000
28	1,618,600	242,790
30	1,717,950	257,690
32	1,824,720	273,710
34	1,938,900	290,840
36	2,060,500	309,080
38	2,189,520	328,430
40	2,325,960	348,890
42	2,469,820	370,470
44	2,621,090	393,160
46	2,779,780	416,970
48	2,945,890	441,880

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Table 1307.C
Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

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

* Reflects residual or floor rate.

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

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

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

2013), LR 40:537 (March 2014), LR 41:680 (April 2015), LR 42:748 (May 2016), LR 43:

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2016	1.001	1	97	.97
2015	0.993	2	93	.92
2014	1.002	3	90	.90
2013	1.015	4	86	.87
2012	1.024	5	82	.84
2011	1.053	6	78	.82
2010	1.086	7	74	.80
2009	1.077	8	70	.75
2008	1.109	9	65	.72
2007	1.152	10	60	.69
2006	1.215	11	55	.67
2005	1.271	12	50	.64
2004	1.367	13	45	.62
2003	1.415	14	40	.57
2002	1.438	15	35	.50
2001	1.447	16	31	.45
2000	1.459	17	27	.39
1999	1.486	18	24	.36
1998	1.490	19	22	.33
1997	1.503	20	21	.32
1996	1.527	21	20	.31

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:499 (March 2009), LR 36:779 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:680 (April 2015), LR 42:749 (May 2016), LR 43:

Chapter 17. Inventories

§1701. Guidelines for Ascertaining the Fair Market Value of Inventories

A. - E. …

F. Reporting of Inventory. All persons, engaged in a business in the state, shall report, on LAT Form 5, a full and accurate disclosure of all merchandise on hand without respect as to whether or not all items are recorded on the person's accounting records. Reported inventory shall be itemized in specific detail, showing the quantity, description, and value.

NOTE: See addendum for reporting requirements.

G. Inventory Values. The law provides that: in the assessment of merchandise or stock in trade on hand, the inventory value of the merchandise shall be ascertained by computing the cost or purchase price at the point of origin, plus the carrying charges to the point of destination, and the average value as so determined during the year preceding the calendar year in which the assessment is made shall be the basis for fixing the assessed value (R.S. 47:1961).

H. Assessment of Inventory. The assessed value shall be based upon 15 percent of the average inventory cost for the preceding calendar or fiscal year. Any inventory that existed less than a full year shall be averaged for the months it had situs at the reported location. However, this does not mean to annualize the monthly inventory costs if less than 12 months are used to calculate the average inventory to be assessed.

NOTE: See addendum for assessment guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:2322, and Louisiana Constitution, Article VII §4(B).

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 13:188 (March 1987), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 31:719 (March 2005), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 43:

§1703. Addendum

A. - A.2. …

B. Addendum for Reporting Requirements

1. The LAT Form 5 is required for each business location. If items of inventory are exempt under La. Const. Art. VII, §21(D-3), the inventory must be reported in Section 1 (or attachment, if required), with type, number of units and value. Notation must be made that this inventory qualifies for exemption under the subject article and section of the state constitution that exempts such property from ad valorem taxation.

2. Inventories are to be reported on the actual physical inventory taken either at each month's end or taken at three points in the year (opening, mid and closing).

3. For reporting purposes, the value of this inventory is the average cost, production or purchase, at point of origin, plus carrying charges to the point of destination, for the preceding year. The accounting method used should be noted on the LAT form.

C. - C.3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1961 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:921 (November 1984), LR 15:1097 (December 1989), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 43:

Chapter 25. General Business Assets

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

A. - A.1. …

* * *

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2016 = 100*
2016	1	1580.9	1.001
2015	2	1593.7	0.993
2014	3	1578.8	1.002
2013	4	1558.7	1.015
2012	5	1545.9	1.024
2011	6	1503.2	1.053
2010	7	1457.4	1.086
2009	8	1468.6	1.077
2008	9	1427.3	1.109
2007	10	1373.3	1.152
2006	11	1302.3	1.215
2005	12	1244.5	1.271
2004	13	1157.3	1.367
2003	14	1118.6	1.415
2002	15	1100.0	1.438
2001	16	1093.4	1.447
2000	17	1084.3	1.459
1999	18	1065.0	1.486
1998	19	1061.8	1.490
1997	20	1052.7	1.503
1996	21	1036.0	1.527
1995	22	1020.4	1.551
1994	23	985.0	1.606
1993	24	958.0	1.652
1992	25	939.8	1.684
1991	26	928.5	1.704
1990	27	910.2	1.738
1989	28	886.5	1.785
1988	29	841.4	1.881
1987	30	806.9	1.961
1986	31	795.4	1.989

*Reappraisal Date: January 1, 2016 – 1582.3 (Base Year)

C. …

D. Composite Multipliers 2017 (2018 Orleans Parish)

Table 2503.D Composite Multipliers 2017 (2018 Orleans Parish)										
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr	30 Yr
1	.70	.85	.87	.90	.92	.94	.95	.97	.98	.98
2	.49	.69	.72	.78	.83	.86	.89	.92	.94	.96
3	.34	.52	.57	.67	.76	.80	.85	.90	.93	.95
4	.16	.35	.42	.55	.68	.74	.80	.87	.91	.94
5		.24	.31	.44	.59	.68	.75	.84	.89	.93
6		.19	.20	.35	.52	.61	.72	.82	.88	.92
7			.20	.28	.42	.54	.67	.80	.88	.92
8				.24	.32	.46	.59	.75	.84	.90
9				.22	.27	.40	.54	.72	.83	.89
10					.24	.33	.50	.69	.82	.89
11					.24	.29	.45	.67	.81	.88
12						.28	.39	.64	.81	.87
13						.27	.36	.62	.80	.86
14							.33	.57	.79	.86
15							.30	.50	.75	.86
16							.29	.45	.69	.86
17								.39	.64	.85
18								.36	.58	.80
19								.33	.51	.76
20								.32	.45	.71
21								.31	.43	.67

Table 2503.D Composite Multipliers 2017 (2018 Orleans Parish)										
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr	30 Yr
22									.40	.62
23									.39	.59
24									.33	.56
25									.32	.52
26									.32	.48
27										.45
28										.41
29										.40
30										.39
31										.38

1. Data sources for tables are:
   a. Cost Index—Marshall and Swift Publication Co.;
   b. Percent Good—Marshall and Swift Publication Co.;
   c. average economic life—various.

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:500 (March 2009), LR 36:780 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1402 (May 2011), LR 38:810 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:681 (April 2015), LR 42:750 (May 2016), LR 43:

Chapter 31. Public Exposure of Assessments; Appeals

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

A. - I. …

J. The Board of Review shall provide each appellant taxpayer with a written notice of their particular appeal determination with a copy submitted to the assessor and the Tax Commission on or before the certification of the assessment list to the Tax Commission. The notice of determination shall be sent simultaneously to the assessor and the taxpayer at the address shown on the appeal form by certified mail. The Board of Review shall include an appeal Form 3103.A with the notice of determination.

K. …

Form 3101
Exhibit A
Appeal to Board of Review by Property Owner/Taxpayer for Real and Personal Property

Name:_____Parish/District:_____
Taxpayer
Address:_____City, State, Zip:_____
Ward:____ Assessment/Tax Bill Number:_____Appeal No._____
Board of Review
(Attach copy of complete appeal submitted to the Board of Review)

Address or Legal Description of Property Being Appealed (Also, please identify building by place of business for convenience of appraisal)

_____
_____
_____

I hereby request the review of the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my reports (if personal property) as required by law, and I have reviewed my assessment with my assessor.

The assessor has determined Fair Market Value of this property at:

Land $_____ Improvement $_____ Personal Property* $ _____
Total $_____

I am requesting that the Fair Market Value of this property be fixed at:

Land $_____ Improvement $_____ Personal Property* $ _____
Total $_____

* If you are not appealing personal property, leave this section blank.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time. I understand that I must provide the Board of Review with evidence of fair market value to support my claim.

Please notify me of the date, place and time of my appeal at the address shown below.

NOTE: If property owner/taxpayer disputes the Board of Review's decision, property owner/taxpayer may appeal to the La. Tax Commission by completing and submitting Appeal Form 3103.A to the LTC within 10 business days after certified mail delivery to the appealing taxpayer or assessor of the BOR's written determination. For further information, call the LTC at (225) 925-7830.

_____
Property Owner/Taxpayer

Address: _____
_____

Telephone No._____

Email Address: _____

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

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 32:435 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 35:501 (March 2009), LR 36:781 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 38:811 (March 2012), LR 40:539 (March 2014), LR 41:682 (April 2015), LR 42:751 (May 2016), LR 43:

§3103. Appeals to the Louisiana Tax Commission

A. - B. ...

C. All filings to the Louisiana Tax Commission shall be filed in proper form, consisting of an original and seven copies on letter size paper, with the Office of the Administrator, unless otherwise provided herein. All exhibits, where it is helpful, to the consideration of such exhibits, shall be indexed, numbered, color coded, tabbed or otherwise so identified as to provide ready accessibility. If the total of one party's exhibits exceed 100 pages, such exhibits must be submitted to the Tax Commission in electronic/digital form along with 2 paper copies. All appeals and filings shall be deemed filed when deposited with the United States Postal Service and can be evidenced by proof of mailing by registered or certified mail.

1. …

D.1. All parties shall receive notice of the scheduling of an appeal hearing at least 30 days prior to the scheduled hearing date.

2. In addition to the initial filing of Forms 3103.A and 3103.B, the taxpayer or assessor appealing the Board of Review decision may attach a pleading containing further information concerning the appeal.

3. Either party may request a continuance of a scheduled hearing. Such a request must be made in writing and filed and served on the opposing party at least 15 days prior to the scheduled hearing date, unless good cause can be shown why the 15-day requirement should be waived. Requests for continuance must contain the grounds on which the continuance is requested and state whether or not the opposing party objects to the request.

4. A taxpayer or assessor who has appealed the decision of the Board of Review shall file and serve on the opposing party at least 15 days prior to the scheduled hearing date all documents and papers that may be offered into evidence at the hearing. The party appealing the decision of the Board of Review must submit evidence that establishes the fair market value of their property or other grounds that would constitute reversal of the Board of Review's decision.

5. The party who has not appealed the Board of Review decision shall file and serve on the opposing party at least seven days prior to the scheduled hearing date all documents and papers that may be offered into evidence at the hearing.

6. Documents and papers offered into evidence for a hearing before the commission shall be marked as exhibits and bound. All exhibits, where it is helpful, to the consideration of such exhibits, shall be indexed, numbered, color coded, tabbed or otherwise so identified as to provide ready accessibility. Exhibits offered by a taxpayer shall be marked "Exhibit Taxpayer _____" and shall be consecutively numbered. The taxpayer shall at the time an exhibit is offered state whether the exhibit contains information not furnished to the assessor before the end of the period for public exposure of the assessment lists. Exhibits offered by the assessor shall be marked "Exhibit Assessor _____" and shall be consecutively numbered. Exhibits offered by the commission or its staff representative shall be marked "Exhibit Tax Commission _____" and shall be consecutively numbered. Legal memorandum submitted by the parties will be made part of the record proceedings before the commission, but shall not be filed as exhibits offered into evidence for the hearing before the commission.

E. If a taxpayer appeals the Board of Review's decision on the basis that the assessor appraised his or her property on the sole basis of a sale or sales listing, evidence establishing that the property was appraised at the value of, or based solely upon, the sale or sales listing shall constitute prima facie evidence of sales/listing chasing and shall create a rebuttal presumption against the assessment.

F. Upon written notice by the commission, the parties and/or their attorneys or other representatives may be directed to meet and confer together by telephone or otherwise prior to the hearing, for the purpose of formulating issues and considering:

1. simplification of issues;

2. a limitation, where possible of the number of witnesses;

3. the time required for presentations;

4. stipulations as to admissibility of exhibits;

5. submission of proposed findings of fact;

6. such other matters as may aid in the simplification of the proceedings and the disposition of the matters in controversy.

G. Actions requested and agreed upon at the conference shall be recorded in an appropriate statement by the party, which has initiated the appeal to the commission. The statement shall be filed with the commission seven days prior to the scheduled hearing before the commission. In the event of a disagreement over any item discussed at the conference, the statement filed with the commission shall state the specific item as to which there is disagreement together with a brief summary of the nature of the disagreement.

H. Upon written notice by the commission, the parties or their attorneys or other representative may be directed to file legal memorandums with the commission 15 days prior to the hearing. The legal memorandum shall address in a concise manner the legal issues presented in the appeal to the commission together with a statement of any legal authority supporting the party's position.

I. Any party with leave of the commission or hearing officer may present prepared sworn deposition testimony of a witness either narrative or in question and answer form, which shall be incorporated into the record as if read by a witness. The opposing party will be allowed to cross-examine and/or submit any sworn testimony given by the witness in the deposition. Seven copies of the prepared deposition testimony shall be filed with the commission.

J. Any taxpayer or assessor may appear and be represented by an attorney at law authorized to practice law before the highest court of any state; a natural person may appear in his own behalf, or through an attorney or other representative; or a corporation, partnership or association may appear and be represented to appear before the commission by a bona fide officer, partner, full time employee, or any other person duly authorized as provided for on "exhibit B, appointment of taxpayer agent in Louisiana Tax Commission ad valorem tax appeal" (Form 3103.B).

K. Every taxpayer or assessor, witness, attorney or other representative shall conduct himself in all proceedings with proper dignity, courtesy and respect. Disorderly conduct will not be tolerated. Attorneys shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Louisiana Bar Association. Any taxpayer or assessor, witness, attorney or other representative may be excluded by the commission from any hearing for such period and upon such conditions as are just for violation of this rule.

L. All official hearings conducted in any proceeding shall be open to the public. All hearings shall be held in Baton Rouge, LA, unless the commission shall designate another place of hearing.

M. A continuance shall not be granted due to an unexcused absence of a taxpayer, assessor or any representative, attorney or witness, at the time and place set for a scheduled hearing before the commission, without consent of the taxpayer and/or assessor. If such consent is refused, the hearing shall proceed.

N. The hearing shall be conducted informally. It will be the responsibility of the taxpayer or assessor to retain the services of an official reporter for a scheduled hearing should either anticipate the need for a transcript. The Tax Commission shall be notified within three business days, prior to the scheduled hearing that an official reporter will be in attendance.

O. All parties testifying shall be placed under oath by the commission at the onset of each hearing.

P. Any evidence which would be admissible under the Louisiana Rules of Evidence shall be deemed admissible by the commission. The Louisiana Rules of Evidence shall be applied liberally in any proceeding before the commission. Either party may object to evidence not previously disclosed by the opposing party. The commission may exclude evidence, which is deemed by the commission to be incompetent, immaterial or unduly repetitious.

Q. The commission shall take official notice without further identification of the contents of the original records and documents in possession of the commission when duly certified copies thereof are offered into evidence and made a part of the record. The Board of Review does not transmit a record or evidence to the Tax Commission. Any evidence or information that was submitted to the Board of Review must be filed by the parties, to be considered by the Tax Commission. The commission may receive other documentary evidence in the form of copies or excerpts or that which is incorporated by reference.

R. Hearings may be conducted by a hearing officer selected and appointed by the commission. The hearing officer shall have the authority to administer oaths, may examine witnesses, and rule upon the admissibility of evidence and amendments to the pleadings. The hearing officer shall have the authority to recess any hearing from day to day.

S. The hearing officer shall have the responsibility and duty of assimilating testimony and evidence, compiling a written summary of the testimony and evidence, and presenting a proposed order to the commission.

T. At the close of evidence, each side will be allowed a reasonable amount of time to argue its case. This time will be allotted by the chairman or hearing officer.

U. The parties to an appeal shall be notified in writing, by certified mail and electronic mail, of the final decision by the commission. The taxpayer or assessor shall have 30 days from entry of the order to appeal to a court of competent jurisdiction.

V. The Tax Commission defines "entry" under R.S. 47:1998, as the mailing of the decision to the parties. Decisions by the Tax Commission are not entered or final until signed and placed in the mail to the parties.

W. Following the entry of a final decision, the commission may, at its discretion, grant the request of a taxpayer or assessor for a rehearing; provided the rehearing request is made in accordance with the Administrative Procedure Act.

X. Subpoenas for the attendance of witnesses or for the production of books, papers, accounts or documents for a hearing may be issued by the commission upon its own motion, or upon the written request of the taxpayer or

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

Y. The word *commission*, as used herein, refers to the chairman and the members or its delegate appointed to conduct the hearing.

Z. A decision by the Tax Commission that determines the fair market value of a property shall be applied to subsequent tax years until reappraisal in a future mandated reassessment year, unless there has been a change in the condition of the property that would justify reappraisal or a change in value. A change in assessment in subsequent tax years for a property that the Tax Commission determined fair market value of, prior to a reassessment year, shall serve as prima facie evidence of a prohibited reappraisal and shall create a rebuttable presumption against the assessment. The assessor must show that there has been a change in the condition of the property that would justify reappraisal or a change in value in a non-reassessment year.

Form 3103.A
Exhibit A
Appeal to Louisiana Tax Commission
by Property Owner/Taxpayer or Assessor
for Real and Personal Property

La. Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(225) 925-7830

Name: _____ Parish/District: _____
Property Owner/Taxpayer/Assessor
Address: _____City,State,Zip:_____

Ward: _____ Assessment Tax Bill No.:_____ Appeal No.:_____
(Attach copy of complete appeal submitted to the Board of Review)
Address or Legal Description of Property Being Appealed. Also, please identify building by place of business for convenience of appraisal._____
_____
_____

I hereby appeal the decision of the Board of Review on the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my appeal as required by law.

The original Fair Market Value by the assessor was:
Land $_____ Improvement $_____
Personal Property $_____ Total $_____

The proposed Fair Market Value by the taxpayer was (at the Board of Review):
Land $_____ Improvement $_____
Personal Property $_____ Total $_____

The Fair Market Value determined by the Board of Review was:
Land $_____ Improvement $_____
Personal Property $_____ Total $_____

* If you are not appealing personal property leave this section blank.

Note: Both parties have the right to appeal the Board of Review's decision. If you disagree with the Board of Review's determination, you must file an appeal. The appeal of the decision of the Board of Review by one party is not an appeal of that decision from the other party. To protect your rights, if you disagree with the determination of the Board of Review, you should file an appeal to the Louisiana Tax Commission challenging the Board of Review's determination regardless of whether or not the other party has appealed that decision.

_____
Appellant: (Property Owner/Taxpayer/Assessor)
Address:_____
_____
_____
_____
Telephone No.:_____
Email Address: _____
Date of Appeal: _____

Form 3103.B
Exhibit B
Appointment of Taxpayer Agent
In
Louisiana Tax Commission
Ad Valorem Tax Appeal

I. Appellant Taxpayer:

Name_____
Address_____
_____
Telephone Number _____
Email Address _____

II. Authorized Taxpayer Agent:

Name of Agent _____
Address _____
_____
Telephone Number _____
Email Address _____

III. Scope of Authorized Appointment:

A. Duration:
____ Tax Year ____ (Days, Months, etc.) _____ Until Revoked.

B. Agent Authority:

1.__General powers granted to represent taxpayer in all matters.
2.____Specified powers as listed.

(a.)____File notices of protest and present protests before the Louisiana Tax Commission.
(b.)____Receive confidential information filed by taxpayer.
(c.)____Negotiate and resolve disputed tax matters without further authorization.
(d.)____Represent taxpayer during appeal process.

C. Properties Authorized to Represent:

1.____All property.
2.____The following property only (give assessment number, and municipal address or legal description).
_____
_____
(Continue on attached pages as needed.)

IV. The undersigned owner or legally authorized corporate officer does hereby appoint the above named taxpayer agent as provided herein.

By: _____
Signature Date
Name_____
Address _____
_____
Title or Position _____

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

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002), LR 31:721 (March 2005), LR 32:436 (March 2006), LR 33:498 (March 2007), LR 34:688 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:811 (March 2012), LR 41:682 (April 2015), LR 42:752 (May 2016), LR 43:

§3105. Practice and Procedure for Public Service Properties Hearings

A. - S. …

LTC Docket No._____

Form 3105.A **Exhibit A** **Appeal to Louisiana Tax Commission** **by Taxpayer** **For Public Service Property**	La. Tax Commission P.O. Box 66788 Baton Rouge, LA 70896 (225) 925-7830

Taxpayer Name: _____

Address: _____

City, State, Zip:_____

Circle one Industry:

Airline Boat/Barge Co-op Electric Pipeline Railcar Railroad Telephone

The Fair Market Value as determined by the Public Service Section of the Louisiana Tax Commission is:

Total $ _____

I am requesting that the Fair Market Value be fixed at:

Total $ _____

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time.

_____

Appellant:

Address:_____

_____

_____

_____

Telephone No.:_____

Email Address: _____

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

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 30:492 (March 2004), LR 31:723 (March 2005), LR 32:438 (March 2006), LR 33:499 (March 2007), LR 34:689 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:683 (April 2015), LR 43:

§3106. Practice and Procedure for the Appeal of Bank Assessments

A. - T. …

LTC Docket No._____

Form 3106.A **Appeal to Louisiana Tax Commission** **by Taxpayer** **for Bank Stock Assessments**	LA Tax Commission P.O. Box 66788 Baton Rouge, LA 70896 (225) 925-7830

Name:_____ Parish/District:_____

Taxpayer

Address:_____ City, State, Zip: _____

Address or Legal Description of Property Being Appealed _____

_____

The Fair Market Value of the Administrative Section of the Louisiana Tax Commission is:

$_____

I am requesting that the Fair Market Value be fixed at:

$_____

_____

Appellant:

Address:_____

_____

_____

_____

Telephone No.:_____

Date: _____

Email Address:_____

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:499 (March 2007), LR 34:690 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:683 (April 2015), LR 43:

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

A. - T. …

LTC Docket No._____

Form 3107.A **Appeal To Louisiana Tax Commission** **by Taxpayer** **for Insurance Assessments**	LA Tax Commission P.O. Box 66788 Baton Rouge, LA 70896 (225) 925-7830

Name: _____ Parish/District:_____

Taxpayer

Address: _____ City, State, Zip:_____

Address or Legal Description of Property Being Appealed_____

_____

The Fair Market Value of the Administrative Section of the Louisiana Tax Commission is:

$_____

I am requesting that the Fair Market Value be fixed at:

$_____

_____

Appellant:

Address: _____

_____

_____

_____

Telephone No.:_____

Date: _____

Email Address: _____

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

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 33:501 (March 2007), amended LR 34:690 (April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:812 (March 2012), LR 41:683 (April 2015), LR 43:

Chapter 35. Miscellaneous

§3501. Service Fees—Tax Commission

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 2014, and ending on June 30, 2018, in connection with services performed by the Tax Commission as follows:

1. a fee for assessing public service property, at the rate of .01 percent of the assessed value, beginning July 1, 2014 and ending on June 30, 2016 and at the rate of .04 percent of the assessed value beginning July 1, 2016 and ending on June 30, 2018, to be paid by each public service property which pays ad valorem taxes;

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

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

B. - E. …

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998), LR 25:320 (February 1999), LR 26:513 (March 2000), LR 28:521 (March 2002), LR 30:493 (March 2004), LR 31:724 (March 2005), LR 32:439 (March 2006), LR 33:502 (March 2007), LR 35:501 (March 2009), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 37:1403 (May 2011), LR 41:683 (April 2015), LR 43:

Lawrence E. Chehardy
Chairman

1612#024

DECLARATION OF EMERGENCY

Department of Health
Board of Pharmacy

Accreditation of Pharmacy Technician Training Programs
(LAC 46:LIII.905)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to amend its rules governing the process of obtaining a pharmacy technician certificate by delaying the implementation of the requirement to complete a nationally-accredited pharmacy technician training program as one of the qualifications to obtain the credential.

Prior to June 2013, the rule required the pharmacy technician candidate to complete a training program that was approved by the board. In response to stakeholder input requesting flexibility in how those programs were to be established, the board permitted programs to be established at individual pharmacies in addition to universities, community and technical colleges, as well as proprietary schools. Over the course of approximately 10 years, the board tracked the state's pass rate on the national certification program and observed a steady decrease. The board determined that workplace training alone was not sufficient and, in June 2013 instituted a change, to begin in January 2016, that would require the training program to be nationally accredited. The three-year delay was intended to increase the number of such nationally accredited programs in the state.

During their meeting in November 2015, the board entertained a request from some chain pharmacies to further delay the implementation of the accreditation requirement until 2020, citing their concerns with some of the accreditation standards. The board took note of the increased number of accredited programs in the state, from one in 2013 to over a dozen in 2015. The board also took note of the continuing decrease in the state pass rate on the national certification examination, with a 45 percent pass rate in 2015. The board also received input the requirement should be transferred from those persons submitting applications for the technician certificate to those persons submitting applications for the technician candidate registration, to eliminate the difficulty for persons who start under the previous rule and attempt to finish under the new rule. The board agreed to a one-year delay in the accreditation requirement, and since there is not sufficient time to promulgate a change in the rule before the current January 1, 2016 implementation date, the board has determined that an Emergency Rule is necessary. During the one-year delay, the board plans to promulgate the additional change to transfer the requirement for completion of an accredited program as a qualification for the pharmacy technician certificate to require enrollment in an accredited program as a qualification for the pharmacy technician candidate registration.

The board has determined that failure to implement the Emergency Rule will cause interruptions in the licensure process for pharmacy technicians, potentially causing a decrease in the number of pharmacy technicians in the available workforce. The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The original Declaration of Emergency was effective November 30, 2015. Although the board is working on the changes, they need more time; therefore, they have directed the revision of the date from 2017 to 2018. This revised Emergency Rule is effective November 17, 2016 and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists

Chapter 9. Pharmacy Technicians

§905. Pharmacy Technician Certificate

A. - A.3.a. …

b. For those applicants submitting applications on or after January 1, 2018, the applicant shall demonstrate

successful completion of a nationally-accredited and board-approved pharmacy technician training program, as evidenced by a valid and legible copy of the appropriate credential from that program.

A.4 - B.6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, repromulgated LR 19:1025 (August 1993), LR 30:2486 (November 2004), effective January 1, 2005, amended LR 38:1235 (May 2012), amended LR 39:1777 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 43:

Malcolm J. Broussard
Executive Director

1612#002

DECLARATION OF EMERGENCY

Department of Health
Board of Pharmacy

Reinstatement of Controlled Dangerous Substance (CDS) Licenses (LAC 46:LIII.2707)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to promulgate an amendment of its controlled substance license rules to reduce the administrative procedures, and the amount of time, necessary for the reinstatement of controlled dangerous substance licenses held by certain practitioners.

The board issues controlled dangerous substance (CDS) to several different types of practitioners whose primary professional license grants them prescriptive authority for one or more schedules of controlled substances. When a primary licensing agency suspends or revokes a practitioner's professional license, the Board of Pharmacy suspends the CDS license based upon the primary licensing agency's action. When the primary licensing agency reinstates the primary professional license, the practitioner applies to the Board of Pharmacy for the reinstatement of their CDS license.

The board's current rule for the reinstatement of a CDS license suspended by the Board of Pharmacy requires the board to convene an administrative hearing to consider the reinstatement application, make a determination, and issue an order. Since the Board of Pharmacy typically meets only four times per year, there is a potential for a significant amount of time to lapse between the restoration of the primary professional license and the reinstatement of the practitioner's CDS license. During this period of time, the practitioner is authorized to practice under terms dictated by the primary licensing agency; however, the absence of a CDS license prohibits the practitioner from prescribing any controlled substances for his patient.

The board proposes to amend the relevant rule to allow for a waiver from the requirement of an administrative hearing when the chair of the reinstatement committee and the board's president jointly agree to approve the reinstatement request in the interim between board meetings. When such approvals are issued, the president is authorized to sign a reinstatement order, and staff would be able to reinstate the CDS license. This will prevent the necessity of waiting for a quarterly administrative hearing, and would permit the staff to reinstate the CDS license shortly after the restoration of the primary professional license. This will allow the practitioner to prescribe controlled substances for his patient when needed.

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The Declaration of Emergency is effective November 17, 2016, and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LIII. Pharmacists
Chapter 27. Controlled Dangerous Substances
Subchapter B. Licenses
§2707. Licensing Procedures

A. - C.3. …

4. An application for the reinstatement of a CDS license for a pharmacy which was suspended or revoked by the board may only be approved by the full board following a hearing to determine whether the reinstatement of the license is in the public's best interest. For all other CDS licenses, the reinstatement may be approved by the joint consent of the chair of the reinstatement committee and the board president without the necessity of a hearing; when such approvals are issued, staff shall prepare a reinstatement order for the president's signature.

C.5. - D.5.e. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2131 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 43:

Malcolm J. Broussard
Executive Director

1612#003

DECLARATION OF EMERGENCY

Department of Health
Board of Pharmacy

Standing Orders for Distribution of Naloxone (LAC 46:LIII.2541)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to promulgate a new rule authorizing pharmacists to distribute naloxone and other opioid antagonists pursuant to standing orders issued by Louisiana-licensed medical practitioners in lieu of patient-specific prescriptions.

The abuse and addiction to opioids is a global problem that is estimated to affect between 26.4 million and 36 million people worldwide. Of those addicted in the United States, 2.1 million are addicted to prescription drugs and another 517,000 are addicted to heroin, according to

estimates from the federal Centers for Disease Control and Prevention (CDC). Deaths in the United States, and Louisiana, related to opioid drug use have been rising since 1999, resulting in more deaths in 2014 than ever before. Data from the coroners and medical examiners in Louisiana reveal 100 deaths in this state in 2011 rising over time to 248 deaths in 2015. Preliminary data for the first six months of 2016 indicate we are on the same deadly trajectory.

Naloxone and other opioid antagonists are prescription drugs that produce rapid and dramatic reversals of life-threatening symptoms of opioid-related drug overdoses. Since time is of the essence in drug overdose cases, it is important the drugs be readily available to whoever might first encounter the overdose patient, be it family, caregivers, or first responders.

Act 370 of the 2016 Louisiana Legislature authorized licensed medical practitioners to issue nonpatient-specific standing orders for the distribution of naloxone and other opioid antagonists, in lieu of patient-specific prescriptions those drug products. The legislation also authorized pharmacists to dispense or distribute naloxone and other opioid antagonists pursuant to those standing orders as provided by rules promulgated by the Board Pharmacy.

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. The Declaration of Emergency was effective August 10, 2016. The board is promulgating the rule but needs additional time and has directed the re-issuance of the original Emergency Rule, effective December 7, 2016. It shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever shall first occur.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter D. Prescription Drugs

§2541. Standing Orders for Distribution of Naloxone and Other Opioid Antagonists

A. Given the current public health emergency relative to the misuse and abuse of opioid derivatives, public health officials have strongly recommended the widespread availability of naloxone and other opioid antagonists to addicts and their caregivers as well as first responders in the community.

B. For as long as naloxone and other opioid antagonists remain classified as prescription drugs by the federal Food and Drug Administration, pharmacists must secure a prescription or order from a prescriber with the legal authority to prescribe the drug product in order to dispense or distribute the drug product.

C. The Louisiana Legislature has adopted a number of laws designed to facilitate the distribution and dispensing of naloxone and other opioid antagonists beyond the person who would need the medication on an emergent basis to manage an opioid-related drug overdose, more specifically to first responders as well as caregivers and family and friends of potential patients.

1. Act 253 of the 2014 Legislature authorized prescribers to issue prescriptions for naloxone and other opioid antagonists to first responders, and further, authorized pharmacists to recognize such prescriptions as legitimate orders for the dispensing and distribution of naloxone and other opioid antagonist drug products, and further, authorized first responders to have and hold those drug products ready for administration in emergent conditions to manage opioid-related drug overdoses.

2. Act 192 of the 2015 Legislature authorized medical practitioners to prescribe naloxone or another opioid antagonist without having previously examined the individual to whom the medication would be administered, but only under certain conditions specified in the legislation, including the requirement for the prescriber to provide the recipient of the drug with all training and education required for the safe and proper administration of the drug product.

3. Act 370 of the 2016 Legislature authorized medical practitioners to issue nonpatient-specific standing orders to pharmacists authorizing the distribution of naloxone and other opioid antagonists to anyone who might be in a position to assist a patient in the emergent management of an opioid-related drug overdose, but only in compliance with these rules.

a. A nonpatient-specific standing order for the facilitated distribution of naloxone or other opioid antagonist issued by a medical practitioner licensed by the State of Louisiana shall expire one year after the date of issuance.

b. A Louisiana-licensed pharmacist may distribute naloxone or other opioid antagonist according to the terms of the nonpatient-specific standing order issued by a Louisiana-licensed medical practitioner until the expiration date of the standing order. No pharmacist shall distribute naloxone or other opioid antagonist pursuant to a standing order more than one year after the date of issuance of the standing order.

c. Before releasing the naloxone or other opioid antagonist drug product to the recipient, the pharmacist shall verify the recipient's knowledge and understanding of the proper use of the drug product, including, at a minimum:

i. techniques on how to recognize signs of an opioid-related drug overdose;

ii. standards and procedures for the storage and administration of the drug product; and

iii. emergency follow-up procedure including the requirement to summon emergency services either immediately before or immediately after administering the drug product to the individual experiencing the overdose.

d. To comply with the recordkeeping requirements found elsewhere in the Board's rules, the pharmacist shall attach a copy of the standing order to the invoice or other record of sale or distribution, and further, shall store these transaction documents with the other distribution records in the pharmacy.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:

Malcolm J. Broussard
Executive Director

1611#063

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Abortion Facilities—Licensing Standards
(LAC 48:I.4431)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.4431 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq. 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 repealed and replaced the provisions governing the licensing standards for abortion facilities in order to incorporate the changes imposed by legislation, and further revise and clarify those provisions (*Louisiana Register*, Volume 41, Number 4).

Act 97 of the 2016 Regular Session of the Louisiana Legislature increased the time period required for certain pre-operative services. Act 563 of the 2016 Regular Session of the Louisiana Legislature provides that at least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of certain printed information, including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality, and given printed information about resources, programs and services for infants and children born with disabilities, as well as other related matters. Act 593 of the 2016 Regular Session of the Louisiana Legislature provides for the disposal, by interment or cremation, of fetal remains and designates procedures for giving patients options for arrangements. This Emergency Rule is being promulgated to amend the provisions governing outpatient abortion clinics in order to comply with the provisions of Acts 97, 563 and 593.

This action is being taken to protect the health and welfare of Louisiana citizens by assuring the health and safety of women seeking health care services at licensed abortion facilities. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2016-2017.

Effective December 3, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing standards for abortion facilities.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 44. Abortion Facilities
Subchapter C. Pre-Operative, Intra-Operative, and Post-Operative Procedures
§4431. Screening and Pre-Operative Services

A. - E.1. ...

2. Requirements

a. Except as provided in Subparagraph b below, at least 72 hours prior to the pregnant woman having any part of an abortion performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion on the pregnant woman, the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the following requirements:

i. perform an obstetric ultrasound on the pregnant woman, offer to simultaneously display the screen which depicts the active ultrasound images so that the pregnant woman may view them and make audible the fetal heartbeat, if present, in a quality consistent with current medical practice. Nothing in this Section shall be construed to prevent the pregnant woman from not listening to the sounds detected by the fetal heart monitor, or from not viewing the images displayed on the ultrasound screen;

ii. provide a simultaneous and objectively accurate oral explanation of what the ultrasound is depicting, in a manner understandable to a layperson, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted, the dimensions of the unborn child, and the presence of cardiac activity if present and viewable, along with the opportunity for the pregnant woman to ask questions;

iii. offer the pregnant woman the option of requesting an ultrasound photograph or print of her unborn child of a quality consistent with current standard medical practice that accurately portrays, to the extent feasible, the body of the unborn child including limbs, if present and viewable;

iv. from a form that shall be produced and made available by the department, staff will orally read the statement on the form to the pregnant woman in the ultrasound examination room prior to beginning the ultrasound examination, and obtain from the pregnant woman a copy of a completed, signed, and dated form; and

v. retain copies of the election form and certification prescribed above. The certification shall be placed in the medical file of the woman and shall be kept by the outpatient abortion facility for a period of not less than seven years. If the woman is a minor, the certification shall be placed in the medical file of the minor and kept for at least ten years from the time the minor reaches the age of majority. The woman's medical files shall be kept confidential as provided by law.

b. If the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the requirements of §4431.E.2.a at least 24 hours prior to the woman having any part of an abortion performed or induced.

c. - e. Repealed.

E.3. - G.1. ...

a. Except as provided in Subparagraph b below, at least 72 hours before the abortion the physician who is to perform the abortion or the referring physician shall provide informed consent to the pregnant woman seeking an abortion, pursuant to all laws, rules and regulations regarding informed consent. The informed consent shall be communicated both orally and in-person, and in writing, and shall be provided in a private room. Documentation of all

such informed consent provided shall be maintained in the patient's medical record.

b. If the woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion or the referring physician shall comply with all of the requirements of §4431.G.1 at least 24 hours prior to the abortion.

1.c. - 3. ...

a. Except as provided in Subparagraph b below, at least 72 hours before a scheduled abortion the physician who is to perform the abortion, the referring physician, or a qualified person shall inform the pregnant woman seeking an abortion, orally and in-person that:

i. - iv. ...

b. If the woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion the referring physician, or a qualified person shall comply with all of the requirements of §4431.G.3 at least 24 hours prior to the abortion.

4. ...

a. At least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of the printed materials, pursuant to any applicable state laws, rules, and regulations, by the physician who is to perform the abortion, the referring physician, or a qualified person. These printed materials shall include any printed materials necessary for a voluntary and informed consent, pursuant to R.S. 40:1061.17. However, if the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of the printed materials at least 24 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c).

i. - NOTE. Repealed.

b. At least 72 hours before the abortion, the pregnant woman or minor female considering an abortion shall be given a copy of the department's *Point of Rescue* pamphlet and any other materials described in R.S. 40:1061.16 by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency defined by applicable state laws. However, if the pregnant woman or minor female considering an abortion certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of these printed materials at least 72 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency defined by applicable state laws.

i. The physician or qualified person shall provide to the woman, or minor female seeking an abortion, such printed materials individually and in a private room for the purpose of ensuring that she has an adequate opportunity to ask questions and discuss her individual circumstances.

ii. The physician or qualified person shall obtain the signature of the woman or minor female seeking an abortion on a form certifying that the printed materials were given to the woman or minor female.

iii. In the case of a minor female considering an abortion, if a parent accompanies the minor female to the appointment, the physician or qualified person shall provide to the parent copies of the same materials given to the female.

iv. The signed certification form shall be kept within the medical record of the woman or minor female for a period of at least seven years.

c. At least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of a printed informational document including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality and resources, programs and services for infants and children born with disabilities. However, if the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of these printed materials at least 24 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c).

d. If the pregnant woman seeking an abortion is unable to read the materials, the materials shall be read to her. If the pregnant woman seeking an abortion asks questions concerning any of the information or materials, answers shall be provided to her in her own language.

NOTE: The provisions of this Section requiring a physician or qualified person to provide required printed materials to a woman considering an abortion shall become effective 30 days after the department publishes a notice of the availability of such materials.

5. ...

a. Prior to the abortion, the outpatient abortion facility shall ensure the pregnant woman seeking an abortion has certified, in writing on a form provided by the department that the information and materials required were provided at least 72 hours prior to the abortion, or at least 24 hours prior to the abortion in the case of a woman who has given prior certification in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy. This form shall be maintained in the woman's medical record.

b. ...

c. The pregnant woman seeking an abortion is not required to pay any amount for the abortion procedures until the 72-hour period has expired, or until expiration of the 24-hour period applicable in the case of a woman who has given prior certification in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy.

6. - 7.b. ...

8. Disposition of Fetal Remains

a. Each physician who performs or induces an abortion which does not result in a live birth shall ensure that the remains of the fetus are disposed of by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq., and the provisions of LAC 51:XXVI.102 of the *Sanitary Code*.

b. Prior to an abortion, the physician shall orally and in writing inform the pregnant woman seeking an abortion in the licensed abortion facility that the pregnant woman has the following options:

i. the option to make arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.; or

ii. the option to have the outpatient abortion facility/physician make the arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.

c. The pregnant woman shall sign a consent form attesting that she has been informed of these options, and shall indicate on the form whether she wants to make arrangements for the disposition of fetal remains or whether she wants the facility to make arrangements for the disposition and/or disposal of fetal remains.

d. the requirements of §4431.G.8 regarding dispositions of fetal remains, shall not apply to abortions induced by the administration of medications when the evacuation of any human remains occurs at a later time and not in the presence of the inducing physician or at the facility in which the physician administered the inducing medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:700 (April 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1612#004

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Applied Behavior Analysis-Based Therapy Services
Reimbursement Rate Realignment
(LAC 50:XV.703)

The Department of Health, Bureau of Health Services Financing amends LAC 50:XV.703 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to establish coverage and reimbursement for applied behavior analysis (ABA)-based therapy services under the Medicaid State Plan in order to ensure continued, long-lasting access to ABA-based therapy services for Chisholm class members and other children under the age of 21 (*Louisiana Register*, Volume 41, Number 5).

The department has now determined that it is necessary to amend the reimbursement methodology governing ABA-based therapy services in order to realign the reimbursement rates to be consistent with the commercial rates for these services which will be in effect statewide in January 2017. This action is being taken to avoid a budget deficit in the Medicaid Program. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately $3,609,821 for state fiscal year 2016-2017.

Effective January 1, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for applied behavior analysis-based therapy services covered under the Medicaid State Plan.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 1. Applied Behavior Analysis-Based Therapy Services
Chapter 7. Reimbursements
§703. Reimbursement Methodology

A. Reimbursement for ABA-based therapy services shall be based upon a percentage of the commercial rates for ABA-based therapy services in the state of Louisiana.

B. Effective for dates of service on or after January 1, 2017, ABA rates and codes in effect on December 31, 2016 will be realigned to be consistent with the commercial rates in the state related to these codes which go into effect statewide on January 1, 2017.

1. Prior authorizations already in effect on the promulgation date of these provisions will be honored.

Those services shall be paid at the rate in effect on December 31, 2016.

2. New prior authorizations with a begin date after the promulgation date of these provisions must use the codes in effect prior to January 1, 2017 for those services provided and to be delivered prior to January 1, 2017, and for any services provided after January 1, 2017, the codes in effect on January 1, 2017 must be used.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:928 (May 2015), 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 proposed Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1612#045

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Disproportionate Share Hospital Payments
Inpatient Psychiatric Services
Reimbursement Rate Reduction
(LAC 50:V.959, 2709, and 2903)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.959, §2709 and §2903 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 inpatient hospital services in order to provide supplemental Medicaid payments to non-rural, non-state acute care hospitals that enter into a cooperative endeavor agreement with the department to provide inpatient psychiatric services (*Louisiana Register*, Volume 39, Number 2). The department amended the provisions governing disproportionate share hospital (DSH) payments to non-state distinct part psychiatric units that enter into a cooperative endeavor agreement with the department's Office of Behavioral Health (*Louisiana Register*, Volume 39, Number 3).

As a result of a budgetary shortfall in state fiscal year 2016, the department promulgated an Emergency Rule which amended the provisions governing DSH payments to reduce the payments made to non-rural, non-state acute care hospitals for inpatient psychiatric services (*Louisiana Register*, Volume 41, Number 10). The department determined that it was necessary to amend the provisions of the October 1, 2015 Emergency Rule in order to revise these provisions and to correct the formatting of these provisions to assure that these provisions are promulgated in a clear and concise manner in the *Louisiana Administrative Code* (LAC) (*Louisiana Register*, Volume 42, Number 1). This Emergency Rule is being promulgated to continue the provisions of the January 20, 2016 Emergency Rule. This action is being taken to avoid a budget deficit in the Medical Assistance Program.

Effective January 17, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing disproportionate share hospital payments to reduce the payments made to non-rural, non-state acute care hospitals for inpatient psychiatric services.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part V. Hospital Services
Subpart 1. Inpatient Hospital Services
Chapter 9. Non-Rural, Non-State Hospitals
Subchapter B. Reimbursement Methodology
§959. Inpatient Psychiatric Hospital Services

A. - L. ...

M. 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 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 39:94 (January 2013), LR 39:323 (February 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Subpart 3. Disproportionate Share Hospital Payments
Chapter 27. Qualifying Hospitals
§2709. Distinct Part Psychiatric Units

A. - C. ...

D. 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 34:1627 (August 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 39:505 (March 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Chapter 29. Public-Private Partnerships
§2903. Reimbursement Methodology

A. Free-Standing Psychiatric Hospitals. Effective for dates of service on or after October 1, 2015, the per diem rate paid to free-standing psychiatric hospitals shall be reduced by 5 percent of the rate in effect on September 30, 2015. The new per diem rate shall be $552.05 per day.

1. Cost and lengths of stay will be reviewed for reasonableness before payments are made. Payments shall be made on a monthly basis.

2. 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.

B. - C. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:2259 (November 2014), amended 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

1612#049

DECLARATION OF EMERGENCY

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 amends LAC 48:I.4001 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2625. 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 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 Emergency Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule. This action is being taken to avoid a budget deficit by securing new funding through increased revenue collections.

Effective December 31, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing provider fees to increase the limit of the provider fee for nursing facilities.

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. - F. ...

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 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 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

1612#050

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Reimbursement Rate Increase
(LAC 50:V.Chapter 9)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.Chapter 9 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions

governing the reimbursement methodology for inpatient hospital services rendered by children's specialty hospitals to revise the reimbursement methodology and establish outlier payment provisions *(Louisiana Register*, Volume 42, Number 2).

In order to comply with the requirements of House Concurrent Resolution 51 of the 2016 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing now proposes to amend the provisions governing the reimbursement methodology for inpatient hospital services to increase the Medicaid reimbursement rates paid to non-rural, non-state hospitals. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to inpatient hospital services in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately $1,860,328 for state fiscal year 2016-2017.

Effective January 1, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for non-rural, non-state inpatient hospital services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - J. ...

1. Qualifying Criteria. In order to qualify for the supplemental payment, the non-rural, non-state acute care hospital must be located in LDH administrative region 1 (New Orleans) and identified in the July 17, 2008 United States Government Accountability Office report as a hospital that has demonstrated substantial financial and operational challenges in the aftermath of Hurricane Katrina.

J.2. - L. ...

1. Qualifying Criteria. Non-rural, non-state acute care hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either LDH administrative region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

L.2. - N.3.g. ...

4. Each participant must certify that it complies with the requirements of §953.N.3 by executing the appropriate certification form designated by the department for this purpose. The completed form must be submitted to the Department of Health, Bureau of Health Services Financing.

N.5. - T. ...

U. Effective for dates of service on or after January 1, 2017, the inpatient per diem rate paid to acute care hospitals shall be increased by 7.03 percent of the per diem rate on file as of December 31, 2016.

1. Small rural hospitals as defined in R.S. 40:1300 and public-private partnership hospitals as defined in LAC 50:V.1701-1703 shall be exempt from this rate increase.

AUTHORITY NOTE: Promulgated in 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 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895, 1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:1552 (July 2010), LR 36:2561 (November 2010), LR 39:3095 (November 2013), LR 39:3297 (December 2013), LR 40:312 (February 2014), repromulgated LR 40:1939, 1940 (October 2014), LR 41:133 (January 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§955. Long-Term Hospitals

A. - D. ...

1. Qualifying Criteria. In order to qualify for the supplemental payment, the long term hospital must have had at least 100 paid Medicaid days for state fiscal year 2008 service dates and must be located in one of the following LDH administrative regions:

D.1.a. - J. ...

K. Effective for dates of service on or after January 1, 2017, the inpatient per diem rate paid to long-term hospitals shall be increased by 7.03 percent of the per diem rate on file as of December 31, 2016.

AUTHORITY NOTE: Promulgated in 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: 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), amended LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 40:312 (February 2014), repromulgated LR 40:1940 (October 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§959. Inpatient Psychiatric Hospital Services

A. - E. ...

1. Qualifying Criteria. Non-rural, non-state free-standing psychiatric hospitals that do not qualify for payment under §953.E or §953.F may receive a supplemental payment if the hospital is located in either LDH administrative region 2 (Baton Rouge) or 3 (Thibodaux), had at least 1,000 paid Medicaid days for state fiscal year 2008 service dates and is currently operational.

E.2. - K.2.b. ...

L. Effective for dates of service on or after February 10, 2012, a Medicaid-enrolled non-state acute care hospital that enters into a cooperative endeavor agreement (CEA) with the Department of Health, Office of Behavioral Health to provide inpatient psychiatric hospital services to Medicaid and uninsured patients, and which also assumes the operation and management of formerly state-owned and operated psychiatric hospitals/visits, shall be paid a per diem rate of $581.11 per day.

M. Effective for dates of service on or after January 1, 2017, the prospective per diem rate paid to non-rural, non-state free-standing psychiatric hospitals and distinct part psychiatric units within non-rural, non-state acute care hospitals shall be increased by 2 percent of the per diem rate on file as of December 31, 2016.

1. Inpatient hospital psychiatric services provided under a public-private partnership as defined in §959.L of this Chapter, LAC 50:V.1701 and LAC 50:V.2901 shall be exempt from this rate increase.

AUTHORITY NOTE: Promulgated in 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 34:876 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1895 (September 2009), LR 36:1554 (July 2010), LR 36:2562 (November 2010), LR 37:2162 (July 2011), LR 39:94 (January 2013), LR 39:323 (February 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§967. Children's Specialty Hospitals

A. - K. ...

L. Effective for dates of service on or after January 1, 2017, the inpatient per diem rates paid to children's specialty hospitals for acute, neonatal intensive care units, pediatric intensive care units and burn units' services shall be increased by 7.03 percent of the per diem rate on file as of December 31, 2016.

M. Effective for dates of service on or after January 1, 2017, the prospective per diem rate paid to distinct part psychiatric units within children's specialty hospitals shall be increased by 2 percent of the per diem rate on file as of December 31, 2016.

AUTHORITY NOTE: Promulgated in 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 36:2562 (November 2010), amended LR 37:2162, (July 2011), LR 38:2773 (November 2012), LR 39:3097 (November 2013), LR 40:312 (February 2014), repromulgated LR 40:1940 (October 2014), amended LR 40:1941 (October 2014), LR 42:275 (February 2016), 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.

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

1612#046

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
(LAC 50:II.Chapter 200)

The Department of Health, Bureau of Health Services Financing amends LAC 50:II.Chapter 200 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, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for nursing facilities in order to suspend the provisions of LAC 50:II.Chapter 200, and to impose provisions to ensure that the rates in effect would not increase for the SFY 2016 rating period (*Louisiana Register*, Volume 42, Number 9).

The department now proposes to amend the provisions governing the reimbursement methodology for nursing facilities in order to revise the method used for nursing facility rate setting. Currently, nursing facility rate setting uses a point-in-time method which determines rates by services utilized at a specific time. The department proposes to adopt provisions which will utilize a time-weighted methodology which determines rates by services used over a longer period of time.

This Emergency Rule will also amend the provisions governing the reimbursement methodology for nursing facilities in order to make technical changes to align these provisions with the approved State Plan amendment, LA TN 15-0033, governing reimbursement for nursing facility services which was approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services on April, 11, 2016.

This action is being taken to avoid sanctions from the Centers for Medicare and Medicaid Services for noncompliance with an approved State Plan Amendment. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2016-2017.

Effective January 1, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20001. General Provisions

A. Definitions

Active Assessment—a resident MDS assessment is considered active when it has been accepted by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). The assessment will remain active until a subsequent Minimum Data Set (MDS) assessment for the same resident has been accepted by CMS, the maximum number of days (121) for the assessment has been reached, or the resident has been discharged.

* * *

Assessment Reference Date—the date on the minimum data set (MDS) used to determine the due date and delinquency of assessments.

* * *

Case Mix—a measure of the intensity of care and services used by similar residents in a facility.

Case-Mix Index (CMI)—a numerical value that describes the resident's relative resource use within the groups under the resource utilization group (RUG-III) classification system, or its successor, prescribed by the department based on the resident's MDS assessments. CMIs will be determined for each nursing facility on a quarterly basis using all residents.

Case-Mix Documentation Review (CMDR)—a review of original legal medical record documentation and other documentation as designated by the department in the MDS Supportive Documentation Requirements, supplied by a nursing facility provider to support certain reported values that resulted in a specific RUG classification on a randomly selected MDS assessment sample. The review of the documentation provided by the nursing facility will result in the RUG classification being supported or unsupported.

* * *

Department—the Louisiana Department of Health (LDH), or its successor, and the associated work product of its designated contractors and agents.

***

Facility Cost Report Period Case—Repealed.

Example—Repealed.

Facility-Wide Average Case-Mix Index—Repealed.

Final Case-Mix Index Report (FCIR)—the final report that reflects the acuity of the residents in the nursing facility.

a. Prior to the January 1, 2017 rate setting, resident acuity is measured utilizing the point-in-time acuity measurement system.

b. Effective with the January 1, 2017 rate setting, resident acuity will be measured utilizing the time-weighted acuity measurement system.

Index Factor—will be based on the *Skilled Nursing Home without Capital Market Basket Index* published by IHS Global Insight(IHS Economics), or a comparable index if this index ceases to be published.

MDS Supportive Documentation Requirements—the department's publication of the minimum documentation and review standard requirements for the MDS items associated with the RUG-III or its successor classification system. These requirements shall be maintained by the department and updated and published as necessary.

Minimum Data Set (MDS)—a core set of screening and assessment data, including common definitions and coding categories that form the foundation of the comprehensive assessment for all residents of long-term care nursing facility providers certified to participate in the Medicaid Program. The items in the MDS standardize communication about resident problems, strengths, and conditions within nursing facility providers, between nursing facility providers, and between nursing facility providers and outside agencies. The Louisiana system will employ the current required MDS assessment as approved by the Centers for Medicare and Medicaid Services (CMS).

Nursing Facility Cost Report Period Case Mix Index—the average of quarterly nursing facility-wide average case mix indices, carried to four decimal places. The quarters used in this average will be the quarters that most closely coincide with the nursing facility provider's cost reporting period that is used to determine the medians. This average includes any revisions made due to an on-site CMDR.

a. For the cost reporting periods utilized in the next rebase of rates on or after July 1, 2017, the calendar quarter case mix index averages will be calculated using the time-weighted acuity measurement system, and be inclusive of MDS assessments available as of the date of the applicable quarterly FCIRs. This average includes any revisions made due to an on-site CMDR.

EXAMPLE: A January 1, 2015-December 31, 2015 cost report period would use the time-weighted facility-wide average case mix indices calculated for the four quarters ending March 31, 2015, June 30, 2015, September 30, 2015 and December 31, 2015.

Nursing Facility-Wide Average Case Mix Index—the simple average, carried to four decimal places, of all resident case mix indices.

1. Prior to the January 1, 2017, rate setting resident case mix indices will be calculated utilizing the point-in-time acuity measurement system. If a nursing facility provider does not have any residents as of the last day of a calendar quarter or the average resident case mix indices appear invalid due to temporary closure or other circumstances, as determined by the Department, a statewide average case mix index using occupied and valid statewide nursing facility case mix indices may be used.

a. Effective as of the January 1, 2017 rate setting, resident case mix indices will be calculated utilizing the time-weighted acuity measurement. If a nursing facility provider does not have any residents during the course of a calendar quarter, or the average resident case mix indices appear invalid due to temporary closure or other circumstances, as determined by the department, a statewide average case mix index using occupied and valid statewide nursing facility provider case mix indices may be used.

* * *

Point-In-Time Acuity Measurement System (PIT)—the case mix index calculation methodology that is compiled utilizing the active resident MDS assessments as of the last day of the calendar quarter, referred to as the point-in-time.

Preliminary Case-Mix Index Report (PCIR)—the preliminary report that reflects the acuity of the residents in the nursing facility.

a. Prior to the January 1, 2017 rate setting, resident acuity is measured utilizing the point-in-time acuity measurement system.

b. Effective as of the January 1, 2017 rate setting, resident acuity will be measured utilizing the time-weighted acuity measurement system.

* * *

RUG-III Resident Classification System—the resource utilization group used to classify residents. When a resident classifies into more than one RUG-III, or its successor's group, the RUG-III or its successor's group with the greatest CMI will be utilized to calculate the nursing facility provider's total residents average CMI and Medicaid residents average CMI.

Summary Review Results Letter—a letter sent to the nursing facility that reports the final results of the case-mix documentation review and concludes the review.

a. The summary review results letter will be sent to the nursing facility provider within 10 business days after the final exit conference date.

* * *

Time-Weighted Acuity Measurement System (TW)—the case mix index calculation methodology that is compiled from the collection of all resident MDS assessments transmitted and accepted by CMS that are considered active within a given calendar quarter. The resident MDS assessments will be weighted based on the number of calendar days that the assessment is considered an active assessment within a given calendar quarter.

* * *

Unsupported MDS Resident Assessment—an assessment where one or more data items that are used to classify a resident pursuant to the RUG-III, 34-group, or its successor's resident classification system is not supported according to the MDS supportive documentation requirements and a different RUG-III, or its successor, classification would result; therefore, the MDS assessment would be considered "unsupported."

B. - B.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:825 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:

§20003. Cost Reports

[Formerly LAC 50:VII.1303]

A. - B.1. ...

2. There shall be no automatic extension of the due date for the filing of cost reports. If a provider experiences unavoidable difficulties in preparing its cost report by the prescribed due date, one 30-day extension may be permitted, upon written request submitted to the department prior to the due date. The request must explain in detail why the extension is necessary. Extensions beyond 30 days may be approved for situations beyond the facility's control. An extension will not be granted when the provider agreement is terminated or a change in ownership occurs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2263 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:541 (March 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§20005. Rate Determination

[Formerly LAC 50:VII.1305]

A. - B. ...

1. Effective July 3, 2009, and at a minimum, every second year thereafter, the base resident-day-weighted median costs and prices shall be rebased using the most recent four month or greater unqualified audited or desk reviewed cost reports that are available as of the April 1, prior to the July 1, rate setting or the department may apply a historic audit adjustment factor to the most recently filed cost reports. The department, at its discretion, may rebase at an earlier time.

B.1.a. - D.1.g. ...

i. Effective for rate periods January 1, 2017 through June 30, 2017 each nursing facility providers direct care and care related floor will be calculated as follows:

(a). For each nursing facility, the statewide direct care and care related floor shall be apportioned between the per diem direct care component and the per diem care related component using the facility-specific percentages determined in §1305.D.1.c. On a quarterly basis, each facility's specific direct care component of the statewide floor shall be multiplied by each nursing facility provider's most advantageous average case mix index for the prior quarter. The most advantageous case mix index will be determined by utilizing the nursing facility providers' calculated point-in-time or time-weighted measurement system case mix index value that results in the lowest direct care and care related floor amount for the associated rate quarter. The direct care component of the statewide floor will be adjusted quarterly to account for changes in the nursing facility-wide average case mix index. Each facility's specific direct care and care related floor is the sum of each facility's case mix adjusted direct care component of the statewide floor plus each facility's specific care related component of the statewide floor.

1.h. - 4.b. ...

c. Reserved.

d. Effective for rate periods beginning January 1, 2017 through June 30, 2017, each applicable nursing facility provider will receive an additional pass-through rate adjustment to allow for a phase-in of the time-weighted acuity measurement system. The nursing facility provider pass-through rate adjustment will be calculated and applied as follows:

i. The nursing facility provider's rate period reimbursement rate will be calculated in accordance with §20005.B using the point-in-time acuity measurement system for determining the nursing facility-wide average case mix index values. The reimbursement rate will be determined after considering all other rate period changes to the reimbursement rates;

ii. The nursing facility provider's rate period reimbursement rate will be calculated in accordance with §20005.B using the time-weighted acuity measurement system for determining the nursing facility-wide average case mix index values. The reimbursement rate will be determined after considering all other rate period changes to the reimbursement rate;

iii. The reimbursement rate differential will be determined by subtracting the reimbursement rate calculated using the point-in-time acuity measurement system from the reimbursement rate calculated using the time-weighted acuity measurement system;

iv. If the calculated reimbursement rate differential exceeds a positive or negative two dollars, then a pass-through rate adjustment will be applied to the nursing facility provider's reimbursement rate in an amount equal to the difference between the rate differential total and the two dollar threshold, in order to ensure the nursing facility provider's reimbursement rate is not increased or decreased

more than two dollars as a result of the change to the time-weighted method acuity measurement system.

(a) Should the nursing facility provider, for the aforementioned rate periods, receive an adjusted nursing facility-wide average case mix index value due to a CMDR change or other factors, the facility will have their rate differential recalculated using the revised case mix index values. The two dollar reimbursement rate change threshold will apply to the recalculated differential and associated case mix index values, not the original differential calculation;

v. If a nursing facility provider's calculated rate differential does not exceed the two dollar rate change threshold, then no pass-through rate adjustment will be applied for the applicable rate period.

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 and Hospitals, Bureau of Health Services Financing, LR 43:

§20007. Case-Mix Index Calculation [Formerly LAC 50:VII.1307]

A. ...

B. Each resident in the nursing facility, with a completed and submitted assessment, shall be assigned a RUG-III, 34-group, or its successor based on the following criteria:

1. Prior to the January 1, 2017 rate setting, the RUG-III group, or its successor, is calculated based on the resident's most current assessment, available on the last day of each calendar quarter, and shall be translated to the appropriate case mix index. From the individual resident case mix indices, two average case mix indices for each Medicaid nursing facility provider shall be determined four times per year based on the last day of each calendar quarter.

2. Effective as of the January 1, 2017 rate setting, the RUG-III group, or its successor, will be calculated using each resident MDS assessment transmitted and accepted by CMS that is considered active within a given calendar quarter. These assessments are then translated to the appropriate case mix index. The individual resident case mix indices are then weighted based on the number of calendar days each assessment is active within a given calendar quarter. Using the individual resident case mix indices, the calendar day weighted average nursing facility-wide case mix index is calculated using all residents regardless of payer type. The calendar day weighted nursing facility-wide average case mix index for each Medicaid nursing facility shall be determined four times per year.

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1475 (June 2002), repromulgated LR 28:1792 (August 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:826 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§20012. Fair Rental Value, Property Tax and Property Insurance Incentive Payments to Buyers of Nursing Facilities [Formerly LAC 50:VII.1312]

A. - C.3. ...

4. Base Capital Amount Updates. On July 1 of each year, the base capital amounts (as defined in §1312.C.1) will be trended forward annually to the midpoint of the rate year using the change in the per diem unit cost listed in the three-fourths column of the R.S. Means Building Construction Data Publication, or its successor, adjusted by the weighted average total city cost index for New Orleans, Louisiana. The cost index for the midpoint of the rate year shall be estimated using a two-year moving average of the two most recent indices as provided in this Subparagraph. Adjustments to the base capital amount will only be applied to purchase and closure transactions occurring after the adjustment date.

D. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1349 (July 2007), amended LR 34:1033 (June 2008), amended by the Department of Health, Office of the Secretary, Bureau of Health Services Financing, LR 43:

§20013. Case-Mix Documentation Reviews and Case-Mix Index Reports [Formerly LAC 50:VII.1313]

A. The department shall provide each nursing facility provider with the Preliminary Case-Mix Index Report (PCIR) by approximately the fifteenth day of the second month following the beginning of a calendar quarter. The PCIR will serve as notice of the MDS assessments transmitted and provide an opportunity for the nursing facility provider to correct and transmit any missing MDS assessments or tracking records or apply the CMS correction request process where applicable. The department shall provide each nursing facility provider with a Final Case-Mix Index Report (FCIR) utilizing MDS assessments after allowing the nursing facility providers a reasonable amount of time to process their corrections (approximately two weeks).

1. If the department determines that a nursing facility provider has delinquent MDS resident assessments, for purposes of determining both average CMIs, such assessments shall be assigned the case-mix index associated with the RUG-III group "BC1-Delinquent" or its successor. A delinquent MDS shall be assigned a CMI value equal to the lowest CMI in the RUG-III, or its successor, classification system.

B. The department shall periodically review the MDS supporting documentation maintained by nursing facility providers for all residents, regardless of payer type. Such reviews shall be conducted as frequently as deemed necessary by the department. The department shall notify nursing facility providers of the scheduled Case-Mix Documentation Reviews (CMDR) not less than two business days prior to the start of the review date and a FAX, electronic mail or other form of communication will be

provided to the administrator or other nursing facility provider designee on the same date identifying possible documentation that will be required to be available at the start of the on-site CMDR.

1. The department shall review a sample of MDS resident assessments equal to the greater of 20 percent of the occupied bed size of the nursing facility or 10 assessments and shall include those transmitted assessments posted on the most current FCIR. The CMDR will determine the percentage of assessments in the sample that are unsupported MDS resident assessments. The department may review additional or alternative MDS assessments, if it is deemed necessary.

2. When conducting the CMDR, the department shall consider all MDS supporting documentation that is provided by the nursing facility provider and is available to the RN reviewers prior to the start of the exit conference. MDS supporting documentation that is provided by the nursing facility provider after the start of the exit conference shall not be considered for the CMDR.

3. Upon request by the department, the nursing facility provider shall be required to produce a computer-generated copy of the MDS assessment which shall be the basis for the CMDR.

4. After the close of the CMDR, the department will submit its findings in a summary review results (SRR) letter to the nursing facility within 10 business days following the final exit conference date.

5. The following corrective action will apply to those nursing facility providers with unsupported MDS resident assessments identified during an on-site CMDR.

a. - b. ...

c. If the percentage of unsupported MDS assessments in the total sample is greater than the threshold percentage as shown in column (B) of the table in Subparagraph e below, the RUG-III, or its successor, classification shall be recalculated for the unsupported MDS assessments based upon the available documentation obtained during the CMDR process. The nursing facility provider's CMI and resulting Medicaid rate shall be recalculated for the quarter in which the FCIR was used to determine the Medicaid rate. A follow-up CMDR process described in Subparagraphs d and e may be utilized at the discretion of the department.

d. Those nursing facility providers exceeding the thresholds (see column (B) of the table in Subparagraph e) during the initial on-site CMDR will be given 90 days to correct their assessing and documentation processes. A follow-up CMDR may be performed at the discretion of the department at least 30 days after the nursing facility provider's 90-day correction period. The department or its contractor shall notify the nursing facility provider not less than two business days prior to the start of the CMDR date. A fax, electronic mail, or other form of communication will be provided to the administrator or other nursing facility provider designee on the same date identifying documentation that must be available at the start of the on-site CMDR.

e. After the follow-up CMDR, if the percentage of unsupported MDS assessments in the total sample is greater than the threshold percentage as shown in column (B) of the following table, the RUG-III, or its successor, classification shall be recalculated for the unsupported MDS assessments based upon the available documentation obtained during the CMDR process. The nursing facility provider's CMI and resulting Medicaid rate shall be recalculated for the quarter in which the FCIR was used to determine the Medicaid rate. In addition, facilities found to have unsupported MDS resident assessments in excess of the threshold in Column (B) of the table below may be required to enter into a Documentation Improvement Plan with the department. Additional follow-up CMDR may be conducted at the discretion of the department.

Table ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2537 (December 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:826 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§20015. Appeal Process

[Formerly LAC 50:VII.1315]

A. If the facility disagrees with the CMDR findings, a written request for an informal reconsideration must be submitted to the department within 15 business days of the facility's receipt of the CMDR findings in the SRR letter. Otherwise, the results of the CMDR findings are considered final and not subject to appeal. The department will review the facility's informal reconsideration request within 10 business days of receipt of the request and will send written notification of the final results of the reconsideration to the facility. No appeal of findings will be accepted until after communication of final results of the informal reconsideration process.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2538 (December 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:827 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§20029. Supplemental Payments

A. - A.2. ...

3. Payment Calculations. The Medicaid supplemental payment for each state fiscal year (SFY) shall be calculated immediately following the July quarterly Medicaid rate setting process. The total Medicaid supplemental payment for each individual NSGO will be established as the individual nursing facility differential between the estimated Medicare payments for Medicaid nursing facility residents, and the adjusted Medicaid payments for those same nursing facility residents. A more detailed description of the Medicaid supplemental payment process is described below:

a. The calculation of the total annual Medicaid supplemental payment for nursing facilities involves the following four components:

i. calculate Medicare payments for Louisiana Medicaid nursing facility residents using Medicare payment principles;

ii. determining Medicaid payments for Louisiana Medicaid nursing facility residents;

iii. adjust payments for coverage difference between Medicare payment principles and Louisiana Medicaid payment principles; and

iv. calculating the differential between the calculated Medicare payments for Medicaid nursing facility residents, and Medicaid payments for those same residents.

b. Calculating Medicaid Rates Using Medicare Payment Principles. With Medicare moving to the prospective payment system (PPS), Medicare rates will be calculated based on Medicaid acuity data. The following is a summary of the steps involved:

i. Using each resident's minimum data set assessment, the applicable RUG-III grouper code for Medicaid residents was identified. A frequency distribution of Medicaid residents in each of the Medicare RUG classification categories is then generated.

(a). The resident minimum data set assessments will be from the most recently available minimum data set assessments utilized in Medicaid rate setting processes as of the development of the Medicaid supplemental payment calculation demonstration.

ii. After the Medicaid resident frequency distribution was developed, rural and urban rate differentials and wage index adjustments will be used to adjust the Medicare rate tables. Medicare rate tables will be applicable to SFY periods.

(a). Medicare rate tables will be established using information published in 42 CFR part 483 where available. Should the finalized Medicare rate tables for any portion of the applicable SFY period be unavailable, the most recent preliminary Medicare rate adjustment percentage published in the federal register available as of the development of the Medicaid supplemental payment calculation demonstration will be utilized as the basis of the Medicare rate for that portion of the SFY period.

(b). The resulting Medicare rates are multiplied by the number of Medicaid residents in each RUG category, summed and then averaged. The Medicare rate tables applicable to each period of the SFY will be multiplied by an estimate of Medicaid paid claims days for the specified period. Medicaid paid claims days will be compiled from the state's Medicaid Management Information System's (MMIS) most recent 12 months, as of the development of the Medicaid supplemental payment calculation demonstration.

c. Determining Medicaid Payments for Louisiana Medicaid Nursing Facility Residents. The most current Medicaid nursing facility reimbursement rates as of the development of Medicaid supplemental payment calculation demonstration will be utilized. These reimbursement rates will be multiplied by Medicaid paid claims compiled from the state's MMIS system from the most recent 12 months, as of the development of the Medicaid supplemental payment calculation demonstration, to establish total Medicaid per diem payments. Total calculated Medicaid payments made outside of the standard nursing facility per diem are summed with total Medicaid reimbursement from the per diem payments to establish total Medicaid payments. Payments made outside of the standard nursing facility per diem are reimbursement for the following services:

i. Specialized Care Services Payments. Specialized care services reimbursement is paid outside of the standard per diem rate as an add-on payment to the current facility per diem rate. The established specialized care add-on per diems will be multiplied by Medicaid paid claims for specialized care days compiled from the state's MMIS system from the most recent 12 months, as of the development of the Medicaid supplemental payment calculation demonstration, to establish projected specialized care services payments for the applicable SFY.

ii. Home/Hospital Leave Day (Bed Hold) Payments. Allowable Medicaid Leave days were established using Medicaid paid claims days compiled from the state's MMIS system from the most recent 12 months, as of the development of the Medicaid supplemental payment calculation demonstration. Allowable Medicaid Leave days will be multiplied by the most recent Medicaid Leave day quarterly reimbursement rates as of the of the Medicaid supplemental payment calculation demonstration to established projected Medicaid Leave day payments for the SFY.

iii. Private Room Conversion Payments. Private Room Conversion (PRC) Medicaid days will be established utilizing the most recently reviewed or audited Medicaid supplemental cost reports as of the development of the Medicaid supplemental payment calculation demonstration. The applicable cost reporting period information will be annualized to account for short year cost reporting periods. Allowable PRC Medicaid days will be multiplied by the PRC incentive payment amount of $5 per allowable day to establish the total projected Medicaid PRC payments for the SFY.

d. Adjusting for Differences between Medicare Principles and Louisiana Medicaid Nursing Facility Residents. An adjustment to the calculation of the Medicaid supplemental payment limit will be performed to account for the differences in coverage between the Medicare PPS rate and what Louisiana Medicaid covers within the daily rate provided above. To accomplish this, an estimate will be calculated for pharmacy, laboratory, and radiology claims that were paid on behalf of nursing facility residents for other than their routine daily care. These estimates will then be added to the total calculated Medicaid payments.

e. Calculating the Differential Between the Calculated Medicare Payments for Medicaid Nursing Facility Residents, and Medicaid Payments for Those Same Residents. The total annual Medicaid supplemental payment will be equal to the individual NSGO nursing facility's differential between their calculated Medicare payments and the calculated adjusted Medicaid payments for the applicable SFY, as detailed in the sections above.

4. Frequency of Payments and Calculations. The Medicaid supplemental payments will be reimbursed through a calendar quarter based lump sum payment. The amount of the calendar quarter lump sum payment will be equal to the SFY total annual Medicaid supplemental payment divided by four. The total annual Medicaid supplemental payment calculation will be performed for each SFY immediately following the July quarterly Medicaid rate setting process.

a. Repealed.

5. No payment under this section is dependent on any agreement or arrangement for provider or related entities to donate money or services to a governmental entity.

5.a. - 6. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:63 (January 2016), 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.

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

1612#047

DECLARATION OF EMERGENCY

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 amends 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 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 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 an Emergency Rule which amended the provisions governing provider fees in order to increase the provider fee for nursing facilities (*Louisiana Register*, Volume 42, Number 9). The department promulgated an Emergency Rule which amended the provisions governing nursing facilities reimbursement to include the provider fee increase in the nursing facility pass through rate (*Louisiana Register*, Volume 42, Number 9).

This Emergency Rule is being promulgated in order to continue the provisions of the September 1, 2016 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to nursing facilities.

Effective December 31, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to include the provider fee increase in the nursing facility pass through rate.

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 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 (November 2013), LR 41:707 (April 2015), LR 41:949 (May 2015), amended 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 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

1612#051

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Outpatient Hospital Services
Non-Rural, Non-State Hospitals
and Children's Specialty Hospitals
Reimbursement Rate Increase
(LAC 50:V.5313, 5317, 5513,
5517, 5713, 5719, 6115 and 6119)

The Department of Health, Bureau of Health Services Financing amends LAC 50:V.5313, 5317, and §§5513, 5517, 5713, 5719, 6115 and 6119 in the Medical Assistance

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

The Department of Health and Hospitals, Bureau of Health Services Financing amended the provisions governing the reimbursement methodology for outpatient hospital services in order to revise the qualifying criteria and reimbursement methodology for non-rural, non-state public hospitals and to correct the Code of Federal Regulation citation (*Louisiana Register*, Volume 40, Number 9).

In order to comply with the requirements of House Concurrent Resolution 51 of the 2016 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing now proposes to amend the provisions governing the reimbursement methodology for outpatient hospital services to increase the Medicaid reimbursement rates paid to non-rural, non-state hospitals and children's specialty hospitals. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation and continued access to outpatient hospital services in the Medicaid Program. It is estimated that implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately $780,514 for state fiscal year 2016-2017.

Effective January 1, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for outpatient hospital services provided by non-rural, non-state hospitals and children's specialty hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospitals

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5313. Non-Rural, Non-State Hospitals

A. - H. ...

I. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to non-rural, non-state hospitals for outpatient surgery shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2041 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5317. Children's Specialty Hospitals

A. - F. ...

G. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to children's specialty hospitals for outpatient surgery shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

1. Final reimbursement shall be 87.91 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in 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 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5513. Non-Rural, Non-State Hospitals

A. - H. ...

I. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to non-rural, non-state hospitals for outpatient clinic services shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5517. Children's Specialty Hospitals

A. - F. ...

G. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to children's specialty hospitals for outpatient hospital clinic services shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

AUTHORITY NOTE: Promulgated in 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 36:2042 (September 2010), amended LR 37:3266 (November 2011), LR 40:313 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5713. Non-Rural, Non-State Hospitals

A. - H. ...

I. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to non-rural, non-state hospitals for outpatient laboratory services shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

1. Hospitals participating in public-private partnerships as defined in §6701 shall be exempted from this rate increase.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), LR 36:2042 (September 2010), LR 37:3266 (November 2011), LR 40:313 (February 2014),

amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5719. Children's Specialty Hospitals

A. - F. ...

G. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to children's specialty hospitals for outpatient clinical diagnostic laboratory services shall be increased by 7.03 percent of the rates on file as of December 31, 2016.

AUTHORITY NOTE: Promulgated in 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 36:2043 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6115. Non-Rural, Non-State Hospitals

A. - H. ...

I. Effective for dates of service on or after January 1, 2017, the reimbursement rates paid to non-rural, non-state hospitals for outpatient hospital services, other than clinical diagnostic laboratory services, outpatient surgeries, rehabilitation services and outpatient hospital facility fees shall be increased by 7.03 percent of the rates in effect as of December 31, 2016.

1. Final reimbursement shall be at 71.13 percent of allowable cost through the cost settlement process.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1900 (September 2009), amended LR 36:1250 (June 2010), amended LR 36:1250 (June 2010), amended LR 36:2043 (September 2010), LR 37:3267 (November 2011), LR 40:314 (February 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§6119. Children's Specialty Hospitals

A. - F. ...

G. Effective for dates of service on or after January 1, 2017, the reimbursement fees paid to children's specialty hospitals for outpatient hospital services, other than rehabilitation services and outpatient hospital facility fees, shall be increased by 7.03 percent of the rates in effect as of December 31, 2016.

1. Final reimbursement shall be 87.91 percent of allowable cost as calculated through the cost report settlement process.

AUTHORITY NOTE: Promulgated in 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 36:2044 (September 2010), amended LR 37:3267 (November 2011), LR 40:314 (February 2014), 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.

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

1612#048

DECLARATION OF EMERGENCY

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 amends LAC 48:I.5239 in the Medical Assistance Program as authorized by R.S. 36:254 and 40:2193-40:2193.4. 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 licensing standards for pediatric day health care (PDHC)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 subsequently 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 Emergency Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule. This action is being taken to avoid a budget deficit in the medical assistance program.

Effective December 31, 2016, the Department of Health, Bureau of Health Services Financing amends the licensing standards governing PDHC facilities.

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 42:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1612#052

DECLARATION OF EMERGENCY

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 amends LAC 50:XV.27501, §27503 and §§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 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 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 subsequently 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 Emergency Rule is being promulgated to continue the provisions of the September 1, 2016 Emergency Rule. This action is being taken to avoid a budget deficit in the Medical Assistance Program.

Effective December 31, 2016, the Department of Health, Bureau of Health Services Financing amends the provisions governing the Pediatric Day Health Care Program.

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 42:

§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. - e. Repealed.

4. be stable for outpatient medical services in a home or community-based setting.

4.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 42:

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 42:

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 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 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

1612#053

DECLARATION OF EMERGENCY

Department of Health
Bureau of Health Services Financing

Psychiatric Residential Treatment Facilities
Licensing Standards
(LAC 48:I.9047)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.9047 as authorized by R.S. 40:2179-2179.1. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing the licensing standards for psychiatric residential treatment facilities (PRTFs) in order to remove service barriers, clarify appeal opportunities, avoid a reduction in occupancy of PRTFs in rural locations, and clarify the process for cessation of business (*Louisiana Register*, Volume 40, Number 8). The department subsequently amended the provisions of the August 20, 2014 Emergency Rule in order to revise the formatting of these provisions to ensure that these provisions are appropriately promulgated in a clear and concise manner (*Louisiana Register*, Volume 41, Number 11).

The department promulgated an Emergency Rule which amended the provisions governing PRFTs in order to revise the minimum staffing requirements for staff-to-client ratios (*Louisiana Register*, Volume, 42, Number 5). This Emergency Rule is being promulgated to continue the provisions of the May 20, 2016 Emergency Rule. This action is being taken to avoid imminent peril to the public health, safety and welfare of the Medicaid recipients by ensuring sufficient provider participation and recipient access to medically necessary PRTF services.

Effective January 17, 2017, the Department of Health, Bureau of Health Services Financing amends the provisions governing the minimum staffing requirements for psychiatric residential treatment facilities.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing
Chapter 90. Psychiatric Residential Treatment Facilities (under 21)
Subchapter D. Human Resources
§9047. Personnel Requirements

A. - A.4. ...

B. The facility shall maintain a minimum ratio of one staff person for four residents (1:4) between the hours of 6 a.m. and 10 p.m. The staff for purposes of this ratio shall consist of direct care staff (i.e. licensed practical nurse (LPN), MHS, MHP, LMHP, etc.).

C. The facility shall maintain a minimum ratio of one staff person for six residents (1:6) between 10 p.m. and 6 a.m. Staff shall always be awake while on duty. The staff for purposes of this ratio shall consist of direct care staff (i.e. LPN, MHS, MHP, LMHP, etc.).

D. Staffing ratios listed above are a minimum standard. The PRTF must have written policies and procedures that:

1. demonstrate how the staffing pattern will be adjusted when necessary to meet the individual needs and acuity of youth as those fluctuate over time;

2. document how the PRTF continuously monitors the appropriateness of its staffing pattern to ensure the safety of both youth and staff;

a. This documentation shall include specific methods used by the PRTF to monitor metrics such as restraints and seclusions and other adverse incidents, and documentation of how the PRTF uses this monitoring to make ongoing decisions about staffing patterns; and

3. document how the PRTF continuously monitors the appropriateness of its staffing pattern to ensure that youth receive appropriate, individualized care and treatment and therapeutic interactions;

a. This documentation shall include specific methods used by the PRTF to monitor metrics such as clinical progress and outcomes, and documentation of how the PRTF uses this monitoring to make ongoing decisions about staffing patterns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:385 (February 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:

Interested persons may submit written comments to Cecile Castello, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821 or by email to MedicaidPolicy@la.gov. Ms. Castello is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Rebekah E. Gee MD, MPH
Secretary

1612#054

DECLARATION OF EMERGENCY

Department of Health
Office of Public Health

Burial or Cremation of Aborted Human Remains
(LAC 51:XXVI.102)

The state health officer, acting through the Louisiana Department of Health, Office of Public Health ("LDH-OPH"), pursuant to the rulemaking authority granted by R.S. 40:4(A)(3), R.S. 40:4(A)(13) and R.S. 40:5(A)(14), hereby adopts the following Emergency Rule to require burial or cremation of remains resulting from an abortion as provided for under Act No. 593 of the 2016 Regular Session of the Louisiana Legislature. This 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 law or until adoption of a final Rule, whichever occurs first. This Emergency Rule is effective on the 3rd day of December 2016.

Title 51
PUBLIC HEALTH—SANITARY CODE
Part XXVI. Burial, Transportation, Disinterment, or Other Disposition of Dead Human Bodies
Chapter 1. General Requirements
§102. Burial or Cremation of Aborted Human Remains

A. Each physician who performs or induces an abortion which does not result in a live birth shall insure that the remains of the child are disposed of by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.

B. The requirements of Subsection A of this Section shall not apply to abortions induced by the administration of medications when the evacuation of any human remains occurs at a later time and not in the presence of the inducing physician or at the facility in which the physician administered the inducing medications.

C. An abortion patient may by written consent authorize the physician performing the abortion to dispose of the human remains by burial or cremation, in accordance with the provisions of Part XXVII, Chapter 11, Section 1101.A.7 of this Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(3), R.S. 40:4(A)(13), and R.S. 40:5(A)(14).

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

Rebekah E. Gee, MD, MPH
Secretary
and
Jimmy Guidry, MD
State Health Officer

1612#007

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Partial Closure of State Outside Waters to Shrimping

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of R.S.56:497, which provides that the Wildlife and Fisheries Commission shall have the authority to open or close state outside waters to shrimping by zone each year as it deems appropriate and may delegate to the secretary of the Department of Wildlife and Fisheries this authority, the Wildlife and Fisheries Commission hereby authorizes the secretary to close to shrimping all or parts of state outside waters where significant numbers of small, sublegal size white shrimp are found in biological samples conducted by the department and to reopen any area closed to shrimping when the closure is no longer necessary. The commission also hereby authorizes the secretary of the Department of Wildlife and Fisheries to open and close special shrimp seasons in any portion of state inside waters where such a season would not detrimentally impact developing brown shrimp populations following notification to the chairman of the Wildlife and Fisheries Commission.

R.S. 56:498 provides that the possession count on saltwater white shrimp for each cargo lot shall average no more than 100 (whole specimens) count per pound except during the time period from October 15 through the third Monday in December. Historical data indicate that significant numbers of smaller size white shrimp occupying coastal lakes and bays migrate into these waters as water temperatures drop in conjunction with the onset of winter. This action is being taken to protect these small white shrimp and provide them the opportunity to grow to a larger and more valuable size. Notice of any opening, delaying or closing of a season by the secretary will be made by public notice at least 72 hours prior to such action.

This Emergency Rule is effective December 1, 2016.

Bart R. Yakupzack
Chairman

1612#006

DECLARATION OF EMERGENCY

Workforce Commission
Plumbing Board

Plumbers—Introductory Information; Licenses; Revocation and Related Administration Proceedings; Continuing Professional Education Programs (LAC 46:LV.101, 301, 303, 307, 308, 309, 310, 311, 312, 313, 314, 315, 901, and 1002)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, the Louisiana State Plumbing Board (board), hereby determines that adoption of an Emergency Rule for the implementation of amendments to LAC 46:LV.101, 301, 303, 307, 308, 309, 310, 311, 312, 313, 314, 315, 901, and 1002 is necessary to be in compliance with recent legislative changes designated as Act No. 297 of 2016. The proposed Rule change establishes the designation of gas fitter and master gas fitter and will also provide licensing requirements and procedures relative to gas fitter and master gas fitter classifications, effective January 1, 2017. The addition of this classification resulted in the number change for rules formerly numbered as §§307-313. These adjustments will be effective upon final publication in the *Louisiana Register*.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LV. Plumbers

Chapter 1. Introductory Information

§101. Definitions

Apprentice Gas Fitter—a natural person engaged in learning the gas fitting trade by working under the direct on-the-job supervision of a gas fitter and in the employ of an employing entity. Apprentice gas fitters shall be indentured in an apprenticeship program approved by the Workforce Commission.

* * *

Employing Entity—Repealed.

Employing Entity Gas Fitter—as that term is used in R.S. 37:1367(B) and (C) and in these regulations, shall mean a corporation, partnership or sole proprietorship that holds itself out as engaging in the business or art of *gas fitting* as defined in this Section and who employs at least one master gas fitter on a regular paid basis for actual services performed by that master gas fitter supervising gas fitters.

Employing Entity Plumbing—as that term is used in R.S. 37:1367(B) and (C) and in these regulations, shall mean a corporation, partnership or sole proprietorship that holds itself out as engaging in the business or art of *plumbing* as defined in this Section and who employs at least one master plumber on a regular paid basis for actual services performed by that master plumber or master plumbers supervising journeyman plumbers.

Gas Fitter—a natural person who possesses the necessary qualifications and knowledge to install, alter, and/or repair natural gas systems; is licensed as such by the board; is supervised by a master gas fitter; and is in the employ of an employing entity.

Gas Fitting—the work or business of installing, repairing, improving, altering, or removing natural gas piping, fittings, valves, or tanks used for conveying fuel gas for appliances on or in premises or in buildings annexed to real property. For purposes of this Chapter, gas fitting does not include the following:

1. the installation or maintenance of piping by any entity of a municipal or gas district system that is subject to the regulatory authority of the Public Service Commission, the New Orleans City Council, or the office of pipeline safety in the Department of Natural Resources;
2. any work done by a person who is licensed by the Louisiana Liquefied Petroleum Gas Commission or any other services performed pursuant to such a license.

* * *

Master Gas Fitter—

1. a natural person who possesses the necessary qualifications and knowledge to plan and lay out natural gas systems;
2. who supervises gas fitters in the installation, alteration, and/or repair of natural gas systems; and
3. who is licensed as such by the board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:575 (April 2016), LR 43:

Chapter 3. Licenses

§301. Licenses Required

A. - L. …

M. No natural person shall engage in doing the work of a gas fitter unless he possesses a license or renewal thereof issued by the board. A gas fitter may engage in the art of gas fitting only when he is under the supervision of a master gas fitter licensed by this board.

N. Apprentices may engage in the art of gas fitting only when they are under the direct, constant on-the-job supervision of a licensed gas fitter. Direct, constant on-the-job supervision means that a licensed gas fitter will supervise no more than one apprentice on only one job at a time.

O. The board shall issue a license to any person who qualifies under the board's regulations and who desires to engage in doing the work of a gas fitter if he passes a written and manual gas fitter's examination given by the board and pays the fees established by the board.

P. No natural person shall engage in the work of a master gas fitter unless he possesses a master gas fitter's license or renewal thereof issued by the board. The board shall issue a master gas fitter license to any person who qualifies under the board's regulations and who desires to engage in doing the work of a master gas fitter if he passes a written examination given by the board and pays the fees established by the board. A written examination shall not be required for persons applying pursuant to §309.F. A master gas fitter shall not engage in the work of a gas fitter unless he also possesses a gas fitter's license issued by the board or previously possessed a gas fitter's license issued by the board. A person issued a master gas fitter's license shall designate to the board, as required by the rules of the board,

an employing entity, which may be a corporation, partnership, or sole proprietorship. A licensed master gas fitter shall notify the board of any change of employment status with an employing entity within 30 days of the effective date of change in employment status. A master gas fitter shall designate no more than one employing entity at any time. The board may charge a reasonable fee for processing such redesignations.

Q. No employing entity shall hold itself out as engaging in the business or art of gas fitting unless it employs a master gas fitter. No master gas fitter shall knowingly allow an employing entity to hold itself out as employing such master gas fitter at a time when it does not employ him. In the event a master gas fitter employed by an employing entity dies, the employing entity will be permitted to operate on the basis of the deceased master gas fitter's license for a period not to exceed six months following the death of the master gas fitter. The board may require proof of death. The six-month grace period provided herein must be applied for, in writing, within 30 days of the death of the master gas fitter. The employing entity must comply with all other regulations issued by the board during the grace period.

R. Every employing entity shall maintain an established place of business, with facilities for receiving complaints, calls and notices during normal business hours, from any person for whom it is performing gas fitting or from the board and its representatives. It shall display a sign, plainly visible from the street at every place where it and its employees are performing gas fitting work. The sign shall designate the employing entity's full name, address, telephone number and master gas fitter license number issued by the board to the designated active master gas fitter in its employ. The sign shall include legible lettering at least 2 inches high with the words "Louisiana Licensed Master Gas Fitter" (or abbreviated "LA Lic. Master Gas Fitter"). The employing entity shall also identify itself by permanent signs or lettering affixed to its service vehicles on both sides of such vehicles indicating the same information required of job-site signs, except the master gas fitter license number can be abbreviated as "LMGF _____." All public advertising, solicitations, customer invoices, and business correspondence issued by or on behalf of an employing entity shall set forth the information described herein.

S. Employment of an active master gas fitter by an employing entity on a regular paid basis, as required by §301.Q of these rules, shall mean employment or self-employment for wages or under a bona fide contract of hire with no more than one employing entity at any given time. Such employment or self-employment must include services performed by the active master gas fitter which is within the state of Louisiana or both within and without the state of Louisiana.

T. Temporary working permits to gas fitters may be issued as required by R.S. 37:1376 and may be issued to a holder of a state license from states with like examinations, should that state recognize the Louisiana license, or where other bona fide evidence shows that the applicant's past experience would be capable of protecting the public from defective gas fitting. Each temporary permit must be signed by both the chairman and the secretary of the board. A reasonable fee may be charged for the issuance of temporary permits, as fixed by the board (see §311).

U. An inactive master gas fitter, as that term is used in R.S. 37:1368(E), shall mean a natural person who is licensed by the board as a master gas fitter or who successfully applies for and passes the examination for master gas fitter license administered by the board pursuant to §307 of these rules. An applicant for inactive master gas fitter status must state in a form supplied by the board that he does not wish or intend to practice as a master gas fitter. An inactive master gas fitter shall not be permitted to designate an employing entity, or knowingly allow an employing entity to hold itself out as employing him as a master gas fitter. An inactive master gas fitter can convert his status to that of a master gas fitter by submitting to the board an appropriate form supplied by the board and upon payment of a fee established by the board. During the period of his inactive status the inactive master gas fitter shall pay a fee established by the board. An inactive master gas fitter converting his status under this Section shall designate an employing entity. An inactive master gas fitter shall be permitted to work as gas fitter during the period or periods he maintains an inactive gas fitter's license, if he is currently or was previously licensed by the board as a gas fitter.

V. The board is empowered to assess special enforcement fees on a daily basis at a rate not to exceed $10 a day relative to any master gas fitter or employing entity, or both, that fails or refuses, after due notice, to comply with the sign and posting requirements established by Subsection R of this Section. The daily enforcement fees assessed by the board under this provision shall not exceed, in the aggregate, $500. This special enforcement fee shall be in addition to any licensing fees required by law, or any other penalty or sanction assessed by a court of competent jurisdiction or by the board.

W. In the event any applicant for any license or endorsement who successfully completes a required examination, but fails to pay to the board any requisite license or endorsement fee within 90 days of notice of his examination results shall not be issued the applicable license or endorsement unless and until he submits to an successfully completes re-examination and pays the appropriate fees for such re-examination and subsequent license or endorsement fee. Imposition of this re-examination requirement may be waived for good cause. Any special endorsement fees incurred before or during the re-examination process shall not be affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:49 (January 1991), amended by the Department of Labor, Plumbing Board LR 19:897 (July 1993), LR 19:1593 (December 1993), LR 21:1348 (December 1995), LR 25:1857 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016), LR 43:

§303. Application for License

A. - F. …

G. Applications for gas fitter license shall be completed and sworn to before a notary public by the applicant. Each application shall state two years of having performed manual labor of gas fitting in that two year training period was under the direct on-the-job supervision of a licensed gas fitter,

except those completing apprenticeship programs recognized by the board.

1. Each applicant shall be qualified to take the examination without assistance, and provide whatever other information is requested, on official board application form.

H. The board must satisfy itself that an indentured apprentice gas fitter has satisfactorily completed the approved apprenticeship program.

I. Applications for master gas fitter license shall be completed and sworn to before a notary public by the applicant. The applicant must submit proof that he is licensed by the board at the time of application as a gas fitter or the applicant must submit proof that he is a professional engineer licensed by the state of Louisiana with experience in the art of gas fitting as defined in R.S. 37:1377(K). He must furnish whatever other information relevant to his experience that is requested in the application form or specially requested by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:50 (January 1991), amended by the Department of Labor, Plumbing Board, LR 21:1348 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:576 (April 2016), LR 43:

§307. Requirements to Take Exam for Gas Fitter's License

A. Requirements

1. An applicant for gas fitter's examination must have been a registered apprentice with the board for two years and shall provide notarized affidavit of having performed manual labor of gas fitting in that two year training period under the direct on-the-job supervision of a licensed gas fitter.

2. He shall have sufficient education to read and write the answers to the examination questions and shall understand the gas fitting terms used in the code acceptable to the authority having jurisdiction in regard to the installation or repair of gas fitting.

3. He shall furnish a 2-inch by 2-inch photograph of himself with the application.

4. He shall submit his application and required documents to the office of the State Plumbing Board of Louisiana not less than 30 days before any scheduled examination. The board shall inform all interested persons of the examination schedule.

5. He must attach a money order or check for the appropriate fee to the application. The fee is established in §309.

6. No master gas fitter certificate shall permit any master gas fitter to do the work of a gas fitter.

B. Regular quarterly examinations will be held on the first Saturday of January, April, July and October in the City of Baton Rouge, or on such days specially set by the board. Regularly scheduled examinations are subject to postponement or relocation to accommodate legal holidays or other conditions beyond the control of the board.

C. Failure to report for examination will result in the forfeiture of the applicant's fee. This forfeiture may be reversed by the board upon showing a good cause by the applicant explaining his failure to attend the scheduled examination.

D. Special examinations may be held at such times and places as the board may direct. Any person or persons may request that he be examined by the board at times and places other than the regularly scheduled examination dates, and the board shall examine such applicant or applicants as are qualified, at a reasonable time and place designated by the board after notice of such request, at the payment of a fee as established by the board.

E. The examination shall be given by one or more examiners. At least one board member shall be present.

F. The chairman of the board shall appoint the examiner or examiners, who may be representatives of a private professional service provider qualified to administer a standardized, nationally recognized test duly adopted by the board. If necessary, the chairman shall appoint additional examiners to conduct any special examination required as an accommodation to a qualified disabled individual under the Americans with Disabilities Act.

H. Notwithstanding the foregoing provisions of this Section, any person or persons who at any time within three years of being cited by the board or its agents for engaging in the work of a gas fitter at a time when he did not possess a license or renewal thereof issued by the board, or was otherwise subject to civil or criminal prosecution for doing the work of a gas fitter without possessing a license or renewal thereof issued by the board, may request that he be examined by the board pursuant to this Section, but only after the payment of a special enforcement fee as established by the board, which shall be in addition to the regular license fee established by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Workforce Commission, Plumbing Board, LR 43:

§308. Requirements to take Exam for Master Gas Fitter License

A. Requirements

1. An applicant for master gas fitter examination shall have a current gas fitter license issued by the board or, hold the state Licensing Board for Contractors mechanical work (statewide) license or the applicant shall possess a current license issued by the Professional Engineering and Land Surveying Board certifying or registering him as a professional engineer. A registered or certified professional engineer must further have experience in the art of gas fitting as defined in R.S. 37:1377(K) for a period of five years.

2. In all cases the applicant shall have sufficient knowledge and understanding to comprehend, interpret, and apply the code acceptable to the authority having jurisdiction. In this regard, he must possess sufficient knowledge to plan and lay out gas fitting systems. He must also possess knowledge and understanding to comprehend business and legal terms of the business of gas fitting.

3. The applicant shall furnish a 2-inch by 2-inch photograph of himself with the application.

4. He shall submit his application and required documents to the office of the State Plumbing Board of Louisiana not less than 30 days before any scheduled examination. The board shall inform all interested persons of the examination schedule.

5. He must attach a money order or check for the appropriate fee to the application. The fee is established in §311.

B. Regular quarterly examinations will be held in conjunction with the examination conducted pursuant to §307.B, or on such days specially set by the board.

C. Failure to report for examination will result in the forfeiture of the applicant's fee. This forfeiture may be reversed by the board upon a showing of good cause by the applicant explaining his failure to attend the scheduled examination.

D. Special examinations may be held by the board under the same conditions described in §307.D.

E. The examination shall be given by one or more examiners. At least one board member shall be present. The examiner must be a master gas fitter licensed by the board or a special appointee under §308.F.

F. The chairman of the board shall appoint the examiner or examiners, who may be a representative of a private professional service provider qualified to administer a standardized, nationally recognized test duly adopted by the board. If necessary, the chairman shall appoint additional examiners to conduct any special examination required as an accommodation to a qualified disabled individual under the Americans with Disabilities Act.

G. Notwithstanding the foregoing provisions of this Section, any person or persons who at any time within three years of being cited by the board or its agents for engaging in the work of a master gas fitter at a time when he did not possess an appropriate active master gas fitter license or renewal thereof issued by the board, or was otherwise subject to civil or criminal prosecution for doing the work of master gas fitter without possessing a license or renewal thereof issued by the board, may request that he be examined by the board pursuant to this Section, but only after payment of a special enforcement fee as established by the board, which shall be in addition to the regular license fee established by the board for active master gas fitters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Workforce Commission, Plumbing Board, LR 43:

§309. Renewals

[Formerly §307]

A. All plumbing and gas fitter, medical gas piping installer licenses, medical gas and vacuums systems verifier licenses, as well as water supply protection endorsements, expire December 31 of each year. Applications for renewal will be mailed out by the end of October. The issuance of renewals will commence November 1 of each year. The term "renewal application" as used in §307 shall refer to all licenses and endorsements issued by the board.

B. All renewal applications received at the board's office later than midnight the last day of December will be delinquent and will require a revival fee in addition to the renewal fee. Any license not renewed by the last day of December will pay a revival fee, in addition to the renewal fee, if renewed between January 1 and March 31. Any license renewed after March 31, will require an increased revival fee, in addition to the renewal fee. The fees are set forth in §311. Any person performing the work of a gas fitter, master gas fitter, journeyman plumber or a master plumber without the appropriate license issued by the board after March 31 of any year without having renewed his license from the immediately preceding year shall be subject to the special enforcement fee established in §307.H or §308.G.

C. A person who has allowed his previously issued journeyman plumber or master gas fitter license to expire may be afforded the option, in lieu of re-examination, of paying a special revival fee of $50 per year for each year the license was not renewed up to a limit of four consecutive years. However, any such person who performs the work of a journeyman plumber without possessing a license issued by the board during this period shall be subject to the special enforcement fee established in §307.H.

D. A person who has allowed his previously issued master plumber license, inactive master plumber license, ~~or~~ restricted master plumber, or master gas fitter license to expire may be afforded the option, in lieu of re-examination, of paying a special revival fee of $250 per year for each year the license was not renewed up to a limit of four consecutive years. A person who qualifies for issuance of a restricted master plumber license by virtue of R.S. 37:1368(C) or (D), as amended by Act 752 of the 1990 Regular Session, must apply for such license on or before December 31, 1991. A first time application by any such person after December 31, 1991 will be subject to the revival fee provisions. Any person who performs the work of a master plumber or master gas fitter without possessing a license issued by the board during any period of lapsed license or prior to applying for a restricted master plumber license as provided herein shall be subject to the special enforcement fee established in §306.G or §308.G.

E. To be considered timely filed, any renewal application under §307 must actually be received at the office of the State Plumbing Board of Louisiana within the time specified for filing or be sent to that office by first-class mail, postage prepaid, and bearing a postmark showing that the application was mailed on or before the last day for filing.

F.1. As authorized by R.S. 37:1366(J)(3) the board may waive the examination required for the issuance of a gas fitter or master gas fitter license to any person who meets and provides verifiable proof that he met at least one of the following requirements:

a. that prior to July 1, 2016, he held a journeyman plumber license issued by the board and was employed by an employing entity performing gas fitting work verifiable by any such employing entity;

b. that prior to July 1, 2016 he held a journeyman gas fitter license issued by a municipality or other local governmental authority;

c. that prior to July 1, 2016 he held a master gas fitter license issued by a municipality or other local governmental authority;

d. that prior to July 1, 2016 he held a state License Board for Contractors mechanical work (statewide) license; or

e. that prior to July 1, 2016 he held a master plumber license issued by the board and performed gas fitter work verified by at least three invoices or building permits as proof of work performance.

2. In any case, any application for such waivers of examination, with verified proof, must be submitted before December 31, 2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, promulgated LR 2:419 (December 1976), amended LR 7:588 (November 1981), amended by Department of Employment and Training, Plumbing Board, LR 17:52 (January 1991), LR 18:30 (January 1992), amended by the Department of Labor, Plumbing Board, LR 21:1350 (December 1995), LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016), LR 43:

§310. Insurance Requirements for Master Plumbers and Master Gas Fitters
[Formerly §308]

A. No master plumber, ~~or~~ restricted master plumber, or master gas fitter license shall be issued, renewed, or revived until the applicant has provided proof acceptable to the board that insurance has been issued to the employing entity which is designated in accordance with R.S. 37:1367 by an insurer authorized to do business in this state.

B. The employing entity shall maintain:

1. worker's compensation insurance as required by law;

2. motor vehicle bodily injury and property damage liability insurance in the minimum amount required by law;

3. comprehensive general liability and property damage insurance in a minimum amount of $100,000, except on plumbing work or gas fitting work done in parishes under 30,000 persons in population; on buildings, residences, or structures being no more than 6,000 square feet of interior space, the minimum aggregate amount shall be $50,000.

C. The provisions of this Section shall not apply to master plumbers or master gas fitters applying for and being issued an inactive master plumber license or a master gas fitter license.

D. The certification of insurance shall contain a provision, and the policy so endorsed, that the insurance carrier shall notify the board, in writing, of any change in or cancellation of the insurance policy or policies at least 30 days prior thereto.

E. In the event a master plumber, ~~or~~ restricted master plumber, or master gas fitter changes his designation of an employing entity, the insurance requirements of this Subsection shall remain in effect.

F. A licensed journeyman plumber performing repairs as defined in §101 and §301.E shall be subject to the insurance requirements of this Subsection.

G. Any master plumber, restricted master plumber, or master gas fitter subject to the lesser comprehensive general liability and property damage insurance requirements in parishes described in Paragraph B.3 of this Section on the type of work described therein shall be subject to the greater insurance requirements generally imposed on master plumbers, restricted master plumbers and master gas fitters when performing work in all other parishes or on buildings, residences or structures being more than 6,000 square feet of interior space in any parish.

H. The board is empowered to assess special enforcement fees on a daily basis at a rate not to exceed $10 a day relative to any master plumber, master gas fitter or employing entity, individually or collectively, that fails or refuses, after due notice, to comply with the insurance requirements for master plumbers and master gas fitters as established in §308 of these regulations. The daily enforcement fees assessed by the board under this provision shall not exceed, in the aggregate, $500. This special enforcement fee shall be in addition to any licensing fees required by law, or any other penalty or sanction assessed by a court of competent jurisdiction or by the board.

I. If an employing entity is exempt from the worker's compensation laws, as provided by applicable Louisiana law, it shall execute an affidavit of non-coverage on a form provided by the board. Failure to timely submit this affidavit may subject the employing entity to special enforcement fees under §310 of these regulations and/or an action for injunctive relief by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366 and R.S. 37:1377.

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended by Department of Employment and Training, Plumbing Board, LR 17:53 (January 1991), amended LR 18:30 (January 1992), amended by the Department of Labor, Plumbing Board, LR 19:897 (July 1993), LR 25:1856 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 43:

§311. Fees
[Formerly §309]

A. The fees and charges of the board relative to journeyman plumbers shall be as follows:

1. special examinations—$500;
2. examinations—$125;
3. illiterate examinations—$150;
4. initial license fee (This fee to be paid after applicant has successfully passed the exam, in order to receive his first license.)—$40;
5. renewal fee—$40;
6. revival fee—$15;
   a. if renewed after March 31—$30;
7. temporary permits—$75;
8. administrative charges for processing application (to be retained by the board should applicant withdraw his application before taking the examination)—$62.50;
9. fee for N.S.F. or returned check—$20;
10. special enforcement fee imposed under §305.H—$500.

B. The fees and charges of the board relative to master plumbers, restricted master plumbers and inactive master plumbers shall be as follows:

1. special examinations—$500;
2. examinations—$100;
3. initial license fee—$180;
4. renewal fee—$180;
5. revival fee—$60;
   a. if renewed after March 31—$120;
6. administrative charges for processing application (to be retained by the board should applicant withdraw his application before taking the examination)—50 percent of exam fee;
7. fee for N.S.F. or returned check—$20;
8. special enforcement fee imposed under §306.G—$500;
9. inactive master plumber fee—$30;
10. fee for conversion of inactive master plumber license to active master plumber—$150;

11. employing entity redesignation fee—$150;

12. special daily enforcement fee imposed under §301.K—$10/day, not to exceed $500 in the aggregate;

13. special daily enforcement fee imposed under §308.H—$10/day, not to exceed $500 in the aggregate.

C. The fees and charges of the board relative to medical gas piping installers shall be as follows:

1. special examinations—$500;

2. examination—$95;

3. initial license fee (This fee to be paid after applicant has successfully passed the exam.)—$30;

4. renewal fee—$30;

5. revival fee—$10;

a. if renewed after March 31—$20;

6. administrative charges for processing application (to be retained by the board should an applicant withdraw his application before taking the examination)—50 percent of exam fee;

7. fee for N.S.F. or returned check—$20;

8. special enforcement fee imposed under §304.K—$500.

D. The fees and charges of the board relative to water supply protection specialists endorsements shall be as follows:

1. special examinations—$500;

2. examination—$50;

3. initial endorsement fee (This fee to be paid after applicant has successfully passed the exam.)—$10;

4. renewal fee—$10;

5. revival fee—$10;

a. if renewed after March 31—$20;

6. administrative charges for processing application (to be retained by the board should an applicant withdraw his application before taking the examination)—50 percent of exam fee;

7. fee for N.S.F. or returned check—$20;

8. special enforcement fee imposed under §310.K—$500.

E. The fees and charges of the board relative to medical gas and vacuum systems verifier shall be as follows:

1. application fee—$200;

2. renewal fee—$200;

3. revival fee—$65;

a. if renewed after March 31—$130.

F. The fees and charges of the board relative to gas fitters shall be as follows:

1. special examinations—$500;

2. examinations—$125;

3. ADA accommodation examinations—$150;

4. initial license fee (This fee to be paid after applicant has successfully passed the exam, in order to receive his first license.)—$40;

5. renewal fee—$40;

6. revival fee—$15;

a. if renewed after March 31—$ 30;

7. temporary permits—$75;

8. administrative charges for processing application (to be retained by the board should applicant withdraw his application before taking the examination)—$62.50;

9. fee for N.S.F. or returned check—$35;

10. special enforcement fee imposed under §307.H—$500.

G. The fees and charges of the board relative to master gas fitters and inactive master gas fitters shall be as follows:

1. special examinations—$500;

2. examinations—$100;

3. initial license fee—$180;

4. renewal fee—$180;

5. revival fee—$60;

a. if renewed after March 31—$120;

6. administrative charges for processing application (to be retained by the board should applicant withdraw his application before taking the examination)—50 percent of exam fee;

7. fee for N.S.F. or returned check—$35;

8. special enforcement fee imposed under §306.G—$500;

9. inactive master gas fitter fee—$30;

10. fee for conversion of inactive master gas fitter license to active master gas fitter—$150;

11. employing entity re-designation fee—$150;

12. special daily enforcement fee imposed under §301.K—$10/day, not to exceed $500 in the aggregate;

13. special daily enforcement fee imposed under §308.H—$10/day, not to exceed $500 in the aggregate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D) and R.S. 37:1371.

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated LR 7:588 (November 1981), amended LR 15:1089 (December 1989), amended by the Department of Employment and Training, Plumbing Board, LR 16:23 (January 1990), LR 17:53 (January 1991), amended by the Department of Labor, Plumbing Board, LR 19:898 (July 1993), LR 19:1594 (December 1993), LR 21:1351 (December 1995), LR 26:327 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 43:

§312. Water Supply Protection Specialist Endorsement [Formerly §310]

A. No natural person shall engage in the work of a water supply protection specialist unless he possesses an endorsement to either a master plumber license or a journeyman plumber license or renewals thereof issued by the board. The board shall issue such an endorsement to either form of license to any person who qualifies under the board's regulations and who desires to engage in doing the work of a water supply protection specialist, if he passes an examination given by the board and pays the fees established by the board.

B. A person possessing a restricted master plumber license, who also possesses a water supply protection specialist endorsement to that license issued by the board, shall not be restricted geographically with respect to his work or business as a water supply protection specialist. However, the restrictions applicable to his restricted master plumber license shall remain in effect.

C. As authorized by R.S. 37:1368(H), the board shall recognize and certify certain programs of education and training of water supply protection offered by private or public organizations or institutions compliant with *ASSE International, Cross-Connection Control Professional Qualifications Standard ASSE Series 5000*. A journeyman or master plumber licensed by this board who successfully

completes any such program shall qualify for admission to an examination offered under Subsection A of this Section. Any such organization must satisfy the board that its program or programs includes training and testing as specified in the *ASSE Series 5000, Standard 5110, Professional Qualifications for Backflow Prevention Assembly Testers*.

D. Courses of instruction defined in §310.C must be provided by a person or persons meeting the credentials and requirements of *ASSE Series 5000, Standard 5110, Professional Qualifications Standard for Backflow Prevention Assembly Testers and ASSE International Guidelines for Cross-Connection Control Certification*.

E. To be eligible for board certification pursuant to R.S. 37:1368(H), an interested organization providing water supply protection specialist training and education must complete a written application on a form or forms supplied by the board. The board shall be entitled to receive timely information on the program or programs administered by such organization and background of instructors upon request at any time. The board, acting through its representatives, may also inspect the facility and observe the actual training and education programs used and offered by such organization. Failure to cooperate with the board and its representatives may be grounds for denial or withdrawal of board certification of any such organization. The board may investigate complaints concerning such programs. Adverse administrative action affecting an organization's application for certification or its continued status as an organization certified by the board pursuant to R.S. 37:1368(H) will be subject to the Administrative Procedure Act.

F. The board may accept, in lieu of an examination directly administered by the board to any applicant, the verifiable results of an examination administered by an organization certified pursuant to R.S. 37:1368(H) as evidence of successful completion of the examination referred to in R.S. 37:1368(H). Any papers from such examinations must be available for inspection and the board may require notarized affidavits from the applicant and the administering organization representative attesting to the accuracy of the examination results and the scope of any such examination, which must minimally include the subject areas described in Subsection C of this Section.

G. An applicant for a water supply protection specialist endorsement must attach to his application a money order or check for the appropriate fee established in §311 of these regulations.

H. Regular quarterly examinations for water supply protection specialist endorsements may be held in conjunction with examinations for journeyman or master plumber license applications, or on such days specially set by the board. Interested persons shall be notified of the examination schedule.

I. A water supply protection specialist endorsement application must be submitted to the office of the State Plumbing Board of Louisiana not less than 30 days before any scheduled examination.

J. The chairman of the board shall appoint an examiner or examiners to conduct water supply protection specialist endorsement examinations. An examiner may be a representative of a private or public professional service provider qualified to administer a standardized, nationally recognized test duly adopted by the board.

K. Any person, who at any time is cited by the board for working as a water supply protection specialist without possessing an endorsement to that effect, shall be subject to a special enforcement fee as a precondition to any subsequent examination or licensing of any nature. This fee shall be in addition to the regular fees assessed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D) and R.S. 37:1368(H).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 21:1350 (December 1995), amended by the Department of Labor, Plumbing Board, LR 25:1859 (October 1999), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016), repromulgated LR 43:

§313. Integrity of Examination [Formerly §311]

A. The board may reject an examination for any license or endorsement under this Chapter, if the board determines that the applicant completed any portion of any such examination with the assistance of any other person or unauthorized written materials secreted into the examination site. Examinees will be allowed to utilize board approved resource or industry code materials or permitted by authorized third-party examiners. Examinees determined to have violated the prohibitions of this Section shall be notified in writing and, upon request by the examinee or at the direction of the executive director, an informal conference before the executive director or committee appointed by the board will be conducted. An affected examinee may appeal the determination reached in the informal conference by filing a written appeal with the board. Such appeal hearings shall comport with the provisions of R.S. 49:955(B). Based on the evidence adduced at any such hearing, the board may impose sanctions upon the examinee with respect to any subsequently administered examination and related licensing.

B. The board is empowered to act upon reports of violation of Subsection A of this Section by examinees received from private or public organizations recognized as examiners under §§304.H, 306.F, 312.F or 314.B and impose sanctions as described in Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366.D.

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 24:1948 (October 1998), amended LR 26:328 (February 2000), repromulgated by the Workforce Commission, Plumbing Board, LR 43:

§314. Medical Gas and Vacuum Systems Verifier [Formerly §312]

A. No natural person shall engage in the work of a medical gas and vacuum systems verifier unless he possesses a license or renewal thereof issued by this board. The board shall issue a medical and vacuum systems verifier license to any person who:

1. qualifies under the board's regulations;
2. desires to engage in the work or business of a medical gas and vacuum systems verifier;
3. passes a written and manual examination conducted by a nationally recognized organization for this purpose; and
4. pays the fees established by the board.

B. As authorized by R.S. 37:1368(I), the board shall recognize and certify certain programs of education and training of medical gas and vacuum systems verifiers offered by private or public organizations or institutions. A natural person's satisfactory completion of any such program and related exit examination shall qualify him for licensing under Subsection A of this Section. Any such organization must satisfy the board that its program or programs meet the following criteria.

1. The program is conducted at a training facility and given to those persons that meet the requirements of American Society of Sanitary Engineering (ASSE) *Professional Qualifications Standard for Medical Gas Systems Personnel Series 6000, Standard 6030*, latest edition.

2. The program meets criteria prescribed by the board and American Society of Sanitary Engineering (ASSE), *Series 6000, Standard 6030*, latest edition.

3. Courses of instruction defined in this Subsection must be provided by a person or persons possessing a current medical gas system instructor certification in compliance with *ASSE Series 6000, Standard 6050*, latest edition.

C. To be eligible for board certification pursuant to R.S. 37:1368(I), an interested organization providing medical gas and vacuum systems verification training and education must complete a written application on a form or forms supplied by the board. The board shall be entitled to receive timely information on the program or programs administered by such organization and background of instructors upon request at any time. The board, acting through its representatives, may also inspect the facility and observe the actual training and education programs used or offered by such organizations. Failure to cooperate with the board and its representatives may be grounds for denial or withdrawal of board certification of any such organization. The board may investigate complaints concerning such programs. Adverse administrative action affecting an organization's application for certification or its continued status as an organization certified by the board pursuant to R.S. 37:1368(I) will be subject to the Administrative Procedure Act.

D. An applicant for a medical gas and vacuum systems verifier license must attach to his application a money order or check for the appropriate fees established in §311 of these regulations.

E. The board may accept, in lieu of an examination directly administered by the board to any applicant, the verifiable results of an examination administered by an organization meeting the criteria of *ASSE Series 6000, Standard 6030*, §30-3.2.3, latest edition and certified pursuant to R.S. 37:1368(I), as evidence of successful completion of the examination necessary for the issuance of a license for medical gas and vacuum systems verifier. Any papers from such examinations must be available for inspection and the board may require notarized affidavits from the applicant and the administering organization representative attesting to the accuracy of the examination results and the scope of any such examination, which must minimally include the subject areas described in *ASSE Series 6000, Standard 6030*, latest edition.

F. Any person, who at any time is cited by the board for working as a medical gas and vacuum systems verifier without possessing the necessary license issued by the board, shall be subject to a special enforcement fee as a precondition to any subsequent examination or licensing of any nature. The fee shall be in addition to the regular fees assessed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 26:329 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:577 (April 2016), repromulgated LR 43:

§315. Standards for Medical Gas and Vacuum Systems Verifiers
[Formerly §313]

A. A medical gas and vacuum systems verifier shall not certify to any party the results of any tests on medical gas pipeline systems or equipment installed or repaired by any person not licensed by the board as a medical gas piping installer.

B. As a condition for licensing and renewal thereof, and subject to the disciplinary powers of the board under R.S. 37:1378(3) and (8), any person licensed by the board as a medical gas and vacuum systems verifier shall be obligated to cooperate with the Louisiana state fire marshal and his agents in connection with his regulation of medical gas piping installation and systems verification.

C. The duties described in Subsection B of this Section include the responsibility of a medical gas and vacuum systems verifier to accurately report to the fire marshal prior to the fire marshal's inspection the following as to any gas and vacuum system subject to his verification:

1. the successful completion of pressure testing of all manufactured assemblies for both positive gases and vacuum systems, as supplied by the manufacturer of any such systems, prior to this installation;

2. satisfactory cleaning of piping and fittings from the cleaning agency in accordance with the standard “cleaning equipment for oxygen service” (CGA G-4.1);

3. documentation of each board-licensed medical gas piping installer’s braze performance qualification in accordance with *NFPA 99, Health Care Facilities Code* latest edition;

4. documentation of the medical gas contractor's braze procedure specification and procedure qualification record;

5. documentation of successful completion of the board-licensed installer's required testing, including a blowdown test, initial pressure test, cross-connection test, piping purge test and standing pressure test;

6. documentation of the verifier's successful completion of required testing, including cross-connection, valve test, outlet flow test, alarm testing, piping purge test, piping purity test, final tie-in test, operational pressure test, medical gas concentration test, medical air purity test and labeling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1336(D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 26:330 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 42:578 (April 2016), repromulgated LR 43:

Chapter 9. Revocation and Related Administration Proceedings

§901. Revocation, Suspension and Probation Procedures

A. All adjudication proceedings initiated pursuant to R.S. 37:1378 and conducted by the board shall be in accordance with the Administrative Procedure Act, R.S. 49:955 et seq. The term *licensee* as used in this Section, shall refer, where applicable, to the holder of a journeyman plumber, restricted journeyman plumber, master plumber, restricted master plumber, inactive master plumber, gas fitter, master gas fitter, medical gas piping installer or medical gas and vacuum systems verifier license, and holder of a water supply protection specialist endorsement.

B. - K.2. ...

3. Suspension

a. A license or license endorsement to practice plumbing, gas fitting, engage in the work of a water supply protection specialist and/or medical gas piping installer may be withheld by the board as a result of the findings of fact presented in a hearing. The duration of a suspension may be for a definite or indefinite period of time. A licensee or endorsement holder whose license or endorsement is suspended may not practice plumbing, gas fitting, the work of a water supply protection specialist and/or medical gas installer in the state of Louisiana during the designated period of suspension.

L. Revocation. A license or endorsement to practice plumbing, gas fitting, engage in the work of a water supply protection specialist and/or medical gas piping installer may be withdrawn by the board for any reason or ground permitted by R.S. 37:1378 or other law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended and promulgated by the Department of Employment and Training, Plumbing Board, LR 17:55 (January 1991), amended by Department of Labor, Plumbing Board, LR 21:1352 (December 1995), LR 26:331 (February 2000), amended by the Workforce Commission, Plumbing Board, LR 43:

Chapter 10. Continuing Professional Education Programs

§1002. Gas Fitters and Master Gas Fitters

A. CPE Requirement

1. All persons seeking to renew a gas fitter’s license issued by the Louisiana State Plumbing Board are required to attend and show proof of attendance at no less than two hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

2. All persons seeking to renew a master gas fitter's license or to convert an inactive master gas fitter's license to an active master gas fitter's license must attend and show proof of attendance at no less than 3 1/2 hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

3. A holder of an inactive master gas fitter's license who seeks to renew said license must file an affidavit in a form provided by the Louisiana State Plumbing Board, that they have been inactive as a gas fitter in the previous year, and that they will remain inactive and not work as a gas fitter for the year for which they seek to renew their license. Upon such filing with the Louisiana State Plumbing Board, the holder of an inactive master gas fitter's License will not be required to meet the CPE requirements set out herein.

4. A holder of an inactive master gas fitter's license who seeks to function as a gas fitter is required to attend and show proof of attendance at no less than two hours of a Louisiana State Plumbing Board-approved CPE class in the prior calendar year, as set out in this Section.

B. Course Materials

1. The Louisiana State Plumbing Board shall be the exclusive agency for distribution of CPE course materials.

2. The Louisiana State Plumbing Board will annually approve course materials to be used for the CPE required for renewal of gas fitter and master gas fitter licenses. The course materials are the printed materials that are the basis for a substantial portion of a CPE course and which are provided to the licensees. Louisiana State Plumbing Board approval of course materials will be subject to all of the terms and conditions of this Section. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course materials.

3. The course materials will provide the basis for a minimum of two classroom hours of study for gas fitters and a minimum of 3 1/2 hours for master gas fitters. One half hour will be in the subjects of health protection, consumer protection or environmental protection, One half hour shall include information concerning the Act, Louisiana State Plumbing Board rules with the one remaining hour covering subjects, current industry practices and codes, and subjects from lists of approved subjects published by the Louisiana State Plumbing Board. One and one half hour of the materials for master gas fitters will be on business topics approved by the Louisiana State Plumbing Board.

4. The Louisiana State Plumbing Board will periodically publish lists of approved and required subjects.

5. The course materials must be presentations of relevant issues and changes within the subject areas as they apply to the gas fitting practice in the current market, public health or topics which increase or support the licensee's development of skill and competence.

6. The course materials may not advertise or promote the sale of goods, products or services.

7. The course materials must be printed and bound in perfect/standard, metal coil or ring binder form.

8. The course materials will include perforated Louisiana State Plumbing Board forms within the binding of the course materials that may be removed for use by the licensees. The forms will include CPE evaluation forms, license and endorsement examination forms and general complaint forms.

9. All course materials must have the following characteristics:

a. high quality, readable and carefully prepared written materials with correct grammar, spelling and punctuation;

b. appropriate illustrations and graphics to show concepts not easily explained in words; and

c. in depth and comprehensive presentation of subject matter which increases or supports the skills or competence of the licensees.

10. The publishers of course materials must have legal ownership of or an appropriate license for the use of all copyrighted material included within the course materials.

Louisiana State Plumbing Board approved course materials will contain a prominently displayed approval statement in 10 point bold type or larger containing the following language:

> "THIS CONTINUING PROFESSIONAL EDUCATION COURSE MATERIAL HAS BEEN APPROVED BY THE LOUISIANA STATE PLUMBING BOARD FOR USE IN THE (state year) CPE YEAR. BY ITS APPROVAL OF THIS COURSE MATERIAL, THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY RESPONSIBILITY FOR THE ACCURACY OF THE CONTENTS. FURTHER, THE LOUISIANA STATE PLUMBING BOARD HAS NOT MADE ANY DETERMINATION THAT THE PARTY PUBLISHING THE COURSE MATERIALS HAS COMPLIED WITH ANY APPLICABLE COPYRIGHT AND OTHER LAWS IN PUBLISHING THE COURSE MATERIAL AND THE LOUISIANA STATE PLUMBING BOARD DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY THEREFOR. THE COURSE MATERIAL IS NOT BEING PUBLISHED BY NOR IS IT A PUBLICATION OF THE LOUISIANA STATE PLUMBING BOARD."

11. The publishers of course materials will conduct instructor training in the use of course materials.

12. Any individual, business or association who wishes to offer to publish course materials shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board.

13. The Louisiana State Plumbing Board may refuse to accept any application for approval as a publisher of course materials that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate coverage of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course materials by licensees or Louisiana State Plumbing Board members or staff.

14. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the refusal or disapproval.

15. A publisher's authority to offer the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

16. To be approved, 10 copies of course materials, including any handouts and audio/visual aids to be used, must be submitted in complete draft form to the Louisiana State Plumbing Board's office no later than October 15 (or at least 30 days prior to the Louisiana State Plumbing Board's November meeting, whichever is earlier) for Louisiana State Plumbing Board approval at its November Louisiana State Plumbing Board meeting. At least 10 copies each of all course materials that are approved at the Louisiana State Plumbing Board's November meeting shall be provided to the Louisiana State Plumbing Board's office no later than February of the following year, at no cost to the Louisiana State Plumbing Board.

17. Upon a showing of compelling necessity, the plumbing board, in its discretion, may grant an exception to the requirement that material be submitted prior to the plumbing board's November meeting, and, pursuant to this exception, may approve material submitted at least 30 days prior to any quarterly meeting of the plumbing board, which otherwise meets the requirements of this Section.

18. A publisher's failure to comply with this Section constitutes grounds for disciplinary action, consistent with the Louisiana Administrative Procedure Act, against the provider or for disapproval of future applications for approval as a provider of course materials.

C. Course Providers

1. Course providers will offer classroom instruction in the course materials used for the CPE required for renewal of journeymen and master licenses issued under the Act. Louisiana State Plumbing Board approval of course providers will be subject to all of the terms and conditions of this Section.

2. CPE courses shall be presented in one of the following formats:

a. for gas fitters a minimum of 2 classroom hours presented on one day; or

b. for master gas fitters, 3 1/2 hours on one day; or

c. for gas fitters not less than two sessions of 1 classroom hour each presented within a 30-day period; or

d. for master gas fitters, two sessions totaling 3 1/2 classroom hours presented within a 30-day period.

3. Not less than 1/2 hour of the classroom course will be in the subjects of health protection, environmental protection or consumer protection.

4. Not less than 1 1/2 hours of the master gas fitters' class will be on business topics approved by the Louisiana State Plumbing Board.

5. Presentations must be based primarily on the course materials and any other materials approved by the Louisiana State Plumbing Board.

6. In addition to course materials, presentations may include videos, films, slides or other appropriate types of illustrations and graphic materials related to the course materials, as approved by the Louisiana State Plumbing Board.

7. A course provider may not advertise or promote the sale of any goods, products or services between the opening and closing hours of any CPE class.

8. Each course provider shall furnish a uniquely numbered certificate of completion of CPE to each licensee, but only after the licensee has completed the CPE course. The Louisiana State Plumbing Board will assign the unique numbers to be used on each certificate to each course provider.

9. Each course provider shall, at its own expense and in a format approved by the Louisiana State Plumbing Board, mail, fax or electronically transmit to the Louisiana State Plumbing Board certification of each licensee's completion of CPE requirements within ten days of completion.

10. The board is authorized to enter into a cooperative endeavor agreement with either the Louisiana Association of Plumbing, Heating and Cooling Contractors of Louisiana or the Louisiana Pipe Trades Association, or any subsidiary or affiliate of either non-profit organization, to jointly provide CPE services to licensed and master gas fitters. The board is authorized to share costs and expenses with either organization under terms and conditions that promote the public interest and avoid gratuitous donation of public funds.

11. Each course provider must notify the Louisiana State Plumbing Board at least seven working days before conducting classes; the notice shall contain the time(s) and place(s) where the classes will occur.

12. Each course provider will perform self-monitoring and reporting as required by the Louisiana State Plumbing Board, including a certified roster of all persons attending the course, with the license number of each attendee included.

13. Each course provider shall permit any Louisiana State Plumbing Board member or a duly designated representative of the Louisiana State Plumbing Board to monitor any CPE class for compliance purposes.

D. Course Provider Instructors

1. Each course provider shall use only course instructors that have been approved by the Louisiana State Plumbing Board. Each course provider shall annually submit to the Louisiana State Plumbing Board's office a list of course instructors it employs and the instructors' credentials for approval.

a. Lists of course instructors to be approved for the following year must be submitted no later than October 15 or 30 days prior to the date of the Louisiana State Plumbing Board's November meeting (whichever is earlier) for approval by the Louisiana State Plumbing Board at its November meeting, unless an extension is requested at or before the August Louisiana State Plumbing Board meeting and granted by the Louisiana State Plumbing Board.

b. Prior to allowing course instructors to teach CPE, course providers must provide documentation to the Louisiana State Plumbing Board showing the instructor's qualifications to teach CPE, including but not limited to detailed information on any experience in providing instruction, assistance in providing instruction or successful completion of training for providing instruction.

c. Course instructors must comply with Subsection E of this Section. Course providers shall notify the Louisiana State Plumbing Board within 10 working days of any change of an instructor's employment status with the course provider.

2. Any individual, business or association who wishes to be a course provider shall apply to the Louisiana State Plumbing Board for approval using application forms prepared by the Louisiana State Plumbing Board. In order to be approved, the application must satisfy the Louisiana State Plumbing Board as to the ability of the individual, business or association to provide quality instruction in the course materials as required in this Section and must include:

a. name and address of the applicant;

b. names and addresses of all officers, directors, trustees or members of the governing board of any business or association applying;

c. statement by applicant, and each officer, director, trustee or member of governing board (if applicable) as to whether he or she has ever been convicted of a felony or misdemeanor other than a minor traffic violation;

d. certificate of good standing issued by the Louisiana Secretary of State for corporate applicants;

e. taxpayer identification number;

f. facsimile number, statewide toll free telephone number, internet website or electronic mail address;

g. fees to be charged to licensees for attending the course;

h. an example of a licensee's certificate of completion of CPE;

i. All CPE class scheduling plans shall provide for courses equally across the state. Course providers must, at a minimum, offer the CPE class in each of the following cities: Lafayette, New Orleans, Baton Rouge, Alexandria, Shreveport, Lake Charles and Monroe; any CPE provider for gas fitting shall conduct both plumber/gas fitter combination CPE classes and standalone gas fitting CPE classes. The State Plumbing Board Louisiana or its director may, solely at their discretion, grant a request that the course not be offered in one or more of these locations, upon a demonstration of economic infeasibility by the course provider;

j. a method for quarterly reporting compilations of licensee evaluations of course provider and course instructors to the Louisiana State Plumbing Board;

k. identification of the course materials which will be used by the course provider; and

l. an application fee to be set as provided by law.

3. The course provider shall purchase course materials from the State Plumbing Board of Louisiana and may not charge the licensees more than the maximum cost set out by the course material provider.

4. The fees charged to the licensees for attending the course will be determined by the course provider.

5. The Louisiana State Plumbing Board may refuse to accept any application for approval as a course provider that is not complete. The Louisiana State Plumbing Board may deny approval of an application for any of the following reasons:

a. failure to comply with the provisions of this Section;

b. inadequate instruction of the materials required to be included in course materials; or

c. unsatisfactory evaluations of the course provider by licensees, Louisiana State Plumbing Board members or Louisiana State Plumbing Board staff.

6. If an application is refused or disapproved, written notice detailing the basis of the decision shall be provided to the applicant within 90 days of the date of the decision.

7. A course provider's authority to offer instruction in the course materials for which CPE credit is given expires on December 31 of the calendar year following approval.

8. The Louisiana State Plumbing Board shall review course providers for quality of instruction: The Louisiana State Plumbing Board shall also investigate and take appropriate action, consistent with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, regarding complaints involving approved course providers.

9. A provider's failure to comply with this Section constitutes grounds for disciplinary action in accord with the Louisiana Administrative Procedure Act, up to and including revocation of authority to provide CPE, against the provider or for denial of future applications for approval as a course provider.

E. Course Instructors

1. The Louisiana State Plumbing Board will annually approve course instructors to provide the classroom instruction in the course materials used for the CPE required

for renewal of gas fitter and master gas fitter licenses. Louisiana State Plumbing Board approval of course instructors will be subject to all of the terms and conditions of this Section. An individual who wishes to be approved by the Louisiana State Plumbing Board as a course instructor must apply to the Louisiana State Plumbing Board using an application form approved by the Louisiana State Plumbing Board. The following minimum criteria will be used by the Louisiana State Plumbing Board in considering approval of course instructors:

a. all course instructors for master gas fitters must hold a Louisiana state master gas fitter's license, and those for gas fitter most hold a master's or gas fitter license; and

b. demonstrate an ability to train others, including but not limited to providing a description of their previous training experience; and

c. must be employed by an approved course provider.

2. An approved course instructor may use, under its live supervision, a non-licensed supplemental lecturer to present additional materials as required. Prior to approval, a course instructor must identify to the board, any supplemental lecturer they intend to use, including a resume from the supplemental lecturer, and the subject matter the supplemental lecturer will discuss within 30 days prior to the course being conducted.

3. Course instructors and supplemental lecturers may not advertise or promote the sale of goods, products, or services between the opening and closing hours of any CPE class.

4. As a course instructor and licensee of the Louisiana State Plumbing Board, a course instructor must:

a. be well versed in and knowledgeable of the course materials;

b. maintain an orderly and professional classroom environment; and

c. coordinate with the course provider to develop an appropriate method for handling disorderly and disruptive students. A course instructor shall report to the course provider and the Louisiana State Plumbing Board any non-responsive or disruptive student who attends a CPE course. The Louisiana State Plumbing Board may deny CPE credit to any such student and require, at the student's expense, successful completion of an additional CPE course to receive credit.

5. The Louisiana State Plumbing Board shall review course instructors for quality of instruction. The Louisiana State Plumbing Board shall also respond to complaints regarding course instructors.

6. A course instructor's failure to comply with this Section constitutes grounds for disciplinary action against the Instructor or for disapproval of future applications for approval as a course instructor, in accord with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D) and R.S. 37:1368(H).

HISTORICAL NOTE: Promulgated by the Workforce Commission, Plumbing Board, LR 43:

James Finley
Chairman

1612#041

Rules

RULE

Department of Agriculture and Forestry
Office of Animal Health and Food Safety
Board of Animal Health

Feral Swine (LAC 7:XXI.Chapter 13)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry ("department"), through the Office Animal Health and Food Safety, Board of Animal Health has amended LAC 7:XXI.1311, 1313, 1321 and 1323 relative to swine in Louisiana. The requirement that swine be tested negative for pseudorabies and brucellosis has been removed from §§1311, 1313 and 1323. Louisiana is considered free of pseudorabies and brucellosis in domesticated swine therefore testing is no longer required for interstate trading status. The amendments to §1311 clarified the procedure which must be followed for a free roaming or feral swine to be able to be reclassified as a domestic swine. The amendments to §1321 reorganized the Rule but did not change the substance of the Rule. Finally, all references to the Livestock Sanitary Board have been replaced with the Board of Animal Health.

Title 7
AGRICULTURE AND ANIMALS
Part XXI. Animals and Animal Health
Chapter 13. Swine
(Formerly Chapter 9)
Subchapter B. Brucellosis and Pseudorabies
§1311. Quarantining, Vaccinating and Testing Swine for Brucellosis and Pseudorabies
(Formerly §905)

A. The state veterinarian or his representative shall have the authority to conduct epidemiologic investigations and quarantine of:

1. swine herds in which one or more of the animals are found to be positive to brucellosis or pseudorabies, as determined by the epidemiologist, based on the interpretation of official tests;

2. the herd of origin of swine that have been added to a herd that becomes quarantined because of brucellosis or pseudorabies, if swine have been acquired from said herd of origin within the last 12 months;

3. herds which have received swine from herds found to have brucellosis or pseudorabies.

B. Herds of swine including feedlots, within a 1.5-mile radius of the quarantined herd, will be monitored in accordance with the recommendation of the state veterinarian and/or epidemiologist by either a test of all breeding swine or by an official random sample test.

C. A herd plan and epidemiology report must be completed within 30 days from the date an animal that originated from the herd was found to be a reactor at slaughter. A herd test must be completed within 45 days from the date an animal that originated from the herd was found to be a reactor at slaughter.

D. To be eligible for release from quarantine due to positive pseudorabies, a swine herd must meet the following requirements.

1. All swine positive to an official pseudorabies test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws within 15 days. All swine, over 6 months of age and a random sampling of any growing/finishing swine which remain in the herd, must be tested negative 30 days or more after removal of reactors. No livestock on the premises shall have shown signs of pseudorabies after removal of reactors.

2. Whole Herd Depopulation. All swine on the premises must be tagged with an official reactor tag in the left ear and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected with an approved disinfectant prior to putting swine back on the premises.

E. To be eligible for release from quarantine due to positive brucellosis, a swine heard must meet one of the following requirements.

1. All swine positive to an official brucellosis test must be tagged with an official reactor tag in the left ear and permitted on Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises by disposal means authorized by applicable state laws within 15 days.

a. All swine over six months of age which remain in the herd, must be tested according to an approved herd plan.

b. A herd may be released from quarantine upon completion of three negative complete herd tests (CHT):

i. the first test must be completed at least 30 days after removal of the last reactor;

ii. a second CHT must be conducted 60-90 days following the first CHT;

iii. a third CHT is required 60-90 days following the second CHT;

iv. a fourth CHT is required six months after the third CHT.

2. Whole Herd Depopulation

a. All swine on the premises must be tagged with an official reactor tag in the left ear and permitted on a Form VS 1-27 to a recognized slaughter establishment, rendering plant, or disposed of on the herd premises or other "approved" location by disposal means authorized by applicable state laws.

b. The premises must remain depopulated for 30 days and the herd premises must be cleaned and disinfected

with an approved disinfectant prior to putting swine back on the premises.

F. All movement from pseudorabies or brucellosis quarantined herds, must be accompanied by a VS Form 1-27, permit for movement of restricted animals, listing the official, individual identification of each animal to be removed.

1. This form must be delivered to an authorized representative at destination.

2. These permits will be issued by a representative of the Board of Animal Health.

G. All exposed swine moving from quarantined premises in interstate or intrastate commerce, must move directly to a recognized slaughter establishment or to an approved swine quarantined feedlot or rendering plant.

H. The use of pseudorabies vaccine is prohibited, except by permission of the state veterinarian.

I. Reclassification of Feral Swine

1. Free-roaming or feral swine may be qualified for reclassification as domestic swine upon completion of the following test protocol.

a. Three consecutive complete herd tests (CHT) for brucellosis and pseudorabies, with negative results, shall be conducted in order to qualify for reclassification.

b. The first test must be completed at least 30 days after removal of the last reactor.

c. A second CHT must be conducted 60-90 days following the first CHT.

d. A third CHT is required 60-90 days following the second CHT.

e. In addition, any sexually intact female swine must also undergo a brucellosis and pseudorabies test, with negative results, not less than 30 days after their initial farrowing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2135.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16:392 (May 1990), amended LR 18:839 (August 1992), LR 20:1258 (November 1994), LR 23:1493 (November 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:969 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 42:391 (March 2016), LR 42:2169 (December 2016).

§1313. Operation of Livestock Auction Markets (Formerly §907)

A. All swine which are sold or offered for sale in livestock auction markets must meet the general requirements of §131 and the following specific pseudorabies/brucellosis requirements.

1. All breeder and feeder swine moving to Louisiana auction markets from farms outside Louisiana must meet the requirements of §131.

2. All swine over six months of age, being sold at Louisiana livestock auction markets must be identified by an official swine back tag, placed on the animals' forehead and an official metal ear tag.

3. The market shall furnish the Board of Animal Health's official representative a copy of each check-in slip, showing the name of the auction market, the date, the name and complete address of each consignor, and the official back tag numbers applied to the consignor's livestock. It shall be a violation of this regulation for anyone to consign livestock to a Louisiana livestock auction market and give a name and address that is not the name and address of the owner consigning the livestock to the auction market.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:245 (March 1985), amended LR 11:615 (June 1985), amended by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16:392 (May 1990), LR 18:839 (August 1992), LR 23:1494 (November 1997), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:970 (May 2014), LR 42:2170 (December 2016).

Subchapter C. Quarantine Swine Feedlots and Feral Swine Approved Holding Facilities

§1321. Quarantine Swine Feedlots and Feral Swine Approved Holding Facilities (Formerly §909)

A. Permit Required. No person may operate a quarantined swine feedlot or feral swine holding facility without first obtaining a permit from the Board of Animal Health. Any person operating a feedlot or holding facility without a valid permit will be in violation of this regulation and subject to prosecution. Approval for a quarantine swine feedlot or feral swine holding facility may be given after initial inspection by an authorized agent of the Board of Animal Health.

B. Requirements for Operation of Quarantined Swine Feedlots and Approved Feral Swine Holding Facilities

1. All swine must be maintained at a minimum 200 yards from all other domestic swine pens.

2. Complete records must be maintained on all transactions as described in Subsection C of this Section. These records shall be made available to state-federal personnel upon request.

3. No feral swine shall be comingled with domestic swine unless the facility is operating as a quarantine swine feedlot and all swine movements from the quarantine swine feedlot facility must be directly to a slaughtering establishment operating under approved state or federal meat inspection.

4. Only feral swine may be placed in an approved feral swine holding facility.

5. Quarantine swine feedlots and approved feral swine holding facilities must be fenced with swine-proof fence to prevent any swine from escaping and the fencing must be continually maintained by the owner/operator to prevent escape of swine.

6. Feral swine shall not be fed garbage as per LAC 7:XXI.2305.

7. Each quarantine swine feedlot or feral swine holding facility shall be inspected at least annually by an authorized agent of the Board of Animal Health.

C. Records

1. records shall be generated and maintained by owner/operators of quarantine swine feedlots and approved feral swine holding facilities. The records shall include the following:

a. number of swine placed in and removed from the facility quarterly;

b. trapper/transporter name and license number for feral swine;

c. weight, color, sex and any applied identification for each animal;

d. date each animal was placed in and removed from the facility;

e. parish where feral swine were trapped.

2. All records shall be provided to an authorized agent of the commission upon request. All records shall be maintained for not less than five years.

D. Cancellation of Quarantined Swine Feedlot or Approved Feral Swine Holding Facility Permit

1. A quarantined swine feedlot permit may be canceled upon written notice that the operation does not meet the requirements of this regulation, or the operator of such quarantined swine feedlot has violated the provisions of this regulation in any respect.

2. The board shall give written notice of the cancellation of a quarantined swine feedlot permit to the operator thereof.

3. Any operator of a quarantined swine feedlot whose permit is so canceled may appeal the cancellation thereof by written notice to the board within 10 days of receipt of the notice of cancellation. Any operator of a quarantined swine feedlot who appeals cancellation of his permit shall be entitled to a full hearing before the board, and the decision of the board at such hearing will be final unless the operator appeals to a court of competent jurisdiction.

4. Closure of a Quarantine Swine Feedlot or Approved Feral Swine Holding Facility

a. Upon termination of a permit, the owner/operator may take up to 14 days to dispose of all feral swine at the facility.

b. No person shall release feral swine, or any swine species, into the wild.

c. Cleaning and disinfection of the premises shall be completed immediately upon closure of the facility if required by the Board of Animal Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093 and R.S. 3:2135.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Livestock Sanitary Board, LR 11:247 (March 1985), amended LR 11:615 (June 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:970 (May 2014), amended by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety, Board of Animal Health, LR 42:392 (March 2016), LR 42:2170 (December 2016).

Subchapter D. Slaughterhouse Requirements for Identification, Sampling and Records

§1323. Identification of Swine with Official Backtags and the Collection of Blood Samples from Officially Backtagged Swine at Slaughter Establishments under State or Federal Meat Inspection (Formerly §911)

A. Official Backtagging of Swine

1. All swine over six months of age that are not officially tagged when received by a slaughter establishment, under state or federal meat inspection, shall be identified by an official backtag, properly placed. The name and address of the consignor, the name and address of the owner of the herd of origin, (if different from that of the consignor), shall be recorded, along with the official backtag numbers, on forms provided for this purpose. A copy of the completed form shall be retained by the slaughter establishment for their records; the original is to be furnished to the meat inspector to accompany blood samples to the state-federal livestock diagnostic laboratory.

2. The slaughter establishment shall be responsible for the identification of the animals and for maintaining required records.

B. Records. All records pertaining to the identification of the swine, the name and address of the owner of the herd of origin, (if different from that of the consignor), shall be maintained and made available to representatives of the Board of Animal Health, upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 16:392 (May 1990), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:970 (May 2014), LR 42:2171 (December 2016).

Mike Strain, DVM
Commissioner

1612#031

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.301 and 611)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*: §301, School Performance Score Goal; and §611, Documenting a Graduation Index. These changes update the calculation of 2016-2017 high school progress points due to the phase out of the EXPLORE and PLAN assessments by the assessment vendor, and update exit codes to reflect cohort graduation leaver codes and documentation required for application in the student information system.

Title 28
EDUCATION
Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System
Chapter 3. School Performance Score Component
§301. School Performance Score Goal

A. - D.3.c.i. …

d. For the 2016-2017 school year (2017 SPS), due to the inability to calculate EXPLORE to PLAN progress points due to the elimination of the EXPLORE assessment, the average of EXPLORE to PLAN points earned in the two previous years (2014-2015 and 2015-2016) will be used for the 2016-2017 school year SPS in combination with the points earned based on PLAN to ACT growth in 2016-2017. As in prior years, schools may earn up to 10 points total.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December

2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034, 2035 (November 2006), LR 33:424 (March 2007), LR 33:2349 (November 2007), LR 33:2593 (December 2007), LR 34:430 (March 2008), LR 35:639 (April 2009), LR 36:1987 (September 2010), LR 38:3105 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 39:2441 (September 2013), LR 40:1313 (July 2014), LR 40:2507 (December 2014), LR 41:1481 (August 2015), LR 41:2578 (December 2015), LR 42:2171 (December 2016).

Chapter 6. Graduation Cohort, Index, and Rate

§611. Documenting a Graduation Index

A. Beginning with academic year 2005-2006, all schools are required to maintain the following documentation if the corresponding exit code is used.

Exit Code Documentation		
Code	**Descriptions**	**Required Documentation**
07	Death (of student) or permanent incapacitation	Letter from parent or obituary
10	Transferred out of state or country	Request for records from the receiving school (out of state). Request for records or a statement written and signed by the parent. Documentation proving a student was a foreign exchange student.
14	Transferred to approved non-public school (must award high school diplomas)	Request for records from the receiving school
16	Transferred to BESE-approved home study	LDE Approval letter
20	Transferred to Early College Admissions Program	School withdrawal form and request for records from the College or University and proof of full-time enrollment in an academic program

B. - E. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 35:639 (April 2009), LR 35:2312 (November 2009), LR 36:2242 (October 2010), LR 36:2841 (December 2010), LR 38:3108 (December 2012), LR 40:1316 (July 2014), LR 42:2172 (December 2016).

Shan N. Davis
Executive Director

1612#008

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System
(LAC 28:LXXXIII.301, 405, and 613)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*: §301, School Performance Score Goal; §405, Calculating a K-8 Assessment Index; and §613, Calculating a Graduation Index. These changes update language regarding the ACT index, the kindergarten through eighth grade social studies field test, and the enrollment policy related to the awarding of fifth-year graduate points.

Title 28
EDUCATION
Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 3. School Performance Score Component

§301. School Performance Score Goal

A. - C.2. …

* * *

3. For schools with a grade 12, the school performance scores will include four indicators weighted equally and progress points as outlined in the table below.

High School Performance Score Indices and Weights		
End of Course Tests, LAA 1	Grades 9-12	25 percent
ACT* (Beginning in 2015-16, the ACT index shall also recognize WorkKeys. A concordance table comparing ACT to WorkKeys will be produced after the Spring 2015 administration.)	Grade 12 and graduating students with last enrollment as grade 11	25 percent
Graduation Index	Grade 12	25 percent
Graduation Rate	Grade 12	25 percent
Progress points	Grades 10 and 12	Up to 10 points

*When calculating a school's ACT index score, students participating in the LAA 1 assessment shall not be included in the denominator of such calculation.

C.4. - D.3.c.i. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2737 (December 2003), amended LR 31:1512 (July 2005), LR 32:1017 (June 2006), LR 32:2034, 2035 (November 2006), LR 33:424 (March 2007), LR 33:2349 (November 2007), LR 33:2593 (December 2007), LR 34:430 (March 2008), LR 35:639 (April 2009), LR 36:1987 (September 2010), LR 38:3105 (December 2012), LR 39:305 (February 2013), LR 39:1421 (June 2013), LR 39:2441 (September 2013), LR 40:1313 (July 2014), LR 40:2507 (December 2014), LR 41:1481 (August 2015), LR 41:2578 (December 2015), LR 42:2172 (December 2016).

Chapter 4. Assessment and Dropout/Credit Accumulation Index Calculations

§405. Calculating a K-8 Assessment Index

A. - G. ...

H. In the 2015-2016 school year, the social studies test will be administered as a field test only. When calculating the K-8 assessment index for the 2015-2016 school year, either the 2013-2014 or 2014-2015 social studies assessment index, whichever yields the higher school performance score, shall be used as the social studies component of the overall assessment index and will be weighted by the 2015-2016 science assessment index tested population in order to limit impact of population changes from prior years.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1021 (June 2006), amended LR 36:1989 (September 2010), LR 38:3106 (December 2012), LR 41:2579 (December 2015), LR 42:548 (April 2016), LR 42:2172 (December 2016).

Chapter 6. Graduation Cohort, Index, and Rate

§613. Calculating a Graduation Index

A. - E.1.a. …

2. When related to awarding fifth-year graduate points, the enrollment must be continuous and consist of at least 45 calendar days only if the student graduates from an LEA different than the one to which the student was assigned in the fourth year.

F. …

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006), amended LR 33:2031 (October 2007), LR 33:2594 (December 2007), LR 35:1472 (August 2009), LR 36:1769 (August 2010), repromulgated LR 36:1994 (September 2010), LR 36:2243 (October 2010), LR 37:3201 (November 2011), LR 38:1391 (June 2012), LR 38:3109 (December 2012), LR 39:306 (February 2013), LR 39:2444 (September 2013), LR 40:1317 (July 2014), LR 41:615 (April 2015), LR 42:1017 (July 2016), LR 42:2172 (December 2016).

Shan N. Davis
Executive Director

1612#030

RULE

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning Center Licensing Regulations (LAC 28:CLXI.1921)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education (BESE) has amended LAC 28:CLXI, *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*: §1921, Emergency Preparedness and Evacuation Planning.

The revisions were made pursuant to federal requirements within Louisiana child care and development fund state plan, submitted in March 2016, and in order to meet the federal requirements within the child care development fund state plan.

Title 28
EDUCATION
Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations
Chapter 19. Minimum Health, Safety, and Environment Requirements and Standards
§1921. Emergency Preparedness and Evacuation Planning

A. Emergency and Evacuation Plan. The director shall consult with appropriate state and local authorities and shall establish and follow a written multi-hazard emergency and evacuation plan to protect children in the event of emergencies that at a minimum shall:

1. - 10. …

11. practice drills shall be conducted at least twice per year to include all children and shall be documented.

B. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:641 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 42:2173 (December 2016).

Shan N. Davis
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.309, 311, 313, 321, 509, and 511)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 139—Louisiana Child Care and Development Fund Programs*: §309, Specific Certification and Registration Requirements for Family Child Care Providers; §311, Specific Certification Requirements for In-Home Child Care Providers; §313, Specific Certification Requirements for Public School and BESE-approved Nonpublic School Child Care Centers; §321, Revocation or Refusal of Renewal of Certification and Ineligibility Periods for Providers; §509, Certification Requirements for Non-Categorically Eligible Households; and §511, Household Certification Period. The revisions align the Louisiana Child Care Assistance Program (CCAP) with federal requirements and revise CCAP work and job training requirements.

Title 28
EDUCATION
Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs
Chapter 3. CCAP Provider Certification
§309. Specific Certification and Registration Requirements for Family Child Care Providers

A. To be certified as a CCAP provider, in addition to the requirements in §305 of this Part, a family child care provider must meet the following requirements, which include but are not limited to the requirements for registration as a family child care provider pursuant to R.S. 17:407.61 et seq.

1. - 9. …

10. Pre-Service Orientation Training. Complete the following training prior to initial certification, maintain documentation verifying completion of the training, and submit the documentation with the application for certification to the department:

a. a four-hour training that includes, at a minimum, information on recordkeeping, recognizing signs of child abuse, child abuse prevention and mandatory reporting of suspected cases of child abuse or neglect, communicating with parents, age appropriate activities for young children, child development, child safety and nutritional needs of children;

b. training that includes information on the following:

i. prevention and control of infectious disease;

ii. immunization schedules and requirements;

iii. prevention of sudden infant death syndrome and use of safe sleeping practices;

iv. prevention of and response to emergencies due to food and allergic reactions; and

v. prevention of shaken baby syndrome and abusive head trauma;

c. if medication is administered to children in care, medication administration training completed with a qualified health and safety professional, a child care health consultant, approved by DHH to provide training, consultation, and technical assistance to child care providers on health and safety topics every two years.

11. Annual Training. Annually complete 12 clock hours of training in safety and health topics and job-related subject areas approved by the department. Documentation verifying completion of the required training shall be maintained by the provider and made available for inspection upon request by the department. Pre-service orientation training counts toward the annual training requirement in the certification period taken.

12. - 16. …

17. Emergency Preparedness Disaster Plan. Develop, practice and train on, and follow, a written emergency preparedness disaster plan that includes at a minimum:

a. procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;

b. procedures for all adults living in, or working in the residence where care is provided, or working on the property where care is provided; and

c. appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the residence in which care is provided posted in a prominent, easily visible location.

A.18. - B. …

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2111 (October 2015), amended LR 42:2173 (December 2016).

§311. Specific Certification Requirements for In-Home Child Care Providers

A. To be certified as a CCAP provider, in addition to the requirements in §305, an in-home care provider must meet the following requirements which include, but are not limited to, the requirements for registration as an in-home provider pursuant to R.S. 17:407.61 et seq.

1. - 8. …

9. Pre-Service Orientation Training. Complete the following training prior to initial certification, maintain documentation verifying completion of the training and submit the documentation with the application for certification to the department:

a. a four-hour training that includes at a minimum, information on recordkeeping, recognizing signs of child abuse, child abuse prevention and mandatory reporting of suspected cases of child abuse or neglect, communicating with parents, age appropriate activities for young children, child development, child safety and nutritional needs of children;

b. training that includes information on the following:

i. prevention and control of infectious disease;

ii. immunization schedules and requirements;

iii. prevention of sudden infant death syndrome and use of safe sleeping practices;

iv. prevention of and response to emergencies due to food and allergic reactions; and

v. prevention of shaken baby syndrome and abusive head trauma; and

c. if medication is administered to children in care, medication administration training completed with a qualified health and safety professional, a child care health consultant, approved by DHH to provide training, consultation, and technical assistance to child care providers on health and safety topics every two years.

10. Annual Training. Annually complete 12 clock hours of training in safety and health topics and job-related subject areas approved by the department. Documentation verifying completion of the required training shall be maintained by the provider and made available for inspection upon request by the department. Pre-service orientation training counts toward the annual training requirement in the certification period taken.

11. - 15. …

16. Emergency Preparedness Disaster Plan. Develop, practice and train on, and follow, a written emergency preparedness disaster plan that includes at a minimum:

a. procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions; and

b. procedures for all adults living in, or working in the residence where care is provided, or working on the property where care is provided;

c. appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the residence in which care is provided posted in a prominent, easily visible location.

A.17. - B. …

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2112 (October 2015), amended LR 42:2174 (December 2016).

§313. Specific Certification Requirements for Public School and BESE-Approved Nonpublic School Child Care Centers

A. To be certified as a CCAP provider, a public or BESE-approved nonpublic school day care center must meet the requirements in §305, and in addition, a BESE-approved nonpublic school day care center must also be *Brumfield v. Dodd*-approved.

B. Emergency Preparedness Disaster Plan. Develop, practice and train on, and follow, a written emergency preparedness disaster plan that includes at a minimum:

1. procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants

and toddlers (if applicable), children with disabilities, and children with chronic medical conditions;

2. procedures for staff and volunteer emergency preparedness training and practice drills; and

3. appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the facility in which care is provided posted in a prominent, easily visible location.

C. Pre-Service Orientation. Provider has in place pre-service orientation, and procedures and training included in other applicable BESE Bulletins on the following safety and health topics:

1. prevention and control of infectious diseases (including immunization);

2. prevention of sudden infant death syndrome and use of safe sleeping practices, if applicable;

3. administration of medication, consistent with standards for parental consent;

4. prevention of and response to emergencies due to food and allergic reactions;

5. building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;

6. prevention of shaken baby syndrome and abusive head trauma, if applicable;

7. emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event;

8. handling and storage of hazardous materials and the appropriate disposal of bio contaminants;

9. precautions in transporting children (if applicable);

10. first aid and cardiopulmonary resuscitation (CPR).

D. Inspections. Allow inspection of the facility where care is provided by department staff and other authorized inspection personnel during normal working hours and when children are in care.

E. Monitoring. Department will monitor compliance at a minimum annually.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2113 (October 2015), amended LR 42:2174 (December 2016).

§321. Termination or Refusal of Renewal of Certification and Ineligibility Periods for Providers

A. The department may terminate or refuse renewal of a provider's certification and impose a period of ineligibility on the provider for program violations, which include but are not limited to the following:

1. - 9. …

B. When certification is terminated or renewal is refused, the department shall provide written notice to the provider of the termination or denial of renewal, and of the provider's ineligibility period, which may be 12 months, 24 months, or permanently.

C. Where the department determines a violation need not result in the termination of or refusal to renew the provider's certification, the department may:

1. for the first violation, issue a written notice of violation that informs provider that continued or additional violations may result in the termination or refusal to renew certification and a period of ineligibility;

2. for the second violation, issue a second written notice of violation that includes a corrective action plan (CAP) that outlines the required actions that must be implemented or completed immediately and notice that failure to timely complete the CAP or additional or continued violations may result in the termination or refusal to renew certification and a period of ineligibility; and

3. for the third violation, terminate certification and impose a period of ineligibility of 12 months, 24 months or permanently.

D. If certification is terminated or renewal is refused, the action shall become effective when the provider is notified in writing. The written notice shall give the reason for termination or refusal to renew certification.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2114 (October 2015), amended LR 42:2175 (December 2016).

Chapter 5. CCAP Household Eligibility

§509. Certification Requirements for Non-Categorically Eligible Households

A. To be certified as a CCAP household, households that are not categorically eligible for participation in CCAP must meet the following requirements:

1. - 4. …

5. training or employment activities.

a. Unless disabled as established by receipt of Social Security Administration disability benefits, supplemental security income, Veterans' Administration disability benefits for a disability of at least 70 percent, or unless disabled and unable to care for his or her child(ren), as verified by a doctor's statement or by worker determination, the head of household must meet the training or employment activity requirements of:

i. being employed for a minimum average of 20 hours per week and all countable employment hours must be paid at least at the federal minimum hourly wage;

ii. attending a job training or educational program for a minimum average of 20 hours per week (attendance at a job training or educational program must be verified, including the expected date of completion); or

iii. being enrolled as a full-time student in an education or training program resulting in a degree or certificate designed to promote job skills and employability. Full-time status is determined by the institution, which must be accredited by the state of Louisiana or a national organization:

(a). the LDE shall review documentation provided by the institution and verify that it is an education or training program providing degrees or certificates

designed to promote job skills and employability. Full-time status at an institution that does not promote job skills and employability may not meet the activity requirements of this Paragraph;

iv. being engaged in some combination of employment which is paid at least at the federal minimum hourly wage, or job training, or education as defined in Subparagraph b of this Paragraph that averages at least 20 hours per week.

b. Exception. The employment and training activity requirements provided in this Paragraph may be waived for a period of one year from the effective date of certification of eligibility for parents or persons acting as parents who are experiencing homelessness and who demonstrate that they are seeking employment or participating in a transitional living program as defined in §103. There is a one-year lifetime maximum for this exception.

c. Exception. If the number of children served drops below 12,500 and funding is available, the 20-hour training or employment requirement referenced in this Section may be reduced by the department until 12,500 children are being served.

d. Exception. The employment and training activity requirements provided in this Paragraph may be reduced to an average of 15 hours per week for households that qualify for special needs child care.

e. The department shall conduct analysis of the impact of training and employment requirements on child care participation and workforce participation and shall produce a report with policy recommendations no later than August 2019.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:43 (January 2016), amended LR 42:2175 (December 2016).

§511. Household Certification Period

A. Eligible households may be certified for up to 24 months except as provided in Subsection B and Subsection C of this Section.

B. Households relying on the exception to eligibility requirements for parents and persons acting as parents who are experiencing homelessness, as provided in §509.A.5.b, and that have the 20 hours per week employment and training requirement waived, may be certified for up to one year.

C. A graduated phase-out of assistance for families whose income has increased at the time of redetermination, but remains below the federal threshold of 85 percent of state median income will receive two additional months of assistance.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:44 (January 2016), amended LR 42:2176 (December 2016).

Shan N. Davis
Executive Director

1612#010

RULE

Board of Elementary and Secondary Education

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

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education (BESE) amended *Bulletin 741—Louisiana Handbook for School Administrators:* §2318, The TOPS University Diploma. In accordance with Act 303 of the 2016 Regular Legislative Session, the revisions provide for a student with a disability, as defined in Bulletin 1706, who is no longer enrolled in public schools and who previously failed to receive a high school diploma or was denied graduation solely for failing to meet the exit examination requirements to petition the local school board to determine if the student is eligible to receive a high school diploma. The deadline for petition is December 31, 2017.

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

A. - C.6.a.vi. …

D. Exceptions for Certain Students with Exceptionalities

1. A person who is no longer enrolled in a public school but was identified as a student with an exceptionality as defined in R.S. 17:1942(B), except a gifted or talented student, and who previously failed to receive a high school diploma or was denied graduation solely for failing to meet the exit examination requirements pursuant to state Board of Elementary and Secondary Education rules, regulations, or policy may petition the applicable city, parish, or other local public school board to determine eligibility to receive a high school diploma pursuant to this Subsection.

2. Petitions made pursuant to this Subsection shall be submitted to the local school board by no later than December 31, 2017.

3. A person receiving a diploma pursuant to this Section shall not be counted as a graduate in any graduation rate calculations for affected schools and districts, including calculations for any prior year. A petition shall be submitted to the local school board by December 31, 2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001

(April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:2176 (December 2016).

Shan N. Davis
Executive Director

1612#011

RULE

Board of Elementary and Secondary Education

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act
(LAC 28: XLIII.540 and 543)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act:* §540. Definitions, and §543. Restriction on the Use of Seclusion or Physical Restraint. Act 522 of the 2016 Regular Legislative Session requires that local education agency (LEA) guidelines and procedures regarding seclusion and restraints be provided to the Louisiana Department of Education (LDOE) and posted on each school and LEA website. LEAs must also use the Special Education Reporting (SER) System for reporting incidents and all instances must be reported at least monthly. The revisions align current policy with Act 522 of the 2016 Regular Legislative Session.

Title 28
EDUCATION
Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act
Chapter 5. Procedural Safeguards
Subchapter C. Seclusion and Physical Restraint
§540. Definitions

A. - A.3.b.i. …

ii. momentary blocking of a student's action if said action is likely to result in harm to the student or any other person.

3.b.iii. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7(5)(b) and 17:416.21.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1006 (April 2012), amended LR 42:2177 (December 2016).

§543. Restrictions on the Use of Seclusion or Physical Restraint

A. - H. …

I. If a student is involved in five incidents in a single school year involving the use of physical restraint or seclusion, the student's individualized education plan team shall review and revise the student's behavior intervention plan to include any appropriate and necessary behavioral supports. Thereafter, if the student's challenging behavior continues or escalates requiring repeated use of seclusion or physical restraint practices, the special education director or his designee shall review the student's plans at least once every three weeks.

J. The governing authority of each public elementary and secondary school shall adopt written guidelines and procedures regarding:

1. reporting requirements and follow-up procedures;

2. notification requirements for school officials and a student's parent or other legal guardian; and

3. an explanation of the methods of physical restraint and the school employee training requirements relative to the use of restraint.

K. The guidelines and procedures shall be provided to the LDE, all school employees and every parent of a child with a disability. The guidelines and procedures shall also be posted at each school and on each school system's website.

L. The governing authority of each public elementary and secondary school shall report all instances where seclusion or physical restraint is used to address student behavior to the state Department of Education through the special education reporting (SER) system. At a minimum, all instances must be reported on a monthly basis.

M. The state Department of Education, using the data elements collected in SER, shall maintain a database of all reported incidents of seclusion and physical restraint of students with disabilities and shall disaggregated the data for analysis by school, student age, race, ethnicity, and gender, student disability, where applicable, and any involved school employees.

N. Based upon the data collected, the LDE shall annually compile a comprehensive report regarding the use of seclusion and physical restraint of students with exceptionalities, which shall at a minimum include the following:

1. The number of incidents of physical restraint disaggregated by school system; student age, race, ethnicity, gender, and student disability classification.

2. The number of incidents of seclusion disaggregated by school system; student age, race, ethnicity, gender, and student disability classification.

3. A list of the school systems and charter schools that have complied with the reporting requirements pursuant to Paragraph 2 of this Subsection.

O. The state Department of Education shall post the annual report pursuant to Subsection O of this Section on its website and submit a written copy to the Senate and House committees on education and the Advisory Council on Student Behavior and Discipline established pursuant to R.S. 17:253.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7(5)(b) and 17:416.21.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1007 (April 2012), repromulgated LR 38:1225 (May 2012), amended LR 38:1404 (June 2012), LR 39:3261 (December 2013), LR 42:2177 (December 2016).

Shan N. Davis
Executive Director

1612#012

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Comparable Fuels and Syngas Fuel Exclusions
(LAC 33:V.105, 109, and 4909)(HW120ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.105, 109 and 4909 (Log #HW120ft).

This Rule is identical to federal regulations found in 80 FR 18777, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule is promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule repeals the comparable fuels and syngas fuel exclusions from the Louisiana hazardous waste regulations, in response to the repeal of the corresponding federal regulations. This stems from federal court-ordered vacatures issued on June 27, 2014. Louisiana's hazardous waste program operates under a federal grant from the U.S. EPA. Part of the requirements for maintaining this grant is to maintain the Louisiana hazardous waste regulations so that they are equivalent to, or more stringent than, the corresponding federal regulations.

The basis and rationale of this Rule are to mirror the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

A. - D.1.k. …

l.i. oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911, including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units [i.e., cokers]) unless the material is placed on the land or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this Paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in Clause D.1.l.ii of this Section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this Subsection, where such materials as generated would have otherwise met a listing under LAC 33:V.Chapter 49, are designated as F037 listed wastes when disposed of or intended for disposal;

l.ii. - p.vi. …

q. Reserved.

D.1.r. - P.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq., and in particular, 2186(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007), LR 33:2097 (October 2007), LR 34:614 (April 2008), LR 34:1008 (June 2008), LR 34:1893 (September 2008), LR 34:2395 (November 2008), LR 35:1878 (September 2009), LR 36:2553 (November 2010), LR 38:791 (March 2012), amended by the Office of the Secretary, Legal Division, LR 40:1336 (July 2014), LR 42:2178 (December 2016).

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise.

* * *

Gasification—Repealed.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790, 791 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:218, 220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:814 (September 1996), LR 23:564 (May 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:655 (April 1998), LR 24:1101 (June 1998), LR 24:1688 (September 1998), LR 25:433 (March 1999), repromulgated LR 25:853 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:269 (February 2000), LR 26:2465 (November 2000), LR 27:291 (March 2001), LR 27:708 (May 2001), LR 28:999 (May 2002), LR 28:1191 (June 2002), LR 29:318 (March 2003); amended by the Office of the Secretary, Legal Affairs Division, LR 31:2452 (October 2005), LR 31:3116 (December 2005), LR 32:606 (April 2006), LR 32:822 (May 2006), LR 33:1625 (August 2007), LR 33:2098 (October 2007), LR 34:71 (January 2008), LR 34:615 (April 2008), LR 34:1009 (June 2008), LR 34:1894 (September 2008), LR 34:2396 (November 2008), LR 36:1235 (June 2010), repromulgated LR 36:1535 (July 2010), amended LR 36:2554 (November 2010), LR 38:774, 781 (March 2012), repromulgated LR 38:1009 (April 2012), amended by the Office of the Secretary, Legal Division, LR 40:1338 (July 2014), LR 41:2600 (December 2015), LR 42:565 (April 2016), LR 42:2178 (December 2016).

Chapter 49. Lists of Hazardous Wastes

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

§4909. Exclusion of Comparable Fuel and Syngas Fuel

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Waste Services, Hazardous Waste Division, LR 25:489 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:305 (March 2001), LR 28:1010 (May 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 34:644 (April 2008), LR 34:1021 (June 2008), LR 38:791 (March 2012), repealed by the Office of the Secretary, Legal Division, LR 42:2179 (December 2016).

Herman Robinson
General Counsel

1612#027

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Hazardous Waste Delisting—Excluded Wastes
Denka Performance Elastomer LLC
(LAC 33:V.4999)(HW121)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.4999.Appendix E (HW121).

This Rule is a name change for a hazardous waste delisting of dynawave scrubber effluent, which was approved and promulgated under DuPont/Dow Elastomer LLC on December 20, 1999. This Rule is to acknowledge an ownership change effective October 31, 2015 from former E.I. DuPont de Nemours and Co. Neoprene located in LaPlace, LA to Denka Performance Elastomer LLC. The basis and rationale for this action is a routine change in ownership of a facility generating the delisted waste. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

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

Chapter 49. Lists of Hazardous Wastes

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

Appendix A. - Appendix D. …

* * *

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

A. - B.3.b. …

Table 1—Wastes Excluded
BFI Waste Systems of Louisiana LLC, Colonial Landfill, Sorrento, LA
* * *

Table 1—Wastes Excluded
Denka Performance Elastomer LLC, LaPlace, LA
Dynawave Scrubber Effluent is generated through the combustion of organic waste feed streams carrying the listed EPA Hazardous Waste Numbers F001, F002, F003, and F005. The specific hazardous waste streams being combusted and their EPA Hazardous Waste Numbers are: HCl Feed—D001, D002, and D007; Ponchartrain CD Heels—D001 and F005; Waste Organics—D001, D007, and F005; Catalyst Sludge Receiver (CSR) Sludge—D001, D007, and F005; Isom Purge—D001, D002, and F005; and Louisville CD Heels—D001, D007, D039, F001, F002, F003, and F005. Denka Performance Elastomer LLC must implement a sampling program that meets the following conditions for the exclusion to be valid.

Table 1—Wastes Excluded
Denka Performance Elastomer LLC, LaPlace, LA
(1). Testing Sample collections and analyses, including quality control (QC) procedures, must be performed according to methodologies described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*, EPA Publication Number SW-846, as incorporated by reference in LAC 33:V.110.
(1)(A). Inorganic Testing During the first 12 months of this exclusion, Denka Performance Elastomer LLC must collect and analyze a monthly grab sample of the Dynawave Scrubber Effluent. Denka Performance Elastomer LLC must report to the department the unit operating conditions and analytical data (reported in milligrams per liter) for chromium, nickel, and zinc, including quality control information. If the department and Denka Performance Elastomer LLC concur that the analytical results obtained during the 12 monthly testing periods have been significantly below the delisting levels in condition (3)(A), then Denka Performance Elastomer LLC may replace the inorganic testing required in condition (1)(A) with the inorganic testing required in condition (1)(B). Condition (1)(A) shall remain effective until this concurrence is reached.
(1)(B). Subsequent Inorganic Testing Following concurrence by the department, Denka Performance Elastomer LLC may substitute the following testing conditions for those in condition (1)(A). Denka Performance Elastomer LLC must continue to monitor operating conditions and analyze samples representative of each year of operation. The samples must be grab samples from a randomly chosen operating day during the same month of operation as the previous year's sampling event. These annual representative grab samples must be analyzed for chromium, nickel, and zinc. Denka Performance Elastomer LLC may, at its discretion, analyze any samples gathered more frequently to demonstrate that smaller batches of waste are nonhazardous.
(1)(C). Organic Testing During the first 30 days of this exclusion, Denka Performance Elastomer LLC must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the organic constituents listed in condition (3)(B) below. After completing this initial sampling, Denka Performance Elastomer LLC shall sample and analyze for the organic constituents listed in condition (3)(B) on an annual basis.
(1)(D). Dioxins and Furans Testing During the first 30 days of this exclusion, Denka Performance Elastomer LLC must collect a grab sample of the Dynawave Scrubber Effluent and analyze it for the dioxins and furans in condition (3)(C) below. After completing this initial sampling, Denka Performance Elastomer LLC shall sample and analyze for the dioxins and furans in condition (3)(C) once every three years to commence three years after the initial sampling.
(2). Waste Holding and Handling Consequent to this exclusion, the Dynawave Scrubber Effluent becomes, on generation, nonhazardous solid waste and may be managed and disposed of on the Denka Performance Elastomer LLC plant site in any one of three permitted underground deep injection wells. With prior written authorization from the department, alternative disposal methods may be either a Louisiana Pollution Discharge Elimination System/National Pollution Discharge Elimination System (LPDES/NPDES) permitted outfall or a permitted commercial underground deep injection well. This newly delisted waste must always be managed and disposed of in accordance with all applicable solid waste regulations. If constituent levels in any representative sample equal or exceed any of the delisting levels set in condition (3), the Dynawave Scrubber Effluent must be immediately resampled and reanalyzed for the constituent(s) that exceeded the delisting levels. If the repeat analysis is less than the delisting levels, then Denka Performance Elastomer LLC shall resume the normal sampling and analysis schedule as described in condition (1). If the results of the reanalysis equal or exceed any of the delisting levels, then within 45 days Denka Performance Elastomer LLC shall submit a report to the department that outlines the probable causes for exceeding the constituent level and recommends corrective action measures. The department shall determine the necessary corrective action and shall notify Denka Performance Elastomer LLC of the corrective action needed. DuPont Dow shall implement the corrective action and resume sampling and analysis for the constituent per the schedule in condition (1). Within 30 days after receiving written notification, Denka Performance Elastomer LLC may appeal the corrective action determined by the department. During the full period of corrective action determination and implementation, the exclusion of the Dynawave Scrubber Effluent shall remain in force unless the department notifies

Table 1—Wastes Excluded
Denka Performance Elastomer LLC, LaPlace, LA
Denka Performance Elastomer LLC in writing of a temporary rescission of the exclusion. Normal sampling and analysis shall continue through this period as long as the exclusion remains in force.
(3). Delisting Levels The following delisting levels have been determined safe by taking into account health-based criteria and limits of detection. Concentrations in conditions (3)(A) and (3)(B) must be measured in the extract from the samples by the method specified in LAC 33:V. 4903.E. Concentrations in the extract must be less than the following levels (all units are milligrams per liter).
(3)(A). Inorganic Constituents Chromium—2.0; Nickel—2.0; Zinc—200.
(3)(B). Organic Constituents Acetone—80; Chlorobenzene—2.0; Chloroform—0.2; Chloroprene—14; Ethylbenzene—14; Methylene Chloride—0.1; Styrene—2.0; Toluene—20; Xylenes—200.
(3)(C). Dioxins and Furans The 15 congeners listed in Section 1.1 of EPA Publication Number SW-846 Method 8290—Monitor only.
(4). Changes in Operating Conditions or Feed Streams If Denka Performance Elastomer LLC either significantly changes the operating conditions specified in the petition or adds any previously unspecified feed streams and either of these actions would justify a Class 3 modification to its combustion permit, Denka Performance Elastomer LLC must notify the department in writing. Following receipt of written acknowledgement by the department, Denka Performance Elastomer LLC must collect a grab sample and analyze it for the full universe of constituents found in 40 CFR Part 264, Appendix IX—Groundwater Monitoring List (LAC 33:V.3325). If the results of the Appendix IX analyses identify no new hazardous constituents, then Denka Performance Elastomer LLC must reinstitute the testing required in condition (1)(A) for a minimum of 12 monthly operating periods. During the full period described in this condition, the delisting of the Dynawave Scrubber Effluent shall remain in force unless a new hazardous constituent is identified or the waste volume exceeds 25,000 cubic yards per year; at this time the delisting petition shall be reopened. Denka Performance Elastomer LLC may eliminate feeding any stream to the combustion unit at any time without affecting the delisting of the Dynawave Scrubber Effluent or the sampling schedule.

Table 1—Wastes Excluded
Lyondell Chemical Company, Lake Charles, LA
* * *

Table 1—Wastes Excluded
Marathon Oil Co., Garyville, LA
* * *

Table 1—Wastes Excluded
Motiva Enterprises LLC, Norco, LA
* * *

Table 1—Wastes Excluded
Syngenta Crop Protection, Inc., St. Gabriel, LA
* * *

Table 2—One-Time Wastes Excluded
Murphy Exploration and Production Company, Amelia, LA
* * *

Table 2—One-Time Wastes Excluded
Conrad Industries, Inc. (Conrad), Morgan City, LA
* * *

Appendix F—Recordkeeping Instructions

A. - B.3, Table 2. …

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 20:1000 (September 1994), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:944 (September 1995), LR 22:830 (September 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2397 (December 1999), LR 26:2509 (November 2000), LR 29:1084 (July 2003), repromulgated LR 29:1475 (August 2003), amended by the Office of Environmental Assessment, LR 30:2464 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:445 (March 2007), LR 33:825 (May 2007), LR 33:1016 (June 2007), LR 34:73 (January 2008), LR 34:1021 (June 2008), LR 34:1613 (August 2008), amended by the Office of the Secretary, Legal Division, LR 38:2757 (November 2012), LR 40:1692 (September 2014), LR 42:2179 (December 2016).

Herman Robinson
General Counsel

RULE

Department of Environmental Quality
Office of the Secretary
Legal Division

Hazardous Waste Exclusions for Coal
Combustion Residuals (LAC 33:V.105)(HW119ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste regulations, LAC 33:V.105 (Log #HW119ft).

This Rule is identical to federal regulations found in 80 FR 21301, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or P.O. Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule is promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule excludes certain residual solid wastes from coal combustion from the definition of *hazardous waste* in Louisiana. The state's hazardous waste program operates under a federal grant from the U.S. EPA. Part of the requirements for maintaining this grant is to maintain the Louisiana hazardous waste regulations so that they are equivalent to or more stringent than the corresponding federal regulations.

The basis and rationale of this Rule are to mirror the federal regulations. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—Hazardous Waste
Chapter 1. General Provisions and Definitions
§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to the denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including *solid waste* and *hazardous waste*, appear in LAC 33:V.109. Wastes that are excluded from regulation are found in this Section.

A. - D.2.c. …

d. coal combustion residuals include:

i. fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste, generated primarily from the combustion of coal or other fossil fuels, except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste;

ii. the following wastes generated primarily from processes that support the combustion of coal or other fossil fuels that are co-disposed with the wastes in Clause D.2.d.i of this Section, except as provided in LAC 33:V.3025 for facilities that burn or process hazardous waste for the purpose of Subparagraph D.2.d of this Section include:

(a). *coal pile runoff*—any precipitation that drains off coal piles;

(b). *boiler cleaning solutions*—water solutions and chemical solutions used to clean the fireside and waterside of the boiler;

(c). *boiler blowdown*—water purged from boilers used to generate steam;

(d). *process water treatment and demineralizer regeneration wastes*—sludges, rinses, and spent resins generated from processes to remove dissolved gases, suspended solids, and dissolved chemical salts from combustion system process water;

(e). *cooling tower blowdown*—water purged from a closed cycle cooling system, which includes cooling towers, cooling ponds, or spray canals;

(f). *air preheater and precipitator washes*—wastes from cleaning air preheaters and electrostatic precipitators;

(g). *effluents from floor drains, yard drains, and sumps*—wastewaters (e.g., wash water) collected by or from floor drains, equipment drains, and sumps located inside the power plant building; and wastewaters (e.g., rain runoff) collected by yard drains and sumps located outside the power plant building;

(h). *wastewater treatment sludges*—refers to sludges generated from the treatment of wastewaters specified in Subclauses (a) through (f) of this Clause;

D.2.e. - P.2. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq., and in particular, 2186(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217, LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362, 368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:813, 831 (September 1996), amended by the Office of the Secretary, LR 23:298 (March 1997), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 23:564, 567 (May 1997), LR 23:721 (June 1997), amended by the Office of Waste Services, Hazardous Waste Division, LR 23:952 (August 1997), LR 23:1511 (November 1997), LR 24:298 (February 1998), LR 24:655 (April 1998), LR 24:1093 (June 1998), LR 24:1687, 1759 (September 1998), LR 25:431 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:268 (February 2000), LR 26:2464 (November 2000), LR 27:291 (March 2001), LR 27:706 (May 2001), LR 29:317 (March 2003), LR 30:1680 (August 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:605 (April 2006), LR 32:821 (May 2006), LR 33:450 (March 2007), LR 33:2097 (October 2007), LR 34:614 (April 2008), LR 34:1008 (June 2008), LR 34:1893 (September 2008), LR 34:2395 (November 2008), LR 35:1878 (September 2009), LR 36:2553 (November 2010), LR 38:791 (March 2012), amended by the Office of the Secretary, Legal Division, LR 40:1336 (July 2014), LR 42:2181 (December 2016).

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RULE

Department of Health
Board of Drug and Device Distributors

General Provisions, Requirements, Qualifications, Recordkeeping, Fees, Wholesale Distributors, and Third-Party Logistics Providers
(LAC 46:XCI.103, 105, Chapter 3, 801, Chapter 13 and Chapter 15)

The Louisiana Board of Drug and Device Distributors has amended LAC 46:XCI.103, 105, 301, 303, 305, 307, 311, 315, and 801, and adopted Chapter 13 and Chapter 15 in accordance with the provisions of the Administrative Procedures Act, R.S. 49:950 et seq., and R.S. 37:3467 et seq. of the Louisiana Drug and Device Distributors Act. This Rule will support the board's ability to license entities and regulate the distribution of legend drugs and legend devices into and within the state of Louisiana in its effort to safeguard the life and health of its citizens and promote the public welfare. The Rule is herein set forth.

Title 46
PROFESSIONAL AND OCCUPATION STANDARDS
Part XCI. Drug and Device Distributors
Chapter 1. General Provisions
§103. Definition

A. As used in this regulation, unless the context otherwise requires, the following terms are defined as:

* * *

Dispense or Dispenser or Dispensing—the interpretation, evaluation, and implementation of a drug order, including the preparation and delivery or transfer of possession of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient.

* * *

Standard Distributors—distributors of legend drugs and legend devices not to include third-party logistics providers and wholesale distributors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:381 (April 1992), amended LR 29:1479 (August 2003), LR 32:394 (March 2006), LR 34:874 (May 2008), LR 35:1537 (August 2009), amended by the Department of Health, Board of Drug and Device Distributors, LR 42:2182 (December 2016).

§105. Exemptions

A. Distribution does not include:

1. intra-company distribution to licensed drug or device distributors physically located in Louisiana;

2. the distribution of a drug or device or an offer to distribute a drug or device by a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

3. the distribution of a drug or device or an offer to distribute a drug or device among hospitals or other health care entities that are under common ownership;

4. the distribution of a drug or device or an offer to distribute a drug or device for emergency medical reasons including transfers of drugs or devices by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage that arises from delays in or interruptions of regular distribution schedules or a public health emergency declaration;

5. …

6. the distribution of drug or device samples by manufacturers' representatives or distributors' representatives;

7. the distribution of blood and blood components intended for transfusion; or

8. the distribution of legend drugs by retail pharmacies to licensed practitioners for office use where the annual dollar volume of legend drugs sold to licensed practitioners does not exceed five percent of the dollar volume of that retail pharmacy's annual legend drug sales.

9. the distribution of devices by manufacturers' sales representatives during transportation to customers;

10. the distribution of a software utilized in a non-emergency, delayed patient monitoring system to be used in remote monitoring not intended to provide real time

integrated data from a continuous or long-time, non-invasive patient monitoring device, and that has been previously approved by the appropriate federal agency; this exemption shall not be deemed to prohibit regulation in accordance with quarantine statutes.

B. Wholesale distribution does not include:

1. intra-company distribution between members of an affiliate or within a manufacturer;

2. the distribution of or offer to distribute among hospitals or other health care entities which are under common control;

3. the distribution or offer to distribute for emergency medical reasons including a public health emergency declaration, except that a drug shortage not caused by a public health emergency shall not constitute an emergency medical reason;

4. the dispensing pursuant to a prescription;

5. the distribution of minimal quantities by a licensed retail pharmacy to a licensed practitioner for office use;

6. the distribution or offer to distribute by charitable organizations to nonprofit affiliates of the organization;

7. the purchase or other acquisition by a retail dispenser, hospital, or other health care entity for use by such retail dispenser, hospital, or other health care entity;

8. the distribution by the manufacturer;

9. the receipt or transfer by an authorized third-party logistics provider provided that such third-party logistics provider does not take ownership;

10. a common carrier that transports a drug product, provided that the common carrier does not take ownership;

11. the distribution or offer to distribute by an authorized repackager that has taken ownership or possession and repacks;

12. salable drug product returns when conducted by a retail dispenser;

13. the distribution of a collection of finished medical devices, which may include a product or biological product, assembled in kit form strictly for the convenience of the purchaser or user, if:

a. the kit is assembled in an establishment registered with FDA as a device manufacturer;

b. the kit does not contain a controlled substance that appears in a schedule contained in the Comprehensive Drug Abuse Prevention and Control Act of 1970 and any amendments to;

c. the kit includes a product, the person that manufacturers the kit:

i. purchased directly from the manufacturer or from a wholesale distributor that purchased directly from the manufacturer, and

ii. does not alter the primary container or label of the product as purchased from the manufacturer or wholesale distributor; and

d. kits that include a product and the product is:

i. an intravenous solution intended for replenishment of fluids and electrolytes;

ii. intended to maintain the equilibrium of water and minerals in the body;

ii. intended for irrigation or reconstitution;

iv. an anesthetic;

v. an anticoagulant;

vi. a vasopressor, or

vii. a sympathomimetic;

14. the distribution of an intravenous drug that by its formulation is intended for the replenishment of fluids and electrolytes or calories;

15. the distribution of an intravenous drug used to maintain the equilibrium of water and minerals in the body;

16. the distribution of a drug intended for irrigation, or sterile water, whether intended for such purposes or for injection;

17. the distribution of medical gas;

18. facilitating the distribution by providing solely administrative services including processing orders and payments; or

19. the transfer by a hospital or other health care entity, or by a wholesale distributor or manufacturer operating at the direction of the hospital, or other healthcare entity, to a repackager who is registered for the purpose of repackaging for use by the hospital, or other heath care entity, and other health care entities that are under common control, if ownership of the drug remains with the hospital or other health care entity at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 35:1537 (August 2009), amended LR 36:321 (February 2010), LR 36:2560 (November 2010), LR 37:899 (March 2011), amended by the Department of Health, Board of Drug and Device Distributors LR 42:2182 (December 2016).

Chapter 3. Drug and Device Distributors

§301. Licensing, Renewal and Reinstatement Requirements

A. The board shall issue sub-types for distributors of legend drug and legend device licenses as follows:

1. standard distributors;

2. wholesale distributors; and

3. third-party logistics provider distributors.

B. Every drug or device distributor shall submit an initial application for a new license on a form furnished by the board and accompanied by the initial license fee.

1. - 2. …

C. All new licenses issued by the board shall expire on December 31 of the calendar year issued.

D. A license shall be renewed annually by timely submitting an application and the license renewal fee.

E. Each application for the renewal of the license must be made between October 1 and December 31 of each year on a paper or electronic form provided by the board.

1. - 2. …

3. A person may not lawfully operate as a drug or device distributor in Louisiana until the expired license has been reinstated.

F. Licenses renewed annually between October 1 and December 31 shall expire on December 31 of the following calendar year.

G. Each license issued hereunder shall be displayed by the licensee in a conspicuous place at the licensed facility or physical location.

H. Out-of-state drug or device distributors licensed by the board must have on file at all times with the board a current copy of a valid certificate of registration or license for drug or device distribution as issued by the appropriate regulatory board or agency of the state in which the facility

or physical location licensed with the board is located or registration or license as issued by the appropriate federal agency when applicable.

1. If the state in which the facility licensed with the board is located does not require the facility to be registered or licensed as a drug or device distributor and the facility or physical location is registered or licensed in the state in which it is located as a manufacturer of drugs or devices, a current copy of the valid manufacturer registration or license must be submitted to and maintained with the board.

2. If the state in which the facility or physical location licensed with the board is located does not require the facility or physical location to be registered or licensed as a drug or device distributor and/or the facility or physical location is not a registered/licensed manufacturing facility and the state in which the facility or physical location is located does not require any registration or licensure of the facility or physical location, a letter from the appropriate state regulatory board or agency must be submitted to the board confirming such fact.

a. If the state in which the facility or physical location is located does not require any registration or licensure for distribution or manufacturing but a federal agency does require and issues registration or licensure to the facility or physical location licensed by this board, a copy of the federal registration or license must be submitted.

3. If the facility or physical location licensed with the board does not physically distribute and/or manufacture the drugs or devices that it owns or holds title to and/or the facility or physical location licensed with the board contracts with a third-party logistics provider for distribution of the drugs or devices and the state in which the facility or physical location licensed by the board is located does not require any registration or licensure of the facility or physical location, a letter from the appropriate state regulatory board or agency confirming this fact and a current copy of the valid registration or license from the state in which the third-party logistics provider facility is located must be submitted to the board.

a. if the state in which the third-party logistics provider facility or physical location is located does not require any registration or licensure for third-party logistics providers but a federal agency does require and issues registration or licensure to the third-party logistics provider facility or physical location licensed by this board, a copy of the federal registration or license must be submitted.

I. An initial application for a new license is valid for 180 days after receipt by the board and must be completed within this time frame.

1. - 2. …

J. Requests for voluntary cancellation of a license made by a licensee must be made in writing and must include information such as, but not limited to, the date the request is effective and the reason for the voluntary cancellation of the license.

1. …

K. If a licensed in-state drug or device distributor has an additional off-site storage facility, the off-site storage facility may operate under the current drug or device distribution license held by the licensee as long as the off-site storage facility is in compliance with §309.A.1 of this Part and has temperature monitoring and an alarm system and the off-site storage facility does not physically receive or distribute legend drugs or devices from its location.

L. A license shall not be issued by the board for any drug or device distributor to operate from or out of a dwelling, building, or property zoned as residential.

M. A license issued to a drug or device distributor will be revoked after 180 days from the date of issuance if an inspection and disciplinary hearing reveal a lack of legitimate business activity as per recordkeeping requirements of §311.B of this Part or a violation of any provisions of this Title.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003), LR 32:396 (March 2006), LR 34:875 (May 2008), LR 35:1538 (August 2009), LR 36:322 (February 2010), LR 39:2758 (October 2013), amended by the Department of Health, Board of Drug and Device Distributors LR 42:2183 (December 2016).

§303. Required Information

A. The board requires the following from each applicant as part of the initial licensing procedure and as part of any renewal or reinstatement of such license:

1. the company name, physical distribution address, business address, and the name and contact information of the person for the facility or physical location of the applicant;

2. …

3. the mailing address, and the name and contact information of the person for regulatory compliance used by the applicant;

4. - 5. …

6. the name and contact information of the person appointed as the designated responsible party;

7. - 9. …

B. Changes in any information with regard to, but not limited to, contact persons for the facility or physical location, the owners of the licensee including the percentage of interest owned, the person appointed as the designated responsible party, the directors and officers of the licensee, or the regulatory contact person shall be submitted in writing to the board within 60 days after such changes become effective. Failure to do so may result in disciplinary action being taken against the licensee.

B.1. - C. …

D. Drug or device distributors with a place of business physically located in Louisiana must notify the board, in writing, within three business days of discovery of, or being in a position to have acquired such knowledge of, any theft or diversion of drugs or devices.

E. Drug or device distributors with a place of business physically located in Louisiana must notify the board, in writing, within 24 hours of discovery of, or being in a position to have acquired such knowledge of, any contraband, counterfeit, or misbranded drugs or devices in their possession whether actual or constructive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003), LR 30:1481 (July 2004), LR 32:397 (March 2006), LR 35:1539 (August 2009), LR 36:1246 (June 2010), amended by the

Department of Health, Board of Drug and Device Distributors, LR 42:2184 (December 2016).

§305. Qualifications

A. The board shall consider the following factors in issuing an initial license, the renewal of an existing license, or reinstatement of a license to a person to engage in the distribution of drugs and devices:

1. any convictions of the applicant or designated responsible party under any federal, state, or local laws relating to drug samples, drug or device distribution, retail drug dispensing, or distribution of controlled substances;

2. …

3. the applicant's past experience in the manufacture or distribution of drugs or devices, including controlled substances;

4. - 6. …

7. compliance with the requirements to maintain and/or make available to the state licensing authorities or to federal, state, or local law enforcement officials those records required to be maintained by drug or device distributors;

A.8. - C. …

D. The designated responsible party must have knowledge of the policies and procedures pertaining to operations of the applicant or licensed drug or device distribution facility.

1. A designated responsible party must meet the following requirements:

a. …

b. have at least two years of full-time employment history with either a pharmacy, legend drug or device distributor, or medical gas distributor in a capacity related to the retail drug dispensing, distribution, and recordkeeping of legend drugs or devices; or other similar qualifications as deemed acceptable by the board;

c. be employed by the applicant or drug or device distributor in a full-time position;

d. …

e. be physically present at the facility of the applicant or drug or device distributor during regular business hours, except when absence of the designated responsible party is authorized, including, but not limited to, sick leave and vacation leave;

f. serve in the capacity of a designated responsible party for only one applicant or drug or device distributor at a time, except where more than one licensed drug or device distributor is co-located in the same facility;

g. not have any felony convictions under federal, state, or local law relating to drug or device distribution, retail drug dispensing, or distribution of controlled substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 32:398 (March 2006), LR 35:1539 (August 2009), LR 39:2758 (October 2013) amended by the Department of Health, Board of Drug and Device Distributors, LR 42:2185 (December 2016).

§307. Personnel

A. Personnel employed in drug or device distribution shall have appropriate education and/or experience to assume responsibility for positions related to compliance with state licensing requirements.

B. A drug or device distributor licensed by the board shall be responsible for the acts and/or omissions of such personnel which are deemed in violation of the Louisiana statutes for drug or device distributors and board promulgated regulations. The board shall have the authority to proceed with disciplinary action and sanction its licensee for such acts and/or omissions of his personnel in violation of the statutes and/or regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 32:398 (March 2006), amended by the Department of Health, Board of Drug and Device Distributors, LR 42:2185 (December 2016).

§309. Storage and Handling Requirements

A. The following are required for the storage and handling of drugs or devices, and for the establishment and maintenance of drug or device distribution records by drug or device distributors and their officers, agents, representatives, and employees.

1. - 1.e. …

2. Security

a. A facility used for drug or device distribution shall be secure from unauthorized entry.

a.i. - b. …

c. A distributor that distributes medical gases only shall store a medical gas under lock and key if the medical gas is stored inside a board-approved storage facility that is not equipped with a monitored alarm system to detect entry after hours.

d. A distributor that distributes medical gases only who stores the medical gas on an open dock shall be equipped with a monitored alarm system to detect entry after hours.

2.e. - 3. …

a. If no storage requirements are established for a drug or device, the drug or device may be held at room temperature, as defined in an official compendium of pharmacology and drug formulation, to help ensure that its identity, strength, quality, and purity are not adversely affected.

3.b. - 5.b. …

c. If the conditions under which a drug or device has been returned cast doubt on the drug or device's safety, identity, strength, quality, or purity, then the drug or device shall be destroyed or returned to the supplier, unless examination, testing or other investigation proves that the drug or device meets appropriate standards for safety, identity, strength, quality, and purity. In determining whether the conditions under which a drug or device has been returned cast doubt on the drug or device's safety, identity, strength, quality, or purity, the drug or device distributor shall consider, among other things, the conditions under

which the drug or device has been held, stored, or shipped before or during its return and the condition of the drug or device and its container, carton, or labeling, as a result of storage or shipping.

d. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:382 (April 1992), amended LR 29:1480 (August 2003), LR 32:398 (March 2006), LR 34:875 (May 2008), amended by the Department of Health, Board of Drug and Device Distributors, LR 42:2185 (December 2016).

§311. Drug or Device Distribution Recordkeeping

A. Drug or device distributors shall establish and maintain perpetual inventories and records of all transactions regarding the receipt and distribution or other disposition of drugs or devices. These records shall include the following information:

1. - 3. …

B. Drug or device distributors shall establish and maintain financial records, including all financial and banking receipts as they relate to drug, device, or medical gas sales, distribution, inventories, receipts or deliveries and monthly banking statements and deposit receipts for all banking accounts containing funds with which drugs or devices have been purchased and/or sold for a minimum of three years from the date each record was created.

C. - E. …

F. Distributors that distribute medical gas are not required to maintain a perpetual inventory on oxygen, but are required to maintain perpetual inventories on all other medical gases.

G. Drug or device distributors physically located and conducting operations in Louisiana:

1. shall not purchase or receive drugs or devices from other than drug or device distributors licensed by the board to distribute in or into Louisiana; and

2. shall notify the board of any distributors not licensed by this board distributing or offering to distribute drugs or devices in or into Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:383 (April 1992), amended LR 29:1480 (August 2003), LR 32:399 (March 2006), LR 34:875 (May 2008), LR 36:322 (February 2010), LR 39:2758 (October 2013), amended by the Department of Health, Board of Drug and Device Distributors, LR 42:2186 (December 2016).

§313. Policy and Procedures

A. Drug or device distributors shall establish, maintain, and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory, and distribution of drugs or devices, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories including contraband or counterfeit drug or device information. Drug or device distributors shall include in their written policies and procedures the following:

1. - 2.c. …

3. a procedure to ensure that drug or device distributors prepare for, protect against, and handle any crisis that affects security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state, or national emergency;

4. - 7. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992), amended LR 29:1480 (August 2003), LR 32:400 (March 2006), LR 39:91 (January 2013), amended by the Department of Health, Board of Drug and Device Distributors, LR 42:2186 (December 2016).

§315. Organizational On-Site List

A. Drug or device distributors shall establish and maintain an on-site list of owners, officers, directors, managers, and other persons in charge of drug or device distribution, storage, and handling, including a description of their duties and a summary of their qualifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 18:384 (April 1992), amended LR 32:400 (March 2006), LR 35:1539 (August 2009), amended by the Department of Health, Board of Drug and Device Distributors, LR 42:2186 (December 2016).

Chapter 8. Fees

§801. Fees

A. The board may collect the following fees:

1. initial license fee:
   a. one license sub-type—$400;
   b. two license sub-types—$425;
   c. three license sub-types—$450;
2. license renewal fee:
   a. one license sub-type—$300;
   b. two license sub-types—$325;
   c. three license sub-types—$350;

3. - 6. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Wholesale Drug Distributors, LR 32:403 (March 2006), amended LR 35:1540 (August 2009), LR 38:1961 (August 2012), amended by the Department of Health, Board of Drug and Device Distributors, LR 42:2186 (December 2016).

Chapter 13. Wholesale Distributors

§1301. License Requirements

A. No person may engage in wholesale distribution of drug products in the state unless such person:

1.a. is licensed by the state from which the drug product is distributed; or

b. if the state from which the drug product is distributed has not established a licensure requirement, is licensed by the appropriate federal official in accordance with federal regulation; and

2. if the drug product is distributed interstate is licensed by the state into which the drug product is distributed if the state into which the drug product is distributed requires the licensure of a person that distributes drug products into the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Drug and Device Distributors, LR 42:2186 (December 2016).

§1303. Definitions

A. As used in this chapter, the following terms are defined herein.

Exclusive Distributor—the wholesale distributor that directly purchased the product from the manufacturer and is the sole distributor of that manufacturer's product to a subsequent repackager, wholesale distributor, or retail dispenser.

Illegitimate Product—a product in which credible evidence shows that it:

a. is counterfeit, diverted or stolen;

b. is intentionally adulterated such that the product would result in serious adverse health consequences or death to humans;

c. is the subject of a fraudulent transaction; or

d. appears otherwise unfit for distribution such that the product would be reasonably likely to result in serious adverse health consequences or death to humans.

Suspect Product—a product for which there is reason to believe it may be illegitimate.

Trading Partners—a manufacturer, repackager, wholesale distributor, or retail dispenser from whom a manufacturer, repackager, wholesale distributor, or retail dispenser accepts direct ownership of a product or to whom a manufacturer, repackager, wholesale distributor, or retail dispenser transfers direct ownership of a product; or a third-party logistics provider from whom a manufacturer, repackager, wholesale distributor, or retail dispenser accepts direct possession of a product or to whom a manufacturer, repackager, wholesale distributor, or retail dispenser transfers direct possession of a product.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Drug and Device Distributors, LR 42:2187 (December 2016).

§1305. General Requirements

A. A wholesale distributor shall not accept ownership of a product unless the previous owner provides the transaction history, transaction information, and a transaction statement for the product at the time of the transaction.

B. When a wholesale distributor purchases product, whether or not directly from a manufacturer, an exclusive distributor, or a repackager that purchased directly from a manufacturer, the wholesale distributor shall provide a transaction statement, transaction history, and/or transaction information in accordance with federal regulations at the time of each transaction in which the wholesale distributor transfers ownership of product to subsequent purchasers.

C. A wholesale distributor shall:

1. capture the transaction information, transaction history, and transaction statement for each transaction and maintain such information, history, and statement for not less than six years after the date of the transaction; and

2. maintain the confidentiality of the transaction information, transaction history, and transaction statement for a product in a manner that prohibits disclosure to any person other than the appropriate federal or state official except where required among trading partners.

D. Wholesale distributors physically located and conducting operation in Louisiana:

1. shall not purchase or receive product from other than trading partners licensed by the board to distribute in or into Louisiana; and

2. shall notify the board of any trading partners not licensed by this board distributing or offering to distribute product in or into Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Drug and Device Distributors, LR 42:2187 (December 2016).

§1307. Returns

A. A wholesale distributor may return a nonsaleable product to the manufacturer or repackager, to the wholesale distributor from whom the product was purchased, or to a person acting on behalf of such a person, including a returns processor, without providing the transaction history, transaction information, and transaction statement for the product.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Drug and Device Distributors, LR 42:2187 (December 2016).

§1309. Requests for Information

A. In the event of a recall or for the purpose of investigating a suspect or an illegitimate product and upon a request by the appropriate federal or state official, a wholesale distributor shall, not later than one business day and not exceeding 48 hours after receiving the request for information, provide the applicable transaction information, transaction history, and transaction statement for the product.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Drug and Device Distributors, LR 42:2187 (December 2016).

§1311. Verification Requirements

A. A wholesale distributor shall have systems in place to enable the wholesale distributor to comply with the following requirements.

1. Upon making a determination that a product in possession or control of a wholesale distributor is a suspect product, or upon receiving a request for verification from the appropriate federal official that has made a determination that a product within the possession of a wholesale distributor is a suspect product, a wholesale distribution shall:

a. quarantine the suspect product from product intended for distribution until the suspect product is cleared or dispositioned; and

b. promptly conduct an investigation to determine whether the suspect product is an illegitimate product, which shall includes validating any applicable transaction history and transaction information in the possession of the wholesale distributor and otherwise investigating to determine whether the product is an illegitimate product.

2. If the wholesale distributor determines that a suspect product is not an illegitimate product, the wholesale distributor shall promptly notify the appropriate federal or state official of such determination and such product may be further distributed.

3. A wholesale distributor shall keep records of the investigation of a suspect product for not less than six years after the conclusion of the investigation.

B. In a manner consistent with the systems and processes of the wholesale distributor, the wholesale distributor shall:

1. upon determining that a product in the possession or control of a wholesale distributor is an illegitimate product:

a. quarantine the illegitimate product from product intended for distribution until the illegitimate product is dispositioned;

b. disposition the illegitimate product that is in the possession or control of the wholesale distributor;

c. take reasonable and appropriate steps to assist trading partners in the disposition of the illegitimate product that is not in the possession or control of the wholesale distributor; and

d. retain a sample of the illegitimate product for further physical examination or laboratory analysis of the product as necessary and appropriate;

2. upon determining that a product is an illegitimate product, the wholesale distributor shall notify the appropriate federal or state officials and all immediate trading partners that there is reason to believe the wholesale distributor may have received an illegitimate product no later than 24 hours after making such determination;

3. upon the receipt of a notification from the appropriate federal or state official or a trading partner that a determination has been made that a product is an illegitimate product, a wholesale distributor shall identity all illegitimate product subject to the notification that is in the possession or control of the wholesale distributor, including any product that is subsequently received, and shall perform the activities described in Subsection A of this Section;

4. upon making a determination, in consultation with the appropriate federal official, that a notification is no longer necessary, a wholesale distributor shall promptly notify immediate trading partners that such notification has been terminated;

5. a wholesale distributor shall keep records of the disposition of an illegitimate product for not less than six years after the conclusion of the disposition.

C. A wholesale distributor may satisfy the requirements of this Section by developing a secure electronic database or utilizing a secure electronic database developed or operated by another entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Drug and Device Distributors, LR 42:2187 (December 2016).

§1313. Federal Reporting

A. Any person who owns or operates an establishment that engages in wholesale distribution shall:

1. report to the appropriate federal official, on an annual basis on a schedule determined by the appropriate federal official:

a. each state by which the wholesale distributor is licensed and the appropriate state license number issued by the state to the wholesale distributor; and

b. the name, address, and contact information of each wholesale distributor facility at which, and all trade names under which, the wholesale distributor conducts business; and

2. report to the appropriate federal official within a reasonable period as determined by the appropriate federal official, any significant disciplinary actions, such as the revocation or suspension of a wholesale distributor license, as taken by any state or federal agency against the wholesale distributor during the reporting period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Drug and Device Distributors, LR 42:2188 (December 2016).

Chapter 15. Third-party Logistics Providers

§1501. General Requirements

A. No third-party logistics provider may conduct distribution activities in the state unless each facility of the third-party logistics provider:

1.a. is licensed by the state from which the drug or device is distributed by the third-party logistics provider; or

b. is licensed by the appropriate federal official in accordance with federal regulation, if the state from which the drug or device is distributed by the third-party logistics provider does not require licensure for third-party logistics providers;

2. is licensed by each state into which the drug or device is distributed by the third-party logistics provider, if the drug or device is distributed interstate; unless the third-party logistics provider is licensed by the appropriate federal official in accordance with federal regulations.

B. If the third-party logistics provider is licensed by the appropriate federal official in accordance with federal regulations and will be conducting distribution activities into the state, the third-party logistics provider must notify the board in writing on a form provided by the board to include a copy of the federal license as issued by the appropriate federal official in accordance with federal regulations and with no state fee required for the notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Drug and Device Distributors, LR 42:2188 (December 2016).

§1503. Federal Reporting

A. Third-party logistics provider shall report to the appropriate federal official on an annual basis on a schedule determined by the appropriate federal official:

1. the state in which the third-party logistics provider facility is licensed and the appropriate state license number issued by the state to the third-party logistics provider; and

2. the name and address of the third-party logistics provider facility and all trade names under which the third-party logistics provider facility conducts business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3461-3482.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Drug and Device Distributors, LR 42:2188 (December 2016).

George Lovecchio
Executive Director

1612#025

RULE

Department of Health
Radiologic Technology Board of Examiners

Radiologic Technologists
(LAC 46:LXVI.705, 713, 901, 1105, 1107, 1109, 1113, 1123, 1201, 1211, 1213, 1215, and 1217)

The Louisiana State Radiologic Technology Board of Examiners, pursuant to the authority of R.S. 37:3207 and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., has amended its rules governing general provisions in LAC 46:LXVI. The Rule change updates relevant professional language, continuing education, and eliminates a probation period that conflicts with current rules.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVI. Radiologic Technologists

Chapter 7. Actions before the Board

§705. Informal Proceeding/Consent Order

A. - B. …

C. A consent order between the board and the licensee or prospective licensee shall describe the disciplinary action which will be taken. The consent order shall be signed by the licensee or prospective licensee, and two board members.

D. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:869 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 19:1433 (November 1993), LR 29:182 (February 2003), LR 40:2262 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:2189 (December 2016).

§713. Notification of Final Actions

A. Upon either completion of the decision, expiration of the time for any appeal, or conclusion of appeals, the board shall notify the following of its actions:

1. radiologic technologist named in disciplinary action;

2. - 3. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:872 (September 1985), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:2189 (December 2016).

Chapter 9. General Provisions

§901. Definitions

A. The following words and terms, when used in this Rule shall have the following meanings, unless the text clearly indicates otherwise.

* * *

Student—any person enrolled in and attending a board approved program of radiologic technology who apply ionizing radiation to humans for necessary diagnostic or therapeutic purposes while under the supervision of a licensed practitioner or a licensed radiologic technologist at an approved clinical facilities of the sponsoring institutions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:872 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 23:71 (January 1997), LR 38:97 (January 2012), LR 40:2263 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:2189 (December 2016).

Chapter 11. Licensure

§1105. Qualifications of Applicants for Licensure

A. - A.3. …

4. has successfully completed a course of study in radiography, radiation therapy technology, nuclear medicine technology, or fusion technologist as approved by the board in accordance with standards promulgated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3208 and R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 40:2263 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:2189 (December 2016).

§1107. Licensure by Endorsement; Reciprocity

A. Any person who holds a current certificate from the certifying boards as prescribed in R.S. 37:3210 is exempt from examination. Upon application and the payment of a fee equivalent to that required for the initial licensing fee, the board shall issue a license to such credentialed person.

B. By reciprocity, any person who is licensed as a radiologic technologist under the laws of other states, provided that the standards under which they were examined are at least as stringent as those established by the board, shall be issued a license without examination upon application and payment of a fee equivalent to that required for the initial licensing fee.

C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3210, R.S. 37:3212 and R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:2189 (December 2016).

§1109. Licensure by Examination

A. …

1. To be eligible for examination by the board, an applicant shall possess all qualifications for licensure prescribed by R.S. 37:3208, provided, however, that an applicant who has completed or prior to examination will have completed his/her approved course of study, shall be deemed eligible for examination upon application submission to the board and program director verifies that the applicant will complete or has completed his/her radiologic technology course of study prior to examination and specifying the date of completion.

B. - C. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207, R.S. 37:3208 and R.S. 37:3209.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 29:183 (February 2003), LR 40:2263 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:2189 (December 2016).

§1113. Follow-Up to Application Submission

A. Incomplete Applications. Applications which are received with incomplete data may cause postponement. "Incomplete notices" are mailed to those who did not provide all information requested on the application form.

B. - B.1. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:873 (September 1985), amended by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 40:2264 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:2190 (December 2016).

§1123. Expiration of License

A. …

B. The timely submission of an accurate and complete application for renewal of a license, appropriate documentation of completion of required continuing education hours and payment of appropriate fees shall operate to continue the expiring license in full force and effect pending issuance of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3215 and R.S. 37:3207.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Radiologic Technology Board of Examiners, LR 11:874 (September 1985), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:2190 (December 2016).

Chapter 12. Continuing Education Requirements

§1201. Definitions

* * *

Active Status—radiologic technologists who maintain their license by submitting appropriate continuing education, paying an initial or renewal fee, and are listed in good standing with the LSRTBE.

Advanced Level CPR—category A credit will be awarded for valid advanced level CPR certification. Advanced level CPR certification is limited to the following: advanced cardiac life support (ACLS), or pediatric advanced life support (PALS). Only one certification may be claimed per biennium. Six category A credits will be awarded on the date of certification or re-certification. A copy of a valid certification card issued by the Red Cross, the American Heart Association, or the American Safety and Health Institute will serve as documentation. CPR instructor or instructor trainer no longer receives CE credit, CE credit for basic CPR (BLS, BLS with AED, healthcare provider CPR) is not accepted.

* * *

CPR—Repealed.

* * *

Continuing Education (CE) Activity—a learning activity that is planned, organized, and administered to maintain and enhance the professional knowledge and skills underlying professional performance that a technologist uses to provide services for patients, the public, or the medical profession. Activities meeting this definition may qualify as either category A or A+ credit depending upon whether they have been submitted to review and approval by a recognized continuing education evaluation mechanism (RCEEM or RCEEM+).

1. Continuing education is recognized from the following: Louisiana Society of Radiologic Technologists, American Society of Radiologic Technologists, American Medical Association, American College of Radiology, American Nursing Association, Society of Diagnostic Medical Sonographers, American Society of Medical Dosimetrists, and the Society of Nuclear Medicine Technologists. All of these organizations and societies provide documentation of attendance for activity that they sponsors.

Continuing Education (CE) Credit—unit of measurement for CE activities. One CE credit is awarded for one contact hour (50-60 minutes). Activities longer than one hour are assigned whole or partial credits based on the 50-60 minute hour. Educational activities of 30-49 minutes duration will be awarded one-half of one CE credit. CE activities that last 15-29 minutes will receive one-quarter credit. Activities lasting less than 15 minutes receive no CE credit.

* * *

Expired Status—a radiologic technologist who fails to meet the continuing education requirements for renewal and pay appropriate fees by May 31 shall be placed on expired status. The radiologic technologist shall no longer be considered as holding a valid license in the state of Louisiana.

* * *

Probational Status—Repealed.

Recognized Continuing Education Evaluation Mechanism (RCEEM)—a mechanism for evaluating the content, quality, and integrity of an educational activity. The evaluation must include review of educational objectives, content selection, faculty qualifications, and educational methods and materials. Among the requirements for qualification as a RCEEM, an organization must be national in scope, non-profit, and willing to evaluate CE activities developed by any technologist within a given discipline. The organization must demonstrate the need for an additional RCEEM and supply evidence of sufficient experience and resources to provide for the valid and reliable evaluation of CE activities. The RCEEM+ has all of the responsibilities of a RCEEM in addition to the evaluation and approval of radiologist extender level (R.R.A.) CE activities. The RCEEM+ is authorized to award both categories A and A+ credit depending on the content level of the activity.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:178 (February 1995), amended LR 23:71 (January 1997), LR 40:2264 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:2190 (December 2016).

§1211. Biannual Application for License Renewal

A. Notification for the renewal of the license will be mailed to each radiologic technologist whose license to practice radiologic technology will expire that May 31 with

the license fee due. Licensee is responsible for renewal in the event of not receiving mailed notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:73 (January 1997), LR 40:2265 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:2190 (December 2016).

§1213. Documentation

A. A licensed radiologic technologist is required to maintain proof of participation in continuing education activities and is required to attest to this participation on the form provided. Said documentation shall be provided by the radiologic technologist to the Louisiana State Radiologic Technology Board of Examiners as part of the renewal process. Failure to provide documentation acceptable to the Louisiana State Radiologic Technology Board of Examiners will result in an expired status. The Louisiana State Radiologic Technology Board of Examiners will accept copies of documents. Original documents shall be kept by the radiologic technologist for two years after the end of the licensing term for the purpose of further verification should the board choose to audit the licensees' submissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:180 (February 1995), amended LR 23:74 (January 1997), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:2191 (December 2016).

§1215. Applicants for Renewal Who Fail to Meet CE Requirements

A. A radiologic technologist who applies for renewal of license, but who fails to meet the renewal requirements within the previous licensing term, will automatically be transferred to an expired status. Individuals who are listed as having an expired status, due to failure to meet these renewal requirements, status will be published on website by the Louisiana State Radiologic Technology Board of Examiners and will be reported in response to any inquiries regarding the radiologic technologist's status with the Louisiana State Radiologic Technology Board of Examiners.

B. A radiologic technologists whose license has been placed on expired status for failure to meet continuing education requirements may be returned to an approved status by payment of the appropriate fees and expenses as specified in Section 1217 of this Chapter and performing one or more of the following:

1. passing an advanced level examination recognized by the LSRTBE;

2. passing an entry-level examination recognized by the LSRTBE in a different category;

3. completing the required continuing education hours in the six months (on or before December 31) following the May 31 expiration date and paying delinquency fee.

C. Any hours completed or other requirements met while expired may not be used to meet the continuing education requirements for the subsequent license term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:181 (February 1995), amended LR 40:2265 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:2191 (December 2016).

§1217. Fee and Expenses

A. - B.4. …

5. delinquency fee in addition to the renewal fee for a license placed on an expired status using a postmark date:

a. all or part of June, July, August—$50;

b. all or part of September—$75;

c. all or part of October—$100;

d. all or part of November—$150;

e. all or part of December—$200;

B.6. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3207(B)(2).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Radiologic Technology Board of Examiners, LR 21:181 (February 1995), amended LR 40:2266 (November 2014), amended by the Department of Health, Radiologic Technology Board of Examiners, LR 42:2191 (December 2016).

Kenneth Jones
Executive Director

1610#005

RULE

Department of Public Safety and Corrections
Corrections Services

Equal Employment Opportunity and Americans with Disabilities Act—Personnel (LAC 22:I.201)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, has amended the contents of Section 201, Equal Employment Opportunity (Includes Americans with Disabilities Act).

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections

Chapter 2. Personnel

§201. Equal Employment Opportunity (Includes Americans with Disabilities Act)

A. Purpose—to establish the secretary's commitment to equal employment opportunities and to establish formal procedures regarding reasonable accommodation for all employees, applicants, candidates for employment (including qualified ex-offenders) and visitors.

B. Applicability—deputy secretary, undersecretary, chief of operations, assistant secretary, regional wardens, wardens, director of Probation and Parole, director of Prison Enterprises, employees, applicants, candidates for employment (including ex-offenders) and visitors. Each unit head is responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.

C. Policy. It is the secretary's policy to assure equal opportunities to all employees, applicants, candidates for employment (including ex-offenders) and visitors without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, political affiliation, disability or age.

1. Exceptions:

a. where age, sex or physical requirements constitute a bona fide occupational qualification necessary for proper and efficient operations;

b. where the implications of nepotism restrict such employment or employment opportunity; and

c. preferential hiring will be given to veterans in accordance with Chapter 22 of the Civil Service Rules.

2. Equal opportunities will be provided for employees in areas of compensation, benefits, promotion, recruitment, training and all other conditions of employment. Notices of equal employment opportunities will be posted in prominent accessible places at each employment location.

3. Equal access to programs, services and activities will be provided to all visitors. Advance notice of a requested accommodation shall be made during normal business hours to ensure availability at the time of the visit.

4. If any employee is made aware of or has reason to believe that a visitor to the unit is deaf or hard of hearing, the employee is required to advise the person that appropriate auxiliary aids and services will be provided. The employee should then direct the visitor to the unit ADA coordinator or designee. Likewise, such information must be forthcoming in response to any request for auxiliary aid or services.

D. Definitions

Age Discrimination in Employment Act (*ADEA*)—a federal law to protect individuals 40 years of age and over from arbitrary discrimination in employment practices, unless age is a bona fide occupational qualification. The state of Louisiana has passed similar legislation and the term *ADEA* will refer to both federal and state prohibitions against age discrimination in this regulation.

Americans with Disabilities Act (*ADA*)—a comprehensive federal law which requires the state to provide equal access for people with disabilities to programs, services and activities of the department, as well as to employment opportunities.

Applicant—a person who has applied for a job and whose qualification for such is unknown.

Auxiliary Aids and Services—external aids used to assist people who are hearing-impaired and may include qualified sign language or oral interpreters, written materials, telephone handset amplifiers, assistive listening devices, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunication devices for deaf persons (TDD/TTY), videotext displays or other effective methods of making aurally delivered materials available to individuals with hearing impairments.

Candidate—a person who has successfully passed the required test and/or meets the Civil Service minimum qualifications for the job sought.

Disability—a physical or mental impairment that substantially limits one or more of the major life activities of an individual, including a record of such impairment or being regarded as having such impairment.

Effective Communication—communication with persons with disabilities that is as effective as communication with others. Effective communication is achieved by furnishing appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities an equal opportunity to participate in or benefit from the services, programs or activities of the department.

Equal Employment Opportunity (*EEO*)—the operation of a system of human resources administration which ensures an environment that will provide an equal opportunity for public employment to all segments of society based on individual merit and fitness of applicants without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, political affiliation, disability or age (except where sex, age or physical requirements constitute a bona fide occupational qualification necessary to the proper and efficient operation of the department).

a. The Equal Employment Opportunity Commission (EEOC) is the federal regulatory body for EEO related complaints and charges.

Essential Functions—basic job duties that an employee/applicant must be able to perform, with or without reasonable accommodation.

Ex-Offender—those offenders who are no longer in the physical custody of the DPS and C or no longer under the supervision of the Division of Probation and Parole.

Family and Medical Leave—leave for which an employee may be eligible under the provisions of the Family and Medical Leave Act of 1993.

Major Life Activity—walking, seeing, hearing, breathing, caring for one's self, sitting, standing, lifting, learning, thinking, working and reproduction. This list is illustrative only. The impairment to a major life activity must be long term.

Qualified Individual with a Disability—an individual with a disability (as previously defined herein) who can perform the essential functions of the job with or without reasonable accommodation.

Reasonable Accommodation—a modification or adjustment to a job, service, program or activity, etc., that enables a qualified individual with a disability to have an equal opportunity for participation.

Requestor—a person who requests an accommodation for a disability.

Seniority—a calculation of the number of years of service to the department and used in comparison to another employee's or applicant's number of years of service to the department. Seniority may be used as a factor in employment decisions but may never be used as a substitute for age discrimination.

Visitor—for the purpose of this regulation, includes any non-departmental employee who is authorized to be on institutional grounds (i.e., volunteers, contractors, official guests, etc.).

E. Procedures

1. Coordination of ADA Matters

a. The secretary will establish and designate a headquarters ADA coordinator. This employee is charged with reviewing, recording and monitoring ADA matters for the department and will also advise and make

recommendations to the secretary or designee regarding such matters as appropriate.

b. Each unit head will designate a primary unit ADA coordinator to coordinate unit ADA matters. All units will prominently post the name and telephone number of the unit ADA coordinator.

2. Initiation of Requests for Accommodation

a. A qualified requestor with a known disability of a long term nature should be accommodated where reasonably possible, providing the accommodation does not constitute a danger to the requestor or others and does not create undue hardship on the department or its employees.

NOTE: If a requestor is an employee, applicant or a candidate for employment, the requestor must be able to perform the essential functions of the job with the accommodation.

b. The ADA does not require that a request for accommodation be provided in any particular manner; therefore, the department is charged with having knowledge, or deemed with having knowledge, of the request regardless of the form of the request.

c. If an employee, applicant or candidate for employment informs anyone in his chain of command, human resources personnel or the unit ADA coordinator that he has difficulty performing his job duties or participating in a program or service due to a medical condition, the employee, applicant or candidate for employment is deemed to have made a request for accommodation.

d. If a visitor informs an employee that he cannot participate in the visiting process or any other program or service that the visitor is entitled to participate in, the visitor is deemed to have made a request for accommodation.

e. Once any request for accommodation has been received, either verbally or in writing, the person receiving the request should immediately relay the request to the unit ADA coordinator or designee.

f. An employee, applicant, candidate for employment (including ex-offenders) or visitor may complete a request for accommodation form. The requestor completing the form must forward it to the unit ADA coordinator for processing.

3. Accommodation Review Process

a. Upon receipt of the completed request for accommodation form, the unit ADA coordinator shall seek to determine the following:

i. if the medical condition is of a temporary or long-term nature;

ii. if additional medical information is needed from the requestor's physician or through a second opinion. At this point of the process, the unit ADA coordinator may inform the requestor that his doctor must complete an essential function form to determine the following:

NOTE: The Index of Essential Job Functions contains the Essential Functions Form for each job category used by the Department. The Index is maintained in each unit Human Resources Office.

(a). what specific symptoms and functional limitations are creating barriers;

(b). if the limitations are predictable, subject to change, stable or progressive;

(c). how the limitations impact the requestor's ability to perform the job, and for visitors, how the limitations impact the requestor's ability to fully participate in the activities and services to which the requestor is entitled;

iii. the condition impairs a major life activity.

b. If questions remain, staff may contact the requestor's treating physician directly.

c. The unit ADA coordinator shall ensure that a formal request is submitted on a request for accommodation form and provide assistance as needed.

d. Once the initial information is gathered, a dialogue between the requestor and unit ADA coordinator regarding resolution of the problem shall begin.

e. The discussion may include the following matters.

i. If the problem is of a temporary nature, use of FMLA or sick leave, Workman's Compensation or a temporary halt of some job duties may resolve the problem.

ii. If a second medical opinion is needed, this is to be performed at the department's cost with a physician of the department's choosing.

iii. If the medical condition is deemed to be a qualified disability, this decision shall be documented.

NOTE: Due to the nature of a disability, the disability may progress and require additional modifications at a later date.

iv. The goal is to reach a mutually acceptable accommodation, if possible. The secretary or designee shall make the final decision on what the actual accommodation will be.

f. An exception to the need to make an accommodation includes, but is not limited to the following:

i. not a qualified disability;

ii. threat to one's self or others. Considerations are as follows:

(a). duration of the risk involved;

(b). nature and severity of the potential harm;

(c). likelihood that potential harm will occur;

(d). imminence of the potential harm;

(e). availability of any reasonable accommodation that might reduce or eliminate the risk;

iii. undue hardship. The decision to use this exception may be made by the headquarters ADA coordinator only after consultation with the undersecretary. A written description of the problem with the requested accommodation and the difficulty anticipated by the unit should be sent to the headquarters ADA coordinator. Considerations are as follows:

(a). scope of the accommodation;

(b). cost of the accommodation;

(c). budget of the department;

(d). longevity of the accommodation;

iv. alteration would fundamentally change the nature of the program, service or activity.

4. Decision

a. Consideration should be given on a case-by-case basis.

b. The granting of leave can be an accommodation.

c. Once the decision to accommodate or not is made, the requestor shall be informed in writing of the decision of whether or not an accommodation will be made, the reason for the decision and the accommodation to be made, if applicable, including any specific details concerning the accommodation. The requestor must also be informed of the right to appeal the decision to the headquarters ADA coordinator.

i.For each decision, a copy of the packet of information containing the decision, all information used to reach the decision and all attempts to resolve the request shall be forwarded to the headquarters ADA coordinator. The unit ADA coordinator shall ensure that all requests for accommodation are properly and timely entered into the department's ADA database.

d. The original of the packet of information concerning the request with the decision shall be maintained in a confidential file for three years after the requestor has left the department's employ or notification has been received that a requestor no longer wishes to be afforded visitor status.

5. Appeal

a. The requestor has the right to appeal the unit's decision for the following reasons only:

i. the finding that the medical condition is not a qualifying disability;

ii. the denial of an accommodation; or

iii. the nature of the accommodation.

b. The requestor shall forward the appeal of the unit's decision to the headquarters ADA coordinator.

c. At the discretion of the headquarters ADA coordinator, additional information or medical documentation may be requested.

d. After consultation with the undersecretary, the headquarters ADA coordinator shall issue a written appeal decision to the requestor, a copy of which shall also be sent to the appropriate unit head and unit ADA coordinator.

e. No additional appeal will be accepted as the headquarters ADA coordinator's decision shall be final.

6. Recordkeeping

a. The headquarters ADA coordinator shall maintain records of all requests for accommodation made throughout the department.

b. To ensure uniform and consistent compliance with the provisions of this regulation, the headquarters ADA coordinator shall maintain and track statistics concerning all requests for accommodation from employees, applicants, candidates for employment and visitors and the nature and outcome of the accommodations requested.

c. If a pattern becomes apparent following review of the statistics, the headquarters ADA coordinator will seek to remedy and/or correct any problems noted and report same to the secretary.

7. Essential Job Functions

a. General Requirements

i. Employment candidates must complete an essential functions form at the time of interview for employment and/or return to employment. Employees may be required to complete an up-to-date essential functions form as appropriate and when deemed necessary by the unit head in order to ensure that the fundamental mission of the department is sustained.

ii. The index of essential job functions contains the essential functions form for each job category used by the department. The index is maintained in each unit human resources office.

b. Employee and Unit Specific Requirements. Employees may be required to complete an up-to-date essential functions form under the following conditions (not necessarily all inclusive):

i. exhaustion of sick leave and if applicable, exhaustion of FMLA entitlement;

ii. expressed inability to participate in a mandatory work-related activity (i.e., training) and/or to perform essential job functions; and/or

iii. appearance of the inability to perform essential job functions. When any of the described conditions exist, the unit head will require the employee to provide a new essential functions form and "medical certification" from the employee's health care provider so the employee's status under the ADA can be assessed. The medical certification form must include a prognosis, whether the condition is temporary or permanent, when the condition began, the expected date of return to duty, whether the employee is able to perform the essential functions of the job with or without accommodation and a description of the accommodation needed.

NOTE: In certain situations, a second opinion by an independent third party may be appropriate. This opinion will be at the unit's expense.

8. Conciliation Options for EEO and ADA Concerns

a. Should a requestor feel that he has experienced discrimination in any manner or not be satisfied with the results of the request for accommodation, he may seek conciliation through Corrections Services' grievance process, through the EEOC for employment related complaints and/or the U.S. Department of Justice (USDOJ) for issues not related to employment.

b. Requestors are encouraged to use the internal procedures to address and resolve complaints to the extent possible. Use of these internal procedures does not restrict a requestor from filing with the appropriate federal agency prior to exhaustion of the department's internal process(es).

9. Departmental Conciliation of EEO and ADA Matters

a. The headquarters Human Resources Section shall coordinate the department's response(s) to complaints and charges of discrimination regarding equal employment opportunity matters. Complaints/charges may be addressed through the internal grievance procedure when such a grievance has been filed and heard at the appropriate unit levels.

b. For formal charges generated by the EEOC or the USDOJ, the unit head and the applicable unit's attorney will develop the department's response and conciliation opinion (if applicable.) Any unit receiving a "notice of charge of discrimination" document from the EEOC or similar notice from the USDOJ shall forward the notice to the headquarters legal services upon receipt.

10. Employment Applications of Ex-Offenders

a. All applications for employment received from persons who are ex-offenders will be reviewed by a committee appointed by the secretary. The committee shall be composed of the chief of operations or designee, assistant secretary or designee and the headquarters human resources director or designee. Consideration will be given to the unit head's recommendation, the ex-offender's crime, sentence, institutional record and length of time free from other convictions. The committee's recommendations will then be submitted to the secretary or designee for review with the unit head.

b. Ex-offenders will not be eligible for employment in positions which require an employee to carry a firearm in the performance of duty. This restriction is based on applicable Civil Service job qualifications and state and federal law.

11. Training

a. The department shall provide comprehensive annual training for all departmental personnel regarding this regulation.

b. Additional information pertaining to EEO, ADA and ADEA is available in any human resources office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Corrections Services, LR 26:1308 (June 2000), amended LR 35:2194 (October 2009), LR 42:2191 (December 2016).

James M. LeBlanc
Secretary

1612#017

RULE

Department of Transportation and Development
Office of Management and Finance

Department Relocation of Publicly Owned or Non-Profit Utilities (LAC 70:II.305)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 48:381(C), the Department of Transportation and Development, Office of Management and Finance has adopted rules and regulations pertaining to any future relocation of publicly owned or non-profit utility installations by the Department of Transportation and Development pursuant to R.S. 48:381(C)(2) and amended existing Chapter and Section headings to reflect the substance of the new content included in the Chapter. The rules and regulations set forth the conditions by which the department may contract itself for utility relocations necessary to accommodate a highway project and the procedure by which a utility may qualify for such assistance.

Title70
TRANSPORTATION
Part II. Utilities
Chapter 3. Department Relocation of Publicly Owned or Non-Profit Utilities
§305. Department Relocation of Publicly Owned or Non-Profit Utilities

A. This Section will apply to any and all qualifying utility relocations resulting from projects that receive federal or other required authorization after the effective date of this Section. The rules and regulations set forth in §301 and §303 of this Chapter will continue to apply to any and all qualifying relocations resulting from projects that have received federal or other required authorization prior to the effective date of this Section. This Section is effective as of the date of this publication as a final Rule in the *Louisiana Register.*

B. When a publicly owned or non-profit utility is not able to bear its share of the cost for adjusting its facilities to accommodate a highway project, the department may enter into a contract for the proposed utility relocation work, either as part of the highway project or through a separate public works contract, if all of the following conditions are met:

1. the utility installation is located on a state-owned right-of-way;

2. the utility installation is owned by a public municipality, parish, or special district created by or pursuant to law or a nonprofit water corporation or nonprofit gas district;

3. it is necessary to remove or relocate such installation for the construction, repair, widening, relocation, or improvement of a state or an interstate highway;

4. the utility is financially unable to bear its share of the adjustment expense, as determined pursuant to the provisions of R.S. 48:381(C)(2)(a) and this Section;

5. the owner of the utility installation agrees in writing, prior to the relocation of the utility installation, to allow the department, its contractor, or employees or agents thereof to modify the utility installation as part of the department's construction project; and

6. the owner of the utility installation agrees in writing, prior to the relocation of the utility installation, to accept ownership and maintenance of any utility installations newly constructed or modified as part of the department's construction project, upon final acceptance of such construction project by the department.

C. Procedure

1. The publicly owned or non-profit utility informs the appropriate district utility specialist, in writing, that it is requesting assistance pursuant to this Section.

2. The utility must provide the following information to the department to begin the certification process:

a. a copy of the utility owner's most recently completed audit report, or evidence that an audit has been initiated if no audit has been performed;

b. a copy of the utility owner's unaudited financial statements covering the period of the date of the last audited financial statements to the current date;

c. a copy of the utility owner's budget, including any amendments, for the current fiscal year;

d. a listing of encumbrances that are payable from the utility owner's current year earnings, meaning those items for which the utility owner has incurred an obligation to expend current year earnings, plus 10 percent of the current year's revenue as a reserve; and

e. a signed representation letter prepared on the utility owner's letterhead stating that:

i. the utility owner is familiar with the provisions of R.S. 48:381 and this Section;

ii. the utility owner certifies that the financial statements and other information provided are complete and accurate; and

iii. the utility owner certifies that the financial information is taken from verifiable records and the budget information is based on estimates derived from the financial statements.

3. The appropriate district utility specialist requests that DOTD headquarters personnel, as designated by the secretary, examines the utility's records to determine the utility's eligibility for assistance.

4. The appropriate DOTD headquarters personnel examine the utility's records and inform the appropriate district utility specialist of the utility's eligibility for assistance.

5. If the utility is eligible for assistance, agreements are executed between the owner of the utility and the department as necessary to comply with the terms of this Section and facilitate the utility relocation.

6. If federal aid is anticipated for the project, the Federal Highway Administration is advised that the utility is approved for assistance pursuant to this Section.

7. If the utility owner does not qualify for assistance pursuant to this section, the utility owner may request a second certification review. The department, at its sole discretion, will determine if a second certification review will be granted. The request for the second review should be addressed to the appropriate district utility specialist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Management and Finance, LR 42:2195 (December 2016).

Shawn Wilson, Ph.D.
Secretary

1612#020

RULE

Department of Transportation and Development
Professional Engineering and Land Surveying Board

Re-Examinations (LAC 46:LXI.1315)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Professional Engineering and Land Surveying Board has amended its rules contained in LAC 46:LXI.1315.

This is a technical revision of existing rules under which LAPELS operates. The revision limits applicants to seven examination attempts on certain examinations.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXI. Professional Engineers and Land Surveyors
Chapter 13. Examinations
§1315. Re-Examinations

A. Except as otherwise provided in Subsections B and C, an individual who fails an examination is eligible to apply to retake the examination. A request for re-examination must be submitted in writing prior to the deadline for scheduling of the examination.

B. After an individual has failed a principles and practice of engineering examination, principles and practice of land surveying examination or Louisiana laws of land surveying examination in any and all jurisdictions for the seventh time, he/she is no longer eligible for licensure.

C. After an individual has failed a principles and practice of engineering examination, principles and practice of land surveying examination or Louisiana laws of land surveying examination, he/she may be required to appear before the board, or a committee of the board, for an oral interview/oral examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:353 (November 1976), amended LR 4:516 (December 1978), LR 5:114 (May 1979), LR 7:647 (December 1981), LR 12:692 (October 1986), LR 16:774 (September 1990), LR 19:57 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1031 (July 2001), LR 30:1715 (August 2004), LR 32:1620 (September 2006), LR 35:1909 (September 2009), LR 36:1034 (May 2010), LR 39:2283 (August 2013), LR 42:2196 (December 2016).

Donna D. Sentell
Executive Director

1612#022

RULE

Department of Wildlife and Fisheries
Office of Fisheries
Wildlife and Fisheries Commission

Removal of Abandoned Crab Traps (LAC 76:VII.367)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:332(N), the Wildlife and Fisheries Commission has amended LAC 76:VII.367 to temporarily close a portion of state inside waters to the use of crab traps in order to facilitate the removal of abandoned crab traps in these waters.

The Wildlife and Fisheries Commission has amended the provisions in LAC 76:VII.367 governing the locations of temporary crab trap closures to address problems in portions of state waters resulting from large numbers of abandoned and derelict crab traps (*Louisiana Register*, Volume 30, Number 1; Volume 31, Number 1; Volume 32, Number 2; Volume 33, Number 1; Volume 34, Number 1; Volume 36; Number 1; Volume 38, Number 1; Volume 38, Number 12; Volume 40, Number 1; Volume 41, Number 1; Volume 42, Number 1). The Wildlife and Fisheries Commission amended the provisions to describe a new portion of state waters to be temporarily closed to the use of crab traps for the purpose of conducting a crab trap cleanup.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life
Chapter 3. Saltwater Sport and Commercial Fishery
§367. Removal of Abandoned Crab Traps

A. The use of crab traps shall be prohibited from 12 a.m., Monday, February 20, 2017 through 11:59 p.m. Tuesday, March 7, 2017 within that portion of Jefferson Parish, Lafourche Parish, Orleans Parish, Plaquemines Parish, St. Bernard Parish, St. Charles Parish, St. John the Baptist, St. Tammany Parish, and Tangipahoa Parish, as described below:

1. areas seaward out to the inside/outside shrimp line from a point originating at the intersection of Interstate 10 at the Mississippi/Louisiana state line westward along Interstate 10 to its intersection with Interstate 12. Thence

westward along Interstate 12 to the intersection of Interstate 55; Thence southward along Interstate 55 to its intersection with Interstate 10; thence eastward along Interstate 10 to its intersection with Interstate 310; thence southward along Interstate 310 to its intersection with Louisiana Highway 90; thence westward along Highway 90 to its intersection with Bayou Lafourche; thence southward along Bayou Lafourche to Belle Pass.

B. The use of crab traps shall be prohibited from 12 a.m., Monday, March 6, 2017 through 11:59 p.m. Tuesday, March 21, 2017 within that portion of Acadia Parish, Assumption Parish, Calcasieu Parish, Cameron Parish, Iberia Parish, Jefferson Davis Parish, Lafayette Parish, Lafourche Parish, St. Martin Parish, St. Mary Parish, Terrebonne Parish and Vermilion Parish, and as described below:

1. areas seaward out to the inside/outside shrimp line from a point originating at Belle Pass northward along Bayou Lafourche to its intersection with Louisiana Highway 90; thence westward along Highway 90 to its intersection with Interstate 10; thence westward along Interstate 10 to its intersection with the Texas/Louisiana state line.

C. All crab traps remaining in the closed area during the specified period shall be considered abandoned. These trap removal regulations do not provide authorization for access to private property; authorization to access private property an only be provided by individual landowners. Crab traps may be removed only between one-half hour before sunrise to one-half hour after sunset. Louisiana Department of Wildlife and Fisheries personnel or its designees are authorized to remove these abandoned crab traps within the closed area. No person removing crab traps from the designated closed areas during the closure periods shall possess these traps outside of the closed area. The Wildlife and Fisheries Commission authorizes the secretary of the Department of Wildlife and Fisheries to designate disposal sites.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:332(N).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 30:101 (January 2004), amended LR 31:108 (January 2005), LR 32:266 (February 2006), LR 33:113 (January 2007), LR 34:97 (January 2008), LR 36:77 (January, 2010), LR 38:146 (January, 2012), LR 38:12 (December, 2012), LR 40:96 (January, 2014), LR 41:154 (January, 2015), LR 42:70 (January, 2016), amended by the Department of Wildlife and Fisheries, Office of Fisheries, Wildlife and Fisheries Commission LR 42:2196 (December 2016).

Bart Yakupzack
Chairman

1612#016

RULE

Department of Health
Board of Medical Examiners

Medications Used in the Treatment of Obesity
(LAC 46:XLV.6905)

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 and R.S. 37:1285(B), the board has amended its rules governing physician prescription, dispensation and administration of medications used in the treatment of obesity, LAC 46:LXV.6905. The amendment is set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice
Chapter 69. Prescription, Dispensation, and Administration of Medications
Subchapter A. Medications Used in the Treatment of Obesity
§6905. Prohibitions

A. - B. …

C. When a non-controlled drug has been approved in the treatment of exogenous obesity by the FDA, the prohibitions in Subsection A of this Section shall not prevent the individual components of such drug from being separately prescribed, dispensed or administered for the treatment of obesity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 37:1270(B)(6), and 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:744 (July 1992), amended by the Department of Health, Board of Medical Examiners, LR 42:2197 (December 2016).

Eric D. Torres
Executive Director

1612#066

RULE

Department of Health
Board of Medical Examiners

Podiatry Licensure and Certification (LAC 46:XLV.1307)

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 and the Louisiana Podiatric Practice Act, R.S. 37:611-628, the board has amended its rules on licensure and certification of podiatrists to add a new Subsection (§1307.G) and renumber the previous Subsection, §1307.G, as §1307.H. The amendments are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 13. Podiatrists
Subchapter B. Requirements and Qualifications for Licensure, Scope of Practice
§1307. Qualifications for Certification for Advanced Practice; Scope of Practice

A. - F.3. ...

G. Patient history and examination. Provided a history and physical (H and P) examination has been performed by a Louisiana licensed physician or duly authorized advanced practice registered nurse within 30 days of a podiatric

surgical procedure, a podiatrist certified for advanced practice under this Section may perform an update to the H and P for the purpose of pre-operative evaluation provided the:

1. podiatric surgical procedure is performed in a hospital or ambulatory surgical center (ASC) licensed by the state;

2. podiatrist's credentials have been approved by the hospital or ASC medical staff and the podiatrist has been authorized to perform the procedure in accordance with the hospital or ASC's prescribed policies and procedures; and

3. updated examination and history are directly related to the podiatry procedure the podiatrist is authorized to perform under the scope of his or her license.

H. The burden of satisfying the board as to the qualifications and eligibility of the applicant for certification of practice prerogatives shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:241 (February 2009), amended by the Department of Health, Board of Medical Examiners, LR 42:2197 (December 2016).

Eric D. Torres
Executive Director

1612#067

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of the Commissioner

Placing of Advertising or Sponsorship Signs
on Department Assets (LAC 7:V.3101)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Agriculture and Forestry ("department") intends to enact rules regarding the placing of advertising signs on department owned property. R.S. 3:6, enacted by Act 70 of the 2016 Regular Session of the Louisiana Legislature, provides that the department may "authorize the placement, erection, and maintenance of advertising and sponsorship signs on immovable property, improvements on immovable property, vehicles, vessels, airplanes, and assets of the department." R.S. 3:6 further authorizes the department to "establish appropriate and reasonable fees and promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Section."

Title 7
AGRICULTURE AND ANIMALS
Part V. Advertising, Marketing and Processing
Chapter 31. Placing of Advertising or Sponsorship Signs on Department Assets
§3101. Advertising or Sponsorship Signs on Department Assets

A. Purpose

1. The purpose of this Rule is to establish procedures and guidelines within the department for allowing certain limited types of advertising and sponsorship signs on high-visibility assets owned or controlled by the department to raise revenue to defray costs of departmental services.

2. The display of advertising or sponsorship signs on departmental assets shall not constitute an endorsement by the department of any of the products, services or messages of the advertiser or sponsor.

3. Advertisement or sponsorship signs may be placed on immovable property, improvements on immovable property, vehicles, vessels, airplanes, and assets of the department, including but not limited to websites, pamphlets, brochures, and other outreach, communications, and educational materials.

B. Solicitation, Selection and Contracting

1. The department may issue solicitations to secure contracts to determine the market potential for advertisements or sponsorships or to place advertisements or sponsorship signs on department assets.

2. The solicitation responses will be reviewed by a three person committee appointed by the commissioner, and the most suitable proposals, as determined by the committee, may be selected.

3. The committee shall consider the following criteria before entering into a sponsorship agreement:

a. whether the sponsorship is consistent with the goals, objectives, and mission of the department and the current priorities that support these goals, objectives, and mission; and

b. the importance of the sponsorship to the mission of the department; and

c. the extent and prominence of the public display of sponsorship; and

d. aesthetic characteristics of the public display of sponsorship; and

e. the level of support provided by the sponsor; and

f. the cooperation necessary from the department to implement the sponsorship; and

g. any inconsistencies between the department's policies and the known policies of the potential sponsor; and

h. other factors that might undermine public confidence in the department's impartiality or interfere with the efficient delivery of department services or operations, including, but not limited to, current or potential conflicts of interest, or perception of a conflict of interest, between the sponsor and department employees, officials, or affiliates; and the potential for the sponsorship to tarnish the state's standing among its citizens or otherwise impair the ability of the state to govern its citizens.

4. The committee has the discretion to make reasonable recommendations to the commissioner concerning the types of advertising or sponsorship signs that may be displayed utilizing the criteria established herein.

5. The commissioner shall have final discretion regarding which recommendations and solicitations are selected. Selections shall be made for those advertisements or sponsorships that do not impact or infringe upon the image or reputation of the department.

6. The amount of the approved financial or in-kind support is at the discretion of the department.

7. The department may limit the number and type of assets available for advertising or sponsorship displays.

8. The department may limit the authorization to advertise or place sponsorship signs among the department's divisions, sections, programs and initiatives.

9. The department may limit the terms and conditions of the contract with an advertiser or sponsor.

10. Sponsorship agreements shall include a termination clause giving the department the right to tend such agreement at any time based on any of the following:

a. safety concerns;

b. a determination that the sponsorship agreement or acknowledgement is not in the public interest; or

c. for the convenience of the department.

C. Guidelines for Content for Advertising and Sponsorship Signs

1. Only commercial advertising or sponsorships will be accepted. The advertisement or sponsorship content shall only include content that promotes or informs a commercial transaction.

2. No content promoting illegal activity or obscene, vulgar or offensive conduct shall be allowed.

3. No content that demeans or disparages individuals or groups shall be allowed.

4. No political or religious advertising or sponsorships shall be allowed.

5. No advertising or sponsorship signs of adult oriented products shall be allowed.

6. Advertising or sponsorship signs of firearms and other means authorized in the lawful taking of game in Louisiana may be allowed.

7. The advertising or sponsorships should not be so controversial that it can promote vandalism of advertising or sponsorship materials and associated departmental property.

D. Guidelines for Placement of Advertising or Sponsorship Signs on Assets

1. Advertising or sponsorship signs shall not be placed in a manner that could interfere or confuse as to the identification of department's ownership or control of the asset.

2. On vehicles and other assets of the department traditionally utilized in the transport of personnel or equipment, advertising or sponsorships signs may be placed on the inside or the outside of equipment. However, the signage shall not be erected in such a manner that it impedes the asset's safe utilization and operation.

3. For advertising or sponsorship signs which require a power source, such as electronics or LED lighting, the advertiser or sponsor will be required by the department to submit and maintain detailed plans and provisions. The use of the powered advertising or sponsorship devices shall not have any adverse effect on the safety and functionality of the asset. If the safety and functionality of the asset is compromised after installation, the signage shall be removed.

4. The department will maintain full ownership of any sponsored product, event and asset.

AUTHORITY NOTE: Promulgated in accordance R.S. 3:6

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 43:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;

2. the authority and rights of persons 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 the function as contained in the proposed Rule.

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. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

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 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, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Lindsey Hunter, Legal Division, 5825 Florida Blvd., Suite 2000, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on January 30, 2016. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Placing of Advertising or Sponsorship Signs on Department Assets

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will result in a marginal expenditure increase for the LA Dept. of Agriculture & Forestry (LDAF). The expenditure increase is associated with implementing the proposed rules, which have associated administrative costs. However, the LDAF indicates that it will absorb all administrative costs within its current appropriation and will carry out any additional duties associated with the proposed rules using existing personnel. The proposed rule will not result in any costs or savings to local governmental units.

The proposed rules outline policies for solicitation, selection, and contracting of private entities to advertise on assets owned by the LDAF. Furthermore, the proposed rules include guidelines for the content and placement of advertisements and sponsorships of LDAF assets.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will increase self-generated revenue collections for the LDAF by an indeterminable amount. Included in the proposed rules is a provision allowing the LDAF discretion in approving financial or in-kind support during the solicitation process for entities wishing to advertise on or sponsor assets owned by the department. LDAF staff indicates that the department will use this discretion to set rates for advertisements and sponsorships, and that rates will vary

depending upon the asset type and visibility. Because of the aforementioned factors, the revenue increase is indeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Entities selected to advertise on or sponsor LDAF assets will have to pay to advertise on or sponsor department-owned property. The amount entities will pay to sponsor and/or advertise on LDAF-owned assets is indeterminable, as rates will be set at the department's discretion during the solicitation process and will be dependent upon the asset type and the asset's visibility. Because of the aforementioned factors, costs to entities wishing to advertise on LDAF assets are indeterminable, but will be equal to any revenue gained by the department as outlined in Part II.

The proposed rules provide an economic benefit for entities wishing to advertise on or sponsor LDAF assets, as it may increase visibility for these entities and increase their business activity. However, the exact effect of entities advertising on LDAF-owned assets cannot be determined.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule may increase business activity for entities choosing to advertise on or sponsor LDAF assets relative to entities who do not advertise on LDAF assets, though the exact effect of the additional advertisement for entities participating in the LDAF program is unknown. However, the aggregate amount of business activity statewide will not likely be affected.

The proposed rule will not affect employment.

Dane Morgan Assistant Commissioner 1612#033	Evan Brasseaux Staff Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development
Office of Business Development

General Provisions—Meetings of the Board (LAC 13:I.107)

These rules are being published in the *Louisiana Register* as required by R.S. 51:921 et seq. The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 36:104, hereby proposes to amend and reenact Section 107 of the general provisions of the Board of Commerce and Industry, LAC 13:I.Chapter 1, to require broadcast of board meetings via Livestream where feasible as well as to require that the summary agenda and summary tables for all regular board meetings be published at least one week prior to the board meeting, but no later than 24 hours after the board packets were sent to board members.

Title 13
ECONOMIC DEVELOPMENT
Part I. Financial Incentive Programs
Chapter 1. General Provisions
Subchapter A. General Rules
§107. Meetings of the Board

A. Open Meeting. All meetings of the board shall be subject to the Open Meetings Law as provided in R.S. 42:1 et seq.

B. Annual Meeting. The year of the board shall begin February 1 each year. The meeting following the beginning of the year, the board shall elect its officers who shall serve until the next annual meeting or until their successors are elected.

C. Regular Meetings. The board may meet as often as it deems necessary provided that there shall be not less than four regular meetings each year. The summary agenda and the summary tables on all applications on the agenda for the regular meetings of the board shall be posted to the website at least one week prior to the meeting but no later than 24 hours from when the board packet is provided to the board when feasible.

D. Special Meetings. A meeting may be called by the chairperson or by joint call of at least three of its members, to be held at the principal office of the board, or at such other place as may be fixed by the board.

E. Quorum. Excluding any vacancies on the board, a majority of the members of the board shall constitute a quorum. In the absence of a quorum, a majority of the members present at the time and place of any meeting may adjourn such meeting from time-to-time, with notice given in accordance with the Open Meeting Law.

F. Parliamentary Procedure. Unless otherwise provided by law to the contrary, all meetings of the board shall be conducted in accordance with *Robert's Rules of Order*.

G. Meeting Place. The board, its committees and sub-committees, shall hold its meetings at the principal office of the board, or at such other place as may be fixed by the board. The Board of Commerce and Industry shall have its meetings and the meetings of its subcommittees broadcast via Livestream when feasible, except for those meetings or discussions which are protected from public disclosure by Louisiana confidentiality laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:921 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Business Division, LR 26:2242 (October 2000), amended by the Department of Economic Development, Office of Business Development, LR 43:

Family Impact Statement

The proposed Rule changes have no impact on family formation, stability or autonomy, as described in R.S. 49.972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed rulemaking should have no provider impact as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments to Danielle Clapinski, Louisiana Department of Economic Development, P.O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to Capitol Annex Building, Office of the Secretary, Second Floor, 1051 North Third Street, Baton Rouge, LA, 70802. Comments may also be sent by email to danielle.clapinski@la.gov. All comments must be received no later than 5 p.m., on January 25, 2017.

Public Hearing

A public hearing to receive comments on the Notice of Intent will be held on January 26, 2017 at 10 a.m. at the Department of Economic Development, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: General Provisions
Meetings of the Board

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will result in a one-time expenditure estimated to total $100,000 for the LA Department of Economic Development (DED) and ongoing annual maintenance costs thereafter. The proposed rule changes require all meetings of the Board of Commerce and Industry (Board of C and I) to be broadcast on the internet when feasible, except meetings which are protected from public disclosure by LA confidentiality laws. Presently the Board of C and I holds a majority of its meetings in the LaBelle Room of the LaSalle Building, which does not currently have the capability to broadcast meetings of the Board of C and I. The estimated cost to outfit the LaBelle Room for live internet broadcasts is approximately $100,000. This estimate is based upon the actual cost to equip the LA Purchase Room at the Claiborne Building with the same capabilities. This expense is a one-time expense but the DED will likely incur annual maintenance costs for the upkeep of the system in subsequent fiscal years.

The proposed rule changes require the summary agenda and summary tables of applications for regular meetings to be posted on the DED website at least one week prior to the Board of C and I meetings but not less than 24 hours after the meeting packets have been sent out to members. There are no costs associated with posting the summary agenda and summary tables of applications for the regular meetings of the Board of C and I to the DED's website.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will not result in any costs or economic benefits for any non-governmental groups or persons.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Anne G. Villa
Undersecretary
1612#019

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor
Division of Administration
Tax Commission

Ad Valorem Taxation
(LAC 61:V.101, 111, 121, 203, 213, 303, 304, 703, 901, 907, 1103, 1307, 1503, 1701, 1703, 2503, 3101, 3103, 3105, 3106, 3107 and 3501)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission intends to adopt, amend and/or repeal sections of the Louisiana Tax Commission real/personal property rules and regulations for use in the 2017 (2018 Orleans Parish) tax year.

The full text of this proposed Rule may be viewed in the Emergency Rule section of this issue of the *Louisiana Register*.

Family Impact Statement

As required by Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the Louisiana Tax Commission hereby submits the following Family Impact Statement.

1. The effect on the stability of the family. Implementation of these proposed rules will have no effect on the stability of the family.

2. The effect on the authority and rights of parent regarding the education and supervision of their children. Implementation of these proposed rules will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. Implementation of these proposed rules will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of these proposed rules will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of these proposed rules will have no effect on the behavior and responsibility of children.

6. The ability of the family or a local government to perform the function as contained in these proposed rules. Implementation of these proposed rules will have no effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed rules until 4 p.m., January 9, 2017, at the following address: Charles Abels, Tax Commission Administrator, Louisiana Tax Commission, P.O. Box 66788, Baton Rouge, LA 70896.

Public Hearing

A public hearing on this proposed Rule will be scheduled for Wednesday, January 25, 2017, at 10 a.m., at the Louisiana State Capitol, 900 North Third St., Baton Rouge, LA 70802.

Lawrence E. Chehardy
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Ad Valorem Taxation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules reflect annual changes in valuation procedures for taxation purposes based on the most recent available data. There are no estimated costs or savings associated with the proposed rules for state governmental units. An impact to local governmental workload resulting in an additional administrative costs will occur, but is expected to be minimal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will result in a decrease of approximately $32,760,000 in revenue collections for local governments based upon revisions to valuation tables decreasing real and personal property assessments by aproximately 3.5% in total. However, these revisions will not necessarily affect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset pursuant to millage adjustment provisions of Article VII, Section 23 of the state Constitution.

On average, these revisions will generally decrease certain 2017 real and personal property assessments for property of similar age and condition in comparison with the latest available equivalent assessments. However, the assessments of certain property types will increase compared to prior year. Composite multiplier tables for assessment of most personal property will decrease by an estimated 3%. Specific valuation tables for assessment of pipelines will remain the same (Onshore increase by 1% and Offshore decrease by 1%). Oil & gas wells will decrease by an estimated 6% in all regions. Drilling rigs will decrease by an estimated 17% (Land rigs -44.5%, Jack-Ups +2%, Semisubmersible Rigs +2% and Well Service Land Only Rigs -27.5%). The net effect determined by averaging these revisions is estimated to decrease assessments by 3.5% and estimated local tax collections by $32,760,000 in FY 17/18 on the basis of the existing statewide average millage. However, these revisions will not necessarily affect revenue collections of local government units as any net increase or decrease in assessed valuations are authorized to be offset by millage adjustment provisions of Article VII, Section 23 of the state Constitution.

There is no impact to revenue collections of state governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The effects of these new rules on assessments of individual items of equivalent real and personal property will generally be lower in the aggregate in 2017 compared to the last year of actual data. Specific assessments of real and personal property will depend on the age and condition of the property subject to assessment. Taxpayers will be impacted based on the changes to the valuation guidelines for assessments as listed in Section II. The magnitude will depend on the taxable property for which they are liable. Regardless of the guidelines adopted by the Tax Commission, all taxpayers continue to have the right to appeal the assessments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment cannot be quantified. In as much as the proposed changes in assessments are relatively small and there will no longer be any charges for the updates, any aggregate impact on competition and employment statewide will likely be minimal.

Lawrence E. Chehardy
Chairman
1612#023

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Applied Behavior Analysis-Based Therapy Services Reimbursement Rate Realignment (LAC 50:XV.703)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:XV.703 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 adopted provisions to establish coverage and reimbursement for applied behavior analysis (ABA)-based therapy services under the Medicaid State Plan in order to ensure continued, long-lasting access to ABA-based therapy services for Chisholm class members and other children under the age of 21 (*Louisiana Register*, Volume 41, Number 5).

The Department of Health, Bureau of Health Services Financing, promulgated an Emergency Rule which amended the reimbursement methodology governing ABA-based therapy services in order to realign the reimbursement rates to be consistent with the commercial rates for these services which will be in effect statewide in January 2017 (*Louisiana Register*, Volume 42, Number 12). This proposed Rule is being promulgated to continue the provisions of the January 1, 2017 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 1. Applied Behavior Analysis-Based Therapy Services
Chapter 7. Reimbursements
§703. Reimbursement Methodology

A. Reimbursement for ABA-based therapy services shall be based upon a percentage of the commercial rates for ABA-based therapy services in the state of Louisiana.

B. Effective for dates of service on or after January 1, 2017, ABA rates and codes in effect on December 31, 2016 will be realigned to be consistent with the commercial rates in the state related to these codes which go into effect statewide on January 1, 2017.

1. Prior authorizations already in effect on the promulgation date of these provisions will be honored. Those services shall be paid at the rate in effect on December 31, 2016.

2. New prior authorizations with a begin date after the promulgation date of these provisions must use the codes in effect prior to January 1, 2017 for those services provided and to be delivered prior to January 1, 2017, and for any services provided after January 1, 2017, the codes in effect on January 1, 2017 must be used.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:928 (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 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, but may increase direct or indirect cost to the provider to provide the same level of service due to the realignment with commercial rates which may reduce Medicaid payments for these services. 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 reduction in payments 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. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, January 26, 2017 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.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Applied Behavior Analysis-Based Therapy Services—Reimbursement Rate Realignment

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 $1,362,130 for FY 16-17, $3,449,760 for FY 17-18 and $8,812,604 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 63.34 percent in FY 17-18 and 18-19.

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 $2,247,259 for FY 16-17, $6,046,775 for FY 17-18 and $15,226,140 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 63.34 percent in FY 17-18 and 18-19.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the January 1, 2017 Emergency Rule which amended the reimbursement methodology governing Applied Behavior Analysis (ABA)-Based therapy services in order to realign the reimbursement rates to be consistent with the commercial rates for these services which will be in effect statewide in January 2017. The realignment is expected to reduce Medicaid payments for ABA-Based therapy services. It is anticipated that implementation of this proposed rule will reduce program expenditures in the Medicaid program for ABA-based therapy services by approximately $3,609,821 for FY 16-17, $9,546,535 for FY 17-18 and $24,038,744 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 reimbursement methodology may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Jen Steele	Evan Brasseaux
Medicaid Director	Staff Director
1612#055	Legislative Fiscal Office

NOTICE OF INTENT

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 proposes to amend LAC 50:V.2501 and adopt 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 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 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 Medicaid 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 the 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 of the June 20, 2016 Emergency Rule to revise the reimbursement schedule for the payments (*Louisiana Register*, Volume 42, Number 10). The department amended 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 (*Louisiana Register*, Volume 42, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 20, 2016 Emergency Rule.

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 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:65 (January 2010), LR 36:512 (March 2010), LR 40:790 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

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 43:

§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.

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.

1. A pro rata decrease necessitated by conditions specified in §2501.B.1 for hospitals described in this Section will be calculated based on the ratio determined by dividing the hospital's uncompensated costs by the uncompensated costs for all qualifying hospitals in this section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment. Additional payments shall only be made after finalization of the CMS mandated DSH audit for the state fiscal year. Payments shall be limited to the aggregate amount recouped from the qualifying hospitals in this section based on these reported audit results. If the hospitals' aggregate amount of underpayments reported per the audit results exceeds the aggregate amount overpaid, the payment redistribution to underpaid shall be paid on a pro rata basis calculated using each hospital's amount underpaid divided by the sum of underpayments for all hospitals in this section.

AUTHORITY NOTE: 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 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, 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. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, January 26, 2017 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.

Rebekah E Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Disproportionate Share Hospital Payments—Louisiana Low-Income Academic Hospitals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that the implementation of this proposed rule will result in estimated state general fund programmatic costs of $203,837,172 for FY 16-17, $198,003,470 for FY 17-18 and $198,003,470 for FY 18-19. It is anticipated that $1,080 ($540 SGF and $540 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 63.34 percent in FY 17-18 and 18-19.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that federal revenue collections will increase by approximately $336,271,572 for FY 16-17, $342,104,194 for FY 17-18 and $342,104,194 for FY 18-19. It is anticipated that $540 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 63.34 percent in FY 17-18 and 18-19.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule continues the provisions of the October 20, 2016 Emergency Rule which amended the provisions governing disproportionate share hospital (DSH) payments in order to establish payments to Louisiana low-income academic hospitals (5 hospitals), and revise the DSH payment methodology. It is anticipated that implementation of this proposed rule will increase programmatic expenditures for DSH payments by approximately $540,107,664 for FY 16-17, $540,107,664 for FY 17-18 and $540,107,664 for FY 18-19; however, the actual expenditures associated with this proposed rule are already accounted for in the Disproportionate Share Hospitals payment pool.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1612#056

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Home and Community-Based Services Providers
Licensing Standards
(LAC 48:I.Chapters 50 and 51)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapters 50 and 51 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2120.2. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated a Rule which amended the provisions governing the licensing standards for home and community-based services (HCBS) providers to clarify these provisions and to include licensing provisions for monitored in-home caregiving services (*Louisiana Register*, Volume 41, Number 12).

The Department of Health, Bureau of Services Financing has now determined that it is necessary to amend the provisions governing the licensing standards for HCBS providers in order to further clarify and correct the formatting of these provisions to assure that these provisions are promulgated in a clear and concise manner in the *Louisiana Administrative Code*.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 50. Home and Community-Based Services Providers Licensing Standards
Subchapter A. General Provisions
§5001. Introduction

A. Pursuant to R.S. 40:2120.2, the Department of Health (LDH) has established the minimum licensing standards for home and community-based services (HCBS) providers. These licensing provisions contain the core requirements for HCBS providers as well as the module-specific requirements, depending upon the services rendered by the HCBS provider. These regulations are separate and apart from Medicaid standards of participation or any other requirements established by the Medicaid Program for reimbursement purposes.

B. - C.8. ...

D. The following entities shall be exempt from the licensure requirements for HCBS providers:

1. - 1.a.…

b. provides sitter services;

c. ...

d. provides home modifications; or

e. provides personal emergency response system/assistive technology;

2. - 4. ...

5. any person who is employed as part of a departmentally authorized self-direction program;

a. ...

6. any individual direct service worker providing respite services pursuant to a contract with the Statewide Management Organization (SMO) in the Louisiana Behavioral Health Partnership; and

7. any agency that provides residential orientation and adjustment programs for blind persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:63 (January 2012), amended LR 38:1410 (June 2012), LR 40:1007 (May 2014), LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5003. 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).

* * *

Assistance with Activities of Daily Living—services that provide assistance with activities of daily living. Such assistance may be the actual performance of the tasks for the individual, hands-on assist with the performance of the tasks, or supervision and prompting to allow the individual to self-perform such tasks.

Branch—an office from which in-home services such as personal care attendant (PCA), supervised independent living (SIL) and respite are provided within the same LDH region served by the parent agency. The branch office shares administration and supervision.

Cessation of Business—provider is non-operational and/or has stopped offering or providing services to the community.

* * *

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

DHH Region—Repealed.

* * *

Employed—performance of a job or task for compensation, such as wages or a salary. An employed person may be one who is contracted or one who is hired for an on staff position.

* * *

Geographic Location—the LDH region in which the primary business location of the provider agency operates from.

Health Standards Section—the licensing and certification section of the 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.

LDH Region—the geographic administrative regions designated by the Department of Health.

Line of Credit—a credit arrangement with a federally insured, licensed lending institution which is established to assure that the provider has available funds as needed to continue the operations of the agency and the provision of services to clients. The line of credit shall be issued to the licensed entity and shall be specific to the geographic location shown on the license. For purposes of HCBS licensure, the line of credit shall not be a loan, credit card or a bank balance.

Mental Abuse—includes, but is not limited to abuse that is facilitated or caused by taking or using photographs or recordings in any manner that would demean or humiliate a client using any type of equipment (e.g., cameras, smart phones, and other electronic devices) and/or keeping or distributing them through multimedia messages or on social media sites.

1. Mental abuse may occur through either verbal or nonverbal conduct which causes or has the potential to cause the client to experience humiliation, intimidation, fear, shame, agitation, or degradation, regardless of whether the client provided consent and regardless of the client's cognitive status. This may include, but is not limited to:

a. photographs and recordings of clients that contain nudity;

b. sexual and intimate relations;

c. bathing, showering or toileting;

d. providing perineal care such as after an incontinence episode;

e agitating a client to solicit a response;

f. derogatory statements directed to the resident;

g. showing a body part without the client's face, whether it is the chest, limbs or back;

h. labeling a client's pictures and/or providing comments in a demeaning manner;

i. directing a client to use inappropriate language; and/or

j. showing a client in a compromised position.

Monitored In-Home Caregiving—services provided by a principal caregiver to a client who lives in a private unlicensed residence. The principal caregiver shall reside with the client, and shall be contracted by the licensed HCBS provider having a MIHC service module.

Non-Operational—the HCBS provider location is not open for business operation on designated days and hours as stated on the licensing application and business location signage.

* * *

Respite Care—an intermittent service designed to provide temporary relief to unpaid, informal caregivers of the elderly and/or persons with disabilities.

Satellite—an alternate location from which center-based respite or adult day care services are provided within the same LDH region served by the parent agency. The satellite office shares administration and supervision.

Service Area—the LDH administrative region in which the provider's geographic business location is located and for which the license is issued.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:64 (January 2012), amended LR 40:1007 (May 2014), LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5005. Licensure Requirements

A. All HCBS providers shall be licensed by the Department of Health. It shall be unlawful to operate as a home and community-based service provider without a license issued by the department. LDH is the only licensing authority for HCBS providers in Louisiana.

B. An HCBS license shall:

1. - 3. ...

4. enable the provider to render delineated home and community-based services within a LDH region;

5. - 8. ...

C. An HCBS provider shall provide only those home and community-based services or modules:

1. ...

2. only to clients residing in the provider's designated service area, LDH region, or at the provider's licensed location.

D. An HCBS provider may apply for a waiver from the Health Standards Section (HSS) to provide services to a client residing outside of the provider's designated service area or LDH region only under the following conditions.

1. A waiver may be granted by the department if there is no other HCBS provider in the client's service area or LDH region that is licensed and that has the capacity to provide the required services to the client, or for other good cause shown by the HCBS provider and client.

2. The provider shall submit a written waiver request to HSS prior to providing services to the client residing outside of the designated service area or LDH region.

D.3. - E. ...

1. Each HCBS provider shall have a business location which shall not be located in an occupied personal residence and shall be in accordance with the provisions of §5027 and §5031 of this Chapter.

a. The business location shall be part of the licensed location of the HCBS provider and shall be in the LDH region for which the license is issued.

b. The business location shall have at least one employee, either contracted or staff, on duty at the business location during the days and hours of operation as stated on the licensing application and business location signage.

c. ...

2. The ADC shall be open at least five hours on days of operation. Center-based respite facilities shall have the capacity to provide 24-hour services.

3. There shall be a sufficient number of trained direct care staff and professional services staff, either employed or contracted, available to be assigned to provide services to persons in their homes as per the plan of care. ADC services and center-based respite services should be sufficiently staffed during the facility's hours of operation.

E.4. - G. ...

H. If applicable,each HCBS provider shall obtain facility need review approval prior to initial licensing.

1. If an existing licensed HCBS provider, who is not currently providing PCA, respite, MIHC or SIL services wants to begin providing these services, the provider shall be required to apply for facility need review approval for each of the requested services.

H.2. - J.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:65 (January 2012), amended LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5007. Initial Licensure Application Process

A. ...

B. The initial licensing application packet shall include:

1. - 2. ...

3. a copy of the on-site inspection report for the adult day care module and the center-based respite module with approval for occupancy by the Office of the State Fire Marshal;

4. ...

5. a copy of a statewide criminal background check, conducted by the Louisiana State Police, or its authorized agent, including sex offender registry status, on all owners and administrators;

a. each owner shall be at least aged 18 years;

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 that is:

i. current at the time of submission of the application for licensure; and

ii. issued to/in the name of the applicant at the geographic location shown on the application for licensure;

b. general and professional liability insurance in the amount of at least $300,000 that is current and in effect at the time of license application; and

c. worker's compensation insurance that is current and in effect at the time of license application;

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to §5007.B.6.a-c and any certificates of insurance issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

7. a completed disclosure of ownership form which includes any controlling interest or ownership in any other licensed agencies;

8. - 10. ...

C. A person convicted of one or more of the following felonies is prohibited from being the owner or the administrator of an HCBS provider agency. For purposes of these provisions, the licensing application shall be rejected by the department for any felony conviction relating to:

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

2. If an initial licensing application is closed, an applicant who is still interested in becoming an HCBS provider shall submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process, subject to any facility need review approval.

E. Applicants for HCBS licensure shall be required to either attend a mandatory HCBS provider training class or complete the LDH online provider training when a completed initial licensing application packet has been received by the department.

F. Upon completion of the mandatory HCBS provider training class and written notification of satisfactory class completion from the department or upon submission of attestation of satisfactory completion of the LDH online provider training, an HCBS applicant shall be required to admit one client and contact the HSS field office to schedule an initial licensing survey.

1. Prior to scheduling the initial survey, applicants shall be:

a. - c. ...

2. If the applicant has not admitted one client or contacted the HSS field office to schedule an initial survey within 30 days of receipt of the written notification from the department, the application will be closed. If an applicant is still interested in becoming an HCBS provider, a new initial licensing packet with a new initial licensing fee shall be submitted to the department to start the initial licensing process, subject to any facility need review approval.

G. Applicants shall be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the HCBS provider will be issued an initial license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:66 (January 2012), amended LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5009. Initial Licensing Surveys

A. - D.2. ...

E. The initial licensing survey of an HCBS provider shall be an announced survey. Follow-up surveys to the initial licensing survey are unannounced surveys.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:66 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5011. Types of Licenses and Expiration Dates

A. - A.3. ...

B. The department, in its sole discretion, may issue a provisional license to an existing licensed HCBS provider for a period not to exceed six months. The department will consider the following circumstances in making a determination to issue a provisional license:

1. compliance history of the provider to include areas of deficiencies cited;

2. the nature and severity of any substantiated complaints;

a. Repealed.

3. - 5. ...

C. When the department issues a provisional license to an existing licensed HCBS provider, the provider shall submit a plan of correction to LDH for approval, and the provider shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct a follow-up survey, either on-site or by desk review, of the HCBS provider prior to the expiration of the provisional license.

C.1. - D.3. ...

E. The renewal of a license does not in any manner affect any sanction, civil fine or other action imposed by the department against the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:67 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5012. Change in License by Addition or Deletion of a Service Module or Modules from the HCBS License

A. Addition of a Service Module or Modules to existing HCBS License

1. An HCBS provider with an active HCBS license, current and in good standing, may submit a request to add a service module or modules. The following information shall be submitted for consideration of this request:

a. a completed HCBS license application which has "Add a Service" clearly marked;

b. a facility need review approval letter, if seeking to add the PCA, SIL, MIHC, or respite service modules; and

c. applicable fee for issuance of the new HCBS license.

B. Deletion of a Service Module or Modules to existing HCBS License

1. An HCBS provider with an active HCBS license may submit a request to delete a service module or modules. The following information shall be submitted for consideration of this request:

a. a completed HCBS license application which has "Delete a Service" clearly marked; and

b. applicable fee for issuance of the new HCBS license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§5013. Changes in Licensee Information, Location, or Key Personnel

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

D. If the HCBS provider changes its name without a change in ownership, the HCBS provider shall report such change to the department in writing five days prior to the change. The change in the HCBS provider name requires a change in the HCBS provider license. Payment of the applicable fee is required to re-issue the license.

1. - 2. Repealed.

E. Any request for a duplicate license shall be accompanied by the applicable fee.

F. If the HCBS provider changes the physical address of its geographic location without a change in ownership, the HCBS provider shall report such change to LDH in writing

at least five days prior to the change. Because the license of an HCBS provider is valid only for the geographic location of that provider, and is not transferrable or assignable, the provider shall submit a new licensing application.

1. An on-site survey may be required prior to the issuance of the new license.

2. The change in the HCBS provider's physical address results in a new license renewal anniversary date and an additional full licensing fee shall be paid.

G. - G.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:68 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5014. Change of Ownership of an HCBS Provider

A. The license of an HCBS provider is not transferable or assignable and cannot be sold.

B. A change of ownership (CHOW) of the HCBS provider shall not be submitted at time of the annual renewal of the provider's license.

C. Before an initial license can be issued to the new owner, all licensing application requirements shall be:

1. completed by the applicant in accordance with the provisions of §5007; and

2. submitted to the department for approval.

D. The applicant shall submit the following licensing requirements to the department:

1. the completed HCBS license application and non-refundable fee;

2. disclosure of ownership documentation;

3. proof of financial viability to include:

a. a line of credit issued from a federally insured, licensed lending institution in the amount of at least $50,000 that is current at the time of the application for licensure and is issued to/in the name of the applicant at the geographic location shown on the application for licensure;

b. general and professional liability insurance of at least $300,000 that is current and in effect at the time of application for licensure; and

c. worker's compensation insurance that is current and in effect at the time of application for licensure.

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to §5014.D.3.a-c and any certificates of insurance issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

4. If center based services such as adult day care or center based respite are also being acquired in the change of ownership, the prospective new owner shall be required to submit approvals for occupancy from OPH and the State Fire Marshal. Such approvals shall be issued under the name of the center as given by the new owner.

E. An HCBS provider may not undergo a CHOW if any of the following conditions exist:

1. licensure is provisional, under revocation or denial of renewal;

2. is in a settlement agreement with the department;

3. has been excluded from participation from the Medicaid program;

4. has ceased to operate and does not meet operational requirements to hold a license as defined by §5031, Business Location and in accordance with §5026, Cessation of Business.

F. The department may deny approval of the CHOW for any of the reasons a license may be revoked or denied renewal pursuant to these licensing provisions.

G. If the CHOW results in a change of geographic address, an on-site survey may be required prior to issuance of the new license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§5015. Renewal of License

A. The HCBS provider shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

1. - 2. ...

3. a current State Fire Marshal report for the adult day care module and the center-based respite module;

4. - 6. ...

7. 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 that is current at the time of the application for license renewal and is issued to/in the name of the applicant at the geographic location shown on the application for license renewal;

b. general and professional liability insurance of at least $300,000 that is current and in effect at the time of application for license renewal and has been maintained and in effect throughout the term of the license; and

c. worker's compensation insurance that is current and in effect at the time of application for license renewal and has been maintained and in effect throughout the term of the license.

NOTE: The LDH Health Standards Section shall specifically be identified as the certificate holder on these policies pursuant to §5015.A.7.a-c and any certificates of insurance issued as proof of insurance by the insurer or producer (agent). The policy shall have a cancellation/change statement requiring notification of the certificate holder 30 days prior to any cancellation or change of coverage.

B. ...

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license shall result in the voluntary non-renewal of the HCBS license.

NOTE: Upon expiration of the current license, the HCBS provider shall cease providing services in accordance with R.S. 40:2120.6 and shall meet the requirements of §5026, Cessation of Business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:68 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5016. Deemed Status through Accreditation

A. - A.1. ...

2. all services provided under the HCBS license shall be accredited; and

A.3. - B. ...

C. The following may cause the state agency to perform a full licensing survey on an accredited HCBS provider:

1. any substantiated complaints in the preceding 12-month period;

2. addition of service module or modules;

3. ...

4. issuance of a provisional license in the preceding 12-month period;

5. serious violations of licensing standards or professional standards of practice that were cited in the preceding 12-month period that resulted in or had the potential for negative outcomes to clients served; or

6. allegations of inappropriate client treatment or services to a client resulting in death or serious injury.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:68 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5017. Survey Activities

A. - B. ...

C. The department shall require an acceptable plan of correction from a provider for any survey where deficiencies have been cited, regardless of whether the department takes other action against the facility for the deficiencies cited in the survey. The acceptable plan of correction shall be submitted within the prescribed timeframe to the department for approval.

D. ...

E. The department may issue appropriate sanctions for noncompliance, deficiencies and violations of law, rules and regulations. Sanctions include, but are not limited to:

1. civil fines;

2. directed plans of correction;

3. license revocation; and/or

4. denial of license renewal.

F. LDH surveyors and staff shall be:

1. given access to all areas of the provider agency, and to all relevant administrative and/or clinical files during any survey as necessary or required to conduct the survey and/or investigation; and

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:69 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5019. Statement of Deficiencies

A. - C.1. ...

2. The informal reconsideration of the deficiencies shall be requested in writing within 10 calendar days of receipt of the statement of deficiencies, unless otherwise provided in these standards.

3. The request for informal reconsideration of the deficiencies shall be made to the department's Health Standards Section and will be considered timely if received by HSS within 10 calendar days of the provider's receipt of the statement deficiencies.

4. ...

NOTE: Informal reconsiderations of the results of a complaint investigation are conducted as desk reviews.

5. ...

6. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided in these licensing provisions for initial license denials, revocations and denial of license non-renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies.

a. Repealed.

7. The request for an informal reconsideration of any deficiencies cited as a result of a survey or investigation does not delay submission of the required plan of correction within the prescribed timeframe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:69 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5021. Denial of Initial Licensure, Revocation of License, Denial of License Renewal

A. - B.1. ...

2. The department may deny an initial license for any of the reasons a license may be revoked or denied renewal pursuant to these licensing provisions.

3. If the department denies an initial license, the applicant for an HCBS provider license shall discharge the client(s) receiving services.

C. ...

D. Revocation of License or Denial of License Renewal. An HCBS provider license may be revoked or denied renewal for any of the following reasons, including but not limited to:

1. - 4. ...

5. failure to protect a client from a harmful act of an employee, either contracted or staff, or by another client including, but not limited to:

5.a. - 7.e. ...

8. knowingly making a false statement or providing false, forged or altered information or documentation to LDH employees or to law enforcement agencies;

9. - 15. ...

16. failure to repay an identified overpayment to the department or failure to enter into a payment agreement to repay such overpayment;

17. failure to timely pay outstanding fees, fines, sanctions or other debts owed to the department; or

18. failure to maintain current, and in effect, required insurance policies in accordance with the provisions of this Chapter.

E. In the event an HCBS provider license is revoked, renewal is denied or the license is surrendered in lieu of an adverse action, any owner, board member, director or administrator, and any other person named on the license application of such HCBS provider is prohibited from owning, managing, directing or operating another HCBS agency for a period of two years from the date of the final disposition of the revocation, denial action or surrender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:69 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5023. Notice and Appeal of Initial License Denial, License Revocation and Denial of License Renewal

A. Notice of an initial license denial, license revocation or denial of license renewal shall be given to the provider in writing.

B. The HCBS provider has a right to an administrative reconsideration of the initial license denial, license revocation or denial of license renewal. There is no right to an administrative reconsideration of a voluntary non-renewal or surrender of a license by the provider.

1. The HCBS provider shall request the administrative reconsideration within 15 calendar days of the receipt of the notice of the initial license denial, license revocation or denial of license renewal. The request for administrative reconsideration shall be in writing and shall be forwarded to the department's Health Standards Section. The request for administrative reconsideration shall be considered timely if received by the Health Standards Section within 15 days from the provider's receipt of the notice.

2. The request for administrative reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an administrative reconsideration is received by HSS, an administrative reconsideration shall be scheduled and the provider will receive written notification of the date of the administrative reconsideration.

4. The provider shall have the right to appear in person at the administrative reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the initial license denial, revocation or denial of license renewal shall not be a basis for reconsideration.

6. The administrative reconsideration process is not in lieu of the administrative appeals process.

7. The provider will be notified in writing of the results of the administrative reconsideration.

C. The HCBS provider has a right to an administrative appeal of the initial 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 provider.

1. The HCBS provider shall request the administrative appeal within 30 days of the receipt of the results of the administrative reconsideration.

a. The HCBS provider may forego its rights to an administrative reconsideration, and if so, shall request the administrative appeal within 30 calendar days of the receipt of the written notice of the initial license denial, revocation or denial of license renewal.

2. ...

3. If a timely request for an administrative appeal is received by the Division of Administrative Law, or its successor, the administrative appeal of the license revocation or denial of license renewal shall be suspensive, and the provider 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 provider pose an imminent or immediate threat to the health, welfare or safety of a client, the imposition of the license revocation or denial of license renewal may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the provider will be notified in writing.

4. Correction of a violation or a deficiency which is the basis for the initial license denial, license revocation or denial of license renewal shall not be a basis for an administrative appeal.

D. ...

E. If a timely administrative appeal has been filed by the provider on an initial license denial, denial of license renewal or license revocation, the Division of Administrative Law, or its successor, shall conduct the hearing in accordance withthe Administrative Procedure Act.

1. If the final agency decision is to reverse the initial license denial, denial of license renewal or license revocation, the provider's license will be re-instated or granted upon the payment of any licensing fees, outstanding sanctions or other fees due to the department.

2. If the final agency decision is to affirm the denial of license renewal or license revocation, the provider shall discharge any and all clients receiving services according to the provisions of this Chapter.

a. Within 10 calendar days of the final agency decision, the provider shall notify HSS, in writing, of the secure and confidential location where the client records will be stored and the name and contact information of the person(s) responsible for the client records.

F. There is no right to an administrative reconsideration or an administrative appeal of the issuance of a provisional initial license to a new HCBS provider, or the issuance of a provisional license to an existing HCBS provider. A provider who has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license is not considered to be a denial of initial licensure, denial of license renewal or license revocation.

G. A provider with a provisional initial license or an existing provider 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, solely as to the validity of the deficiencies.

1. - 2. ...

3. The provider shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five calendar days of receipt of the written notice of the results of the follow-up survey from the department.

4. The provider shall request the administrative appeal within 15 calendar days of receipt of the written notice of the results of the follow-up survey from the department. The request for administrative appeal shall be in writing and shall be submitted to the Division of Administrative Law, or its successor.

5. - 5.a. ...

6. If a timely administrative appeal has been filed by a provider with a provisional initial license that has expired, or by an existing provider whose provisional license has expired under the provisions of this Chapter, the Division of Administrative Law, or its successor, shall conduct the hearing in accordance with the Administrative Procedure Act.

a. ...

b. If the final agency decision is to uphold the deficiencies thereby affirming the expiration of the provisional license, the provider shall ensure an orderly discharge and transition of any and all clients receiving services in accordance with the provisions of this Chapter.

i. Within 10 calendar days of the final agency decision, the provider shall notify HSS in writing of the secure and confidential location where the client records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:70 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5024. Inactivation of License due to a Declared Disaster or Emergency

A. An HCBS provider 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 licensed provider 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 HCBS provider 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 licensed HCBS provider intends to resume operation as an HCBS provider 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 provider; and

e. provides a list of each client and where that client is discharged or transferred to;

2. the licensed HCBS provider resumes operating as a HCBS provider 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 licensed HCBS provider 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 licensed HCBS provider continues to submit required documentation and information to the department.

B. Upon receiving a completed written request to inactivate a HCBS provider license, the department shall issue a notice of inactivation of license to the HCBS provider.

C. Upon completion of repairs, renovations, rebuilding or replacement, an HCBS provider 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 HCBS provider 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 provider resumes operating as an HCBS provider in the same service area within one year.

D. Upon receiving a completed written request to reinstate an HCBS provider license, the department shall conduct a licensing survey. If the HCBS provider meets the requirements for licensure and the requirements under this Section, the department shall issue a notice of reinstatement of the HCBS provider license.

1. The licensed capacity of the reinstated license shall not exceed the licensed capacity of the adult day care and center-based respite provider at the time of the request to inactivate the license.

E. No change of ownership in the HCBS provider shall occur until such HCBS provider has completed repairs, renovations, rebuilding or replacement construction, and has resumed operations as an HCBS provider.

F. The provisions of this Section shall not apply to an HCBS provider 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 HCBS provider license and any applicable facility need review approval for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

§5025. Inactivation of License due to a Non-Declared Disaster or Emergency

A. A licensed HCBS 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 licensed HCBS 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 HCBS 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 licensed HCBS intends to resume operation as an HCBS provider in the same service area;

c. the licensed HCBS attests that the emergency or disaster is the sole causal factor in the interruption of the provision of services; and

d. the licensed HCBS'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.

e. Repealed.

2. the licensed HCBS 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 licensed HCBS continues to submit required documentation and information to the department, including but not limited to cost reports.

4. Repealed.

B. Upon receiving a completed written request to temporarily inactivate a HCBS license, the department shall issue a notice of inactivation of license to the HCBS.

C. Upon the facility's receipt of the department's approval of request to inactivate the facility's license, the facility shall have 90 days to submit plans for the repairs, renovations, rebuilding or replacement of the facility, if applicable, to the OSFM and the OPH as required.

1. - 2. Repealed.

D. The licensed HCBS shall resume operating as an HCBS in the same service area within one year of the approval of renovation/construction plans by the OSFM and the OPH as required.

EXCEPTION: If the facility requires an extension of this timeframe due to circumstances beyond the facility's control, the department will consider an extended time period to complete construction or repairs. Such written request for extension shall show facility's active efforts to complete construction or repairs and the reasons for request for extension of facility's inactive license. Any approval for extension is at the sole discretion of the department.

1. Repealed.

E. Upon completion of repairs, renovations, rebuilding or replacement of the facility, an HCBS 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 HCBS 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, where applicable; 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 an HCBS license, the department may conduct a licensing or physical environment survey. The department may issue a notice of reinstatement if the facility has met the requirements for licensure including the requirements of this Subsection.

G. No change of ownership in the HCBS shall occur until such HCBS has completed repairs, renovations, rebuilding or replacement construction and has resumed operations as an HCBS.

H. The provisions of this Subsection shall not apply to an HCBS which has voluntarily surrendered its license and ceased operation.

I. Failure to comply with any of the provisions of this Subsection shall be deemed a voluntary surrender of the HCBS license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:72 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5026. Cessation of Business

A. Except as provided in §5024 and §5025 of these licensing regulations, a license shall be immediately null and void if an HCBS provider becomes non-operational.

B. A cessation of business is deemed to be effective the date on which the HCBS provider ceased offering or providing services to the community and/or is considered non-operational in accordance with §5005.E.1.b.

C. Upon the cessation of business, the HCBS provider shall immediately return the original license to the department.

D. Cessation of business is deemed to be a voluntary action on the part of the provider. The HCBS provider does not have a right to appeal a cessation of business.

E. Prior to the effective date of the closure or cessation of business, the HCBS provider shall:

1. give 30-days' advance written notice to:

a. each client or client's legal representative, if applicable;

b. each client's physician;

c. HSS;

d. OCDD;

e. OAAS;

f. support coordination agency for waiver participants;

g. state contractor for state plan LT-PCS services;

2. provide for a safe and orderly discharge and transition of all of the HCBS provider's clients.

F. In addition to the advance notice, the provider shall submit a written plan for the disposition of client services related 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 provider's client services related records;

3. the name and contact information for the 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;

4. public notice regarding access to records, in the newspaper with the largest circulation in close proximity to the closing provider, at least 15 days prior to the effective date of closure.

G. If an HCBS provider fails to follow these procedures, the owners, managers, officers, directors, and administrators

may be prohibited from opening, managing, directing, operating, or owning an HCBS for a period of two years.

H. Once any HCBS provider has ceased doing business, the provider shall not provide services until the provider has obtained a new initial HCBS license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter B. Administration and Organization

§5027. Governing Body

A. - A.3. ...

B. The governing body of an HCBS provider shall:

1. - 8. ...

9. ensure statewide criminal background checks on all unlicensed persons providing direct care and services to clients in accordance with R.S. 40:1203.2 or other applicable state law upon hire and annually thereafter;

10. ensure that the provider does not hire unlicensed persons who have a conviction that bars employment in accordance with R.S. 40:1203.3 or other applicable state law;

a. the provider shall have documentation on the final disposition of all charges that bars employment pursuant to applicable state law; and

11. ensure that direct support staff comply with R.S. 40:1203.2 or other applicable state law.

NOTE: It is not acceptable for a provider to have a client, family member or legal representative sign a statement that they acknowledge the direct support worker has a conviction that bars employment but they still choose to have that individual as the worker. The provider is expected to be in compliance with statutory requirements at all times.

C. An HCBS provider shall maintain an administrative file that includes:

1. a list of members and officers of the governing body, along with their addresses and terms of membership;

2. minutes of formal meetings and by-laws of the governing body, if applicable;

3. a copy of the current license issued by HSS;

4. an organizational chart of the provider which clearly delineates the line of authority;

5. all leases, contracts and purchases-of-service agreements to which the provider is a party;

6. insurance policies;

7. annual budgets and audit reports; and

8. a master list of all the community resources used by the provider.

9. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:72 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5029. Policy and Procedures

A. The HCBS provider shall develop, implement and comply with provider-specific written policies and procedures related to compliance with this Chapter, including, but not limited to policies and procedures that:

1. - 2. ...

3. provide for the protection of clients' rights; and

4. promote the highest practicable social, physical and mental well-being of clients;

B. The HCBS provider shall have written policies and procedures approved by the owner or governing body, which shall be implemented and followed, that address at a minimum the following:

1. confidentiality and confidentiality agreements;

2. security of files;

3. publicity and marketing, including the prohibition of illegal or coercive inducement, solicitation and kickbacks;

4. personnel;

5. client rights;

6. grievance procedures;

7. client funds;

8. emergency preparedness;

9. abuse, neglect, exploitation and extortion;

10. incidents and accidents, including medical emergencies;

11. universal precautions;

12. documentation;

13. admission and discharge procedures; and

14. safety of the client while being transported by an agency employee, either contracted or directly employed, to include a process for evaluation of the employee's driver's license status inquiry report which may prohibit an employee from transporting clients.

C. The HCBS provider shall develop, implement and comply with written personnel policies that include the following:

1. a plan for recruitment, screening, orientation, ongoing training, development, supervision and performance evaluation of staff members, that includes but is not limited to:

a. standards of conduct;

b. standards of attire to include wearing proper identification when providing services to clients; and

c. standards of safety to include requirements for ensuring safe transportation of clients by employees, contracted or staff, who provide transportation;

2. written job descriptions for each staff position, including volunteers;

3. policies that shall, at a minimum, be consistent with Office of Public Health guidelines for services provided.

4. an employee grievance procedure;

5. abuse reporting procedures that require all employees, either contracted or directly employed, to report any and all incidents of abuse or mistreatment or misappropriation of client funds, whether that abuse or mistreatment or misappropriation is done by another staff member, a family member, a client or any other person;

6. a written policy to prevent discrimination; and

7. a written policy to assure that there is a final disposition of all charges that appear on the staff person's or contracted employee's criminal background check;

8. a written policy to address prohibited use of social media. The policy shall ensure that all staff, either contracted or directly employed, receive training relative to the restricted use of social media an include, at a minimum ensuring confidentiality of client information and preservation of client dignity and respect, and protection of client privacy and personal and property rights.

D. The HCBS provider shall have written policies and procedures for client behavior management which:

1. prohibit:
a. corporeal punishment;
b. chemical restraints;
c. psychological and verbal abuse;
d. seclusion;
e. forced exercise;
f. physical and mechanical restraints;
g. any cruelty to, or punishment of, a client; and
h. any act by a provider which denies:
i. food;
ii. drink;
iii. visits with family, friends or significant others; or
iv. use of restroom facilities;

NOTE: §5029.D.1.h.i-iv is not inclusive of medically prescribed procedures.

2. ensure that non-intrusive positive approaches to address the meaning/origins of behaviors are used prior to the development of a restrictive plan; and

3. cover any behavioral emergency and provide documentation of the event in an incident report format.

E. An HCBS provider shall comply with all federal state and local laws, rules and regulations in the development and implementation of its policies and procedures.

E.1. - I. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:73 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5031. Business Location

A. All HCBS providers shall have a business location in the LDH region for which the license is issued. The business location shall be a part of the physical geographic licensed location and shall be where the provider:

1. ...

2. maintains and stores the provider's personnel records;

3. maintains and stores the provider's client service records;

4. holds itself out to the public as being a location for receipt of client referrals; and

5. after initial licensure, consistently provides services to at least two clients.

EXCEPTION: Adult Day Care shall have 10 or more clients pursuant to R.S. 40:2120.2(4)(e).

B. The business location shall have:

1. a separate entrance and exit from any other entity, business or trade;

2. signage that is easily viewable indicating the provider's legal or trade name, address and days and hours of business operation as stated in the provider's license application.

a. Any planned deviation of the provider's days and hours of operation shall be reported to the Health Standards Section within five business days.

b. Any unplanned deviation of provider's days and hours of operation shall be reported to the Health Standards Section within two business days.

C. The HCBS provider shall operate independently from any other business or entity, and shall not operate office space with any other business or entity.

1. The HCBS provider may share common areas with another business or entity. Common areas include foyers, kitchens, conference rooms, hallways, stairs, elevators or escalators when used to provide access to the provider's separate entrance.

a. Repealed.

2. Records or other confidential information shall not be stored in areas deemed to be common areas.

3. - 7. Repealed.

D. The business location shall:

1. be commercial office space or, if located in a residential area, be zoned for appropriate commercial use and shall be used solely for the operation of the business;

a. the business location shall not be located in an occupied personal residence;

2. have approval for occupancy from the Office of the State Fire Marshal and the Office of Public Health if located at the same address as an adult day care center or center-based respite;

3. have a published telephone number which is available and accessible 24 hours a day, seven days a week, including holidays;

4. have a business fax number that is operational 24 hours a day, seven days a week;

a. - f. Repealed.

5. have internet access and a working e-mail address;

a. the e-mail address shall be provided to the department as well as any changes to the e-mail address within five working days to assure that the department has current contact information;

b. the e-mail address shall be monitored by the provider on an ongoing basis to receive communication from the department;

6. have space for storage of client records either electronically or in paper form or both in an area that is secure, safe from hazards and does not breach confidentiality of protected health information.

7. - 12. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:74 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5032. Branch Offices and Satellites of HCBS Providers

A. HCBS providers with branch offices or satellite locations shall meet the following.

1. No branch office or satellite location may be opened without prior written approval from HSS. In order for a branch office or satellite location to be approved, the parent agency shall have maintained a full licensure for the previous 12-month period.

a. The number of any new branch or satellite locations for any provider within a geographic location may be limited at the discretion of HSS.

2. The department may consider the following in making a determination whether to approve a branch office or a satellite location:

a. compliance history of the provider to include the areas of non-compliance of the deficiencies cited within the last 12 months;

b. the nature and severity of any substantiated complaints within the last 12 months;

c. if the parent agency currently has a provisional license;

d. if the parent agency currently is in a settlement agreement with the department;

e. if the parent agency has previously been excluded from participation from the Medicaid program;

f. if the parent agency is currently under license revocation or denial of license renewal;

g. if the parent agency is currently undergoing a change of ownership; and

h. if any adverse action has been taken against the license of other agencies operated by the owner of the parent agency within the previous two-year period.

3. The branch office or satellite location shall be held out to the public as a branch, division, or satellite of the parent agency so that the public will be aware of the identity of the agency operating the branch or satellite.

a. Reference to the name of the parent agency shall be contained in any written documents, signs or other promotional materials relating to the branch or satellite.

4. Original personnel files shall not be maintained or stored at the branch office or satellite location.

5. A branch office or a satellite location is subject to survey, including complaint surveys, by the department at any time to determine compliance with minimum licensing standards.

6. A branch office or a satellite location shall:

a. serve as part of the geographic service area approved for the parent agency;

b. retain an original or a duplicate copy of all clinical records for its clients for a 12-month period at the branch or satellite location;

NOTE: If satellite or branch records are not maintained at the parent agency, such shall be made available as requested by the state surveyor without delaying the survey process;

c. maintain a copy of the agency's policies and procedures manual on-site for staff usage;

d. post and maintain regular office hours in accordance with §5031.B; and

e. staff the branch office or satellite location during regular office hours.

7. Each branch office or satellite location shall:

a. fall under the license of the parent agency and be located in the same LDH region as the parent agency;

b. be assessed the required fee, assessed at the time the license application is made and once a year thereafter for renewal of the branch or satellite license;

NOTE: This fee is non-refundable and is in addition to any other fees that may be assessed in accordance with applicable laws, rules, regulations and standards.

8. Existing branch office or satellite location approvals will be renewed at the time of the parent agency's license renewal, if the parent agency meets the requirements for licensure.

B. Branch Offices of HCBS Providers

1. An HCBS provider who currently provides in-home services such as PCA, respite, MIHC or SIL services may apply to the department for approval to operate a branch office to provide those same services.

a. HCBS providers are limited in the same LDH region as the parent agency at the discretion of HSS.

C. Satellite Locations of HCBS Providers

1. An HCBS provider who currently provides ADC services or provides center-based respite services may apply to the department for approval to operate a satellite location to provide additional ADC services or center-based respite services at that satellite location.

a. HCBS providers are limited in the same LDH region as the parent agency at the discretion of the HSS.

NOTE: The HSS may with good cause consider exceptions to the limit on numbers of satellite and/or branch locations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter C. Admission, Transfer and Discharge Criteria

§5033. Admissions

A. An HCBS provider shall have written admissions policies and criteria which shall include the following:

1. - 3. ...

4. legal status of the clients served;

5. - 7. ...

B. The written description of admissions policies and criteria shall be made available to the client and his/her legal representative.

C. An HCBS provider shall ensure that the client, the legal representative or other persons, where appropriate, are provided an opportunity to participate in the admission process.

1. Consents as necessary for care and services shall be obtained from the client or legal representative, if applicable, prior to admission.

2. Where such involvement of the client, the legal representative, where appropriate, or other persons as selected by the client is not possible or not desirable, the reasons for their exclusion shall be recorded.

D. When refusing admission, a provider shall provide a written statement as to the reason for the refusal. This shall be provided to designated representatives of the department or to a client upon request.

E. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:75 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5035. Voluntary Transfers and Discharges

A. A client has the right to choose a provider. This right includes the right to be discharged from his current provider, be transferred to another provider and to discontinue all services.

B. Upon notice by the client or authorized representative that the client has selected another provider or has decided to discontinue services or moves from the geographic region serviced by the provider, the HCBS provider shall have the responsibility of planning for a client's voluntary transfer or discharge.

C. The transfer or discharge responsibilities of the HCBS provider shall include:

1. holding a transfer or discharge planning conference with the client, family, support coordinator, legal representative and advocate, if such are applicable, in order

to facilitate an orderly transfer or discharge, unless the client or authorized representative declines such a meeting;

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

E. The provider shall not coerce the client to stay with the provider agency or interfere in any way with the client's decision to transfer. Failure to cooperate with the client's decision to transfer to another provider may result in further investigation and action as deemed necessary by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:75 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5037. Involuntary Transfers and Discharges

A. ...

1. The client's health has improved sufficiently so that the client no longer requires the services rendered by the provider.

2. ...

3. The client has failed to pay any past due amounts for services received from the provider for which he/she is liable within 15 days after receipt of written notice from the provider.

4. ...

5. The client or family refuses to cooperate or interferes with attaining the care objectives of the HCBS provider.

A.6. - C. ...

1. The written notice shall be sent to the client or to the authorized representative via certified mail, return receipt requested.

2. ...

3. When the client has failed to pay any outstanding amounts for services for which he/she has received from the provider and is liable, written notice may be given immediately. Payment is due within 15 days of receipt of written notice from the provider that an amount is due and owing.

4. - 5. ...

D. The written notice of involuntary transfer or discharge shall include:

1. - 4. ...

5. names of provider personnel available to assist the client or authorized representative and family in decision making and transfer arrangements;

D.6. - F.2.b. ...

3. If a client is given 15-days written notice and files a timely appeal of an involuntary transfer/discharge based on the client's failure to pay any outstanding amounts for services within the allotted time, the provider may discharge or transfer the client.

G. The transfer or discharge responsibilities of the HCBS provider shall include:

1. conducting a transfer or discharge planning conference with the client, family, support coordinator, legal representative and advocate, if such are known, in order to facilitate an orderly transfer or discharge;

G.2. - H. ...

1. The provider shall not be required to provide services if the discharge is due to the client moving out of the provider's geographic region. An HCBS provider is prohibited from providing services outside of its geographic region without the department's approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:75 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter D. Service Delivery

§5039. General Provisions

A. ...

B. Assessment of Needs

1. Prior to any service being rendered, an HCBS provider shall conduct an assessment of the client's needs. The assessment shall include, at a minimum:

a. risk assessment, including:

i. life safety (i.e. the ability to access emergency services, basic safety practices and evaluation of the living unit);

ii. home environment;

iii. environmental risk; and

iv. medical risk;

b. medical assessments, including:

i. diagnosis;

ii. medications, including methods of administration; and

iii. current services and treatment regimen;

c. activities of daily living;

d. instrumental activities of daily living including money management, if applicable;

e. communication skills;

f. social skills; and

g. psychosocial skills including behavioral needs.

2. The assessment shall be conducted prior to admission and at least annually thereafter. The assessment shall be conducted more often as the client's needs change.

3. An HCBS comprehensive assessment performed for a client in accordance with policies and procedures established by Medicaid or by a LDH program office for reimbursement purposes can substitute for the assessment required under these provisions.

a. If the client has health care needs identified in the assessment that exceed routine assistance with activities of daily living or instrumental activities of daily living, a licensed medical practitioner or licensed registered nurse (RN) shall perform and document a medical assessment to determine necessary supports and services which shall be addressed in the ISP. Data obtained as part of the medical assessment may be collected through physical examination, laboratory tests, medical history and information reported by the client, family members, legal representative and other health care team members.

b. If the client has a change in health status, the provider shall ensure that the client receives:

i. an assessment of the client's change in health status by a licensed RN or licensed medical practitioner; and

ii. any ongoing assessment of changes in health status by a licensed RN or licensed medical practitioner as deemed medically necessary or as specified within the plan of care.

C. - C.4. Repealed

D. - D.2.d. ...

3. An HCBS plan of care or agreement to provide services signed by the provider or client in accordance with policies and procedures established by Medicaid or by a LDH program office for reimbursement purposes can substitute for the agreement required under these provisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:77 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5041. Individual Service Plan

A. - G. ...

H. A comprehensive plan of care prepared in accordance with policies and procedures established by Medicaid or by a LDH program office for reimbursement purposes may be substituted for the individual service plan.

I. Each client's ISP shall be reviewed, revised, updated and amended no less than annually, and more often as necessary, to reflect changes in the client's needs, services and personal outcomes.

J. Coordination of Services

1. Client care goals and interventions shall be coordinated in conjunction with other providers rendering care and services and/or caregivers to ensure continuity of care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:77 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5043. Contract Services

A. ...

B. When services are provided through contract, a written contract shall be established. The contract shall include all of the following items:

1. - 4. ...

5. a statement that the contracted personnel shall meet the same qualifications and training requirements as an employee of an HCBS agency who holds the same position;

B.5.a. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:77 (January 2012), amended LR 41:2638 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5045. Transportation

A. ...

B. Any vehicle owned by the agency or its employees, either contracted or staff, used to transport clients shall be:

1. ...

2. maintained in an operational condition;

3. operated at an internal temperature that does not compromise the health, safety or needs of the client.

C. The provider shall have proof of liability insurance coverage in accordance with state law for any vehicle owned by the agency or its employees, either contracted or staff, that are used to transport clients. The personal liability insurance of a provider's employee, either contracted or staff, shall not be substituted for the required vehicular insurance coverage.

D. Any staff member of the provider or other person acting on behalf of the provider, who is operating a vehicle owned by the agency or its employees, either contracted or staff, for the purpose of transporting clients shall be properly licensed to operate that class of vehicle in accordance with state law.

E. The provider shall have documentation of successful completion of a safe driving course for each staff or contract employee who transports clients. If the staff or contract employee does not transport clients, such shall be clearly documented in their personnel record.

1. Employees, either contracted or staff, who are required to transport clients as part of their assigned duties shall successfully complete a safe driving course within 90 days of hiring, every three years thereafter, and within 90 days of the provider's discovery of any moving violation.

F. Upon hire, and annually thereafter, the provider shall at a minimum, obtain a driver's license status inquiry report available on-line from the State Office of Motor Vehicles, for each employee, either contracted or directly employed, who is required to transport clients as part of their assigned duties.

G. The provider shall not allow the number of persons in any vehicle used to transport clients to exceed the number of available seats with seatbelts in the transporting vehicle.

H. - I.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:78 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter E. Client Protections

§5049. Client Rights

A. Unless adjudicated by a court of competent jurisdiction, clients served by HCBS providers shall have the same rights, benefits and privileges guaranteed by the constitution and the laws of the United States and Louisiana, including but not limited to the following:

1. human dignity;
2. impartial access to treatment regardless of:
   a. race;
   b. religion;
   c. sex;
   d. ethnicity;
   e. age; or
   f. disability;
3. cultural access as evidenced by:
   a. interpretive services;
   b. translated materials;
   c. the use of native language when possible; and
   d. staff trained in cultural awareness;
4. have sign language interpretation, allow for the use of service animals and/or mechanical aids and devices that assist those persons in achieving maximum service benefits when the person has special needs;
5. privacy;
6. confidentiality;
7. access his/her records upon the client's written consent for release of information;

8. a complete explanation of the nature of services and procedures to be received, including:

a. risks;

b. benefits; and

c. available alternative services;

9. actively participate in services, including:

a. assessment/reassessment;

b. service plan development; and

c. discharge;

10. refuse specific services or participate in any activity that is against their will and for which they have not given consent;

11. obtain copies of the provider's complaint or grievance procedures;

12. file a complaint or grievance without retribution, retaliation or discharge;

13. be informed of the financial aspect of services;

14. be informed of the need for parental or guardian consent for treatment of services, if appropriate;

15. personally manage financial affairs, unless legally determined otherwise;

16. give informed written consent prior to being involved in research projects;

17. refuse to participate in any research project without compromising access to services;

18. be free from all restraints, inclusive of mental, emotional and physical abuse and neglect;

19. be free from chemical or physical restraints;

20. receive services that are delivered in a professional manner and are respectful of the client's wishes concerning their home environment;

21. receive services in the least intrusive manner appropriate to their needs;

22. contact any advocacy resources as needed, especially during grievance procedures; and

23. discontinue services with one provider and freely choose the services of another provider.

B. An HCBS provider shall assist in obtaining an independent advocate:

1. if the client's rights or desires may be in jeopardy;

2. if the client is in conflict with the provider; or

3. upon any request of the client.

C. The client has the right to select an independent advocate, which may be:

1. a legal assistance corporation;

2. a state advocacy and protection agency;

3. a trusted church or family member; or

a. - d. Repealed.

4. any other competent key person not affiliated in any way with the licensed provider.

5. - 23. Repealed.

D. The client, client's family and legal guardian, if one is known, shall be informed of their rights, both verbally and in writing in a language they are able to understand.

D.1. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:78 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5051. Grievances

A. - C. ...

1. The agency shall provide the grievance procedure in writing to the client at admission and grievance forms shall be made readily available as needed thereafter.

D. ...

E. The administrator of the agency, or his/her designee, shall issue a written report and/or decision within five business days of receipt of the grievance to the:

1. - 3. ...

4. the person initiating the grievance.

F. The agency shall maintain documentation pursuant to §5051.A-E.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:79 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter F. Provider Responsibilities

§5053. General Provisions

A. ...

B. Additional staff shall be employed or contracted as necessary to ensure proper care of clients and adequate provision of services.

C. ...

D. All client calls to the provider's published telephone number shall be returned within one business day. Each client shall be informed of the provider's published telephone number, in writing, as well as through any other method of communication most readily understood by the client according to the following schedule:

1. - 3. ...

E. HCBS providers shall establish policies and procedures relative to the reporting of abuse, neglect, extortion, or exploitation of clients pursuant to the provisions of R.S. 15:1504-1505, R.S. 40:2009.20 and any subsequently enacted laws. Providers shall ensure that staff complies with these regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:79 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5055. Core Staffing Requirements

A. - B.1.a. ...

b. have a minimum of six years of verifiable experience working in a health or social service related business, plus a minimum of four additional years of verifiable experience working in a field providing services to the elderly and/or persons with developmental disabilities; or

c. is a registered nurse licensed and in good standing with the Louisiana State Board of Nursing and have at least two years' experience in providing care to the elderly or to adults with disabilities.

2. Any person convicted of a felony as defined in these provisions is prohibited from serving as the administrator of an HCBS provider agency.

C. Administrator Responsibilities. The administrator shall:

1. - 4. ...

5. employ, either by contract or staff, qualified individuals and ensure adequate staff education and evaluations;

C.6. - D.1.g. ...

2. Professional staff employed or contracted by the provider shall hold a current, valid professional license issued by the appropriate licensing board.

3. The provider shall maintain proof of annual verification of current professional licensure of all licensed professional staff.

4. All professional services furnished or provided shall be furnished or provided in accordance with professional standards of practice, according to the scope of practice requirements for each licensed discipline.

E. Direct Care Staff

1. The provider shall have sufficient numbers of trained direct care staff to safeguard the health, safety and welfare of clients.

2. - 3. ...

F. Direct Care Staff Qualifications

1. HCBS providers shall ensure that all non-licensed direct care staff, either contracted or employed, meet the minimum mandatory qualifications and requirements for direct service workers as required by R.S. 40:2179-40:2179.1 or a subsequently amended statute and any rules published pursuant to those statutes.

2. All direct care staff shall have the ability to read and write at a level that allows them to understand the client's services plan, document services provided, and carry out directions competently as assigned.

a. The training shall address needed areas of improvement, as determined by the worker's performance reviews, and may address the special needs of clients.

3. All direct care staff shall be trained in recognizing and responding to medical emergencies of clients.

G. Direct Care Staff Responsibilities. The direct care staff shall:

1. - 8. ...

9. be responsible for accurate daily documentation of services provided and status of clients to be reported on progress notes and/or progress reports.

H. Direct Care Staff Training

1. The provider shall ensure that each direct care staff, either contracted or employed, satisfactorily completes a minimum of 16 hours of training upon hire and before providing direct care and services to clients. Such training shall include the following topics and shall be documented, maintained and readily available in the agency's records:

a. the provider's policies and procedures;

b. emergency and safety procedures;

c. recognizing and responding to medical emergencies that require an immediate call to 911;

d. client's rights;

e. detecting and reporting suspected abuse and neglect, utilizing the department's approved training curriculum;

f. reporting critical incidents;

g. universal precautions;

h. documentation;

i. implementing service plans;

j. confidentiality;

k. detecting signs of illness or impairment that warrant medical or nursing intervention;

l. basic skills required to meet the health needs and problems of the client;

m. the management of aggressive behavior, including acceptable and prohibited responses; and

n. scald prevention training.

2. The provider shall ensure that each direct care staff, either contracted or employed,satisfactorily completes a basic first aid course and cardiopulmonary resuscitation (CPR) course within 45 days of hire.

NOTE: If the CPR curriculum is an online course, there shall be a documented, in person return demonstration.

3. Training received by a direct care staff worker from previous employment with a HCBS agency is transferrable between HCBS agencies when the hiring HCBS agency:

a. obtains from the previous employer proof of the employee's successful documented completion of any required training; and

b. obtains documented evidence of the employee's continued competency of any required training received during employment with the previous HCBS provider.

I. Competency Evaluation

1. A competency evaluation shall be developed and conducted to ensure that, at a minimum, each direct care staff, either contracted or employed, is able to demonstrate competencies in the training areas in §5055.H.

2. Written or oral examinations shall be provided.

3. The examination shall reflect the content and emphasis of the training curriculum components in §5055.H and shall be developed in accordance with accepted educational principles.

4. The provider shall ensure that those direct care staff with limited literacy skills receive substitute examination sufficient to determine written reading comprehension and competency to perform duties assigned.

J. Continuing Education

1. Annually thereafter, the provider shall ensure that each direct care staff, either contracted or employed, satisfactorily completes a minimum of 16 hours of training in order to ensure continuing competence. Orientation and normal supervision shall not be considered for meeting this requirement. This training shall address the special needs of clients and may address areas of employee weakness as determined by the direct care staff person's performance reviews.

1.a. - 5.c. Repealed.

K. Volunteers/Student Interns

1. A provider utilizing volunteers or student interns on any regular basis shall have a written plan for using such resources. This plan shall be given to all volunteers and interns. The plan shall indicate that all volunteers and interns shall:

a. be directly supervised by a paid staff member;

b. be oriented and trained in the philosophy, policy and procedures of the provider, confidentiality requirements and the needs of clients;

c. have documentation of reference checks in accordance with facility policy;

d. - m. Repealed.

2. Volunteer/student interns shall be a supplement to staff employed by the provider but shall not provide direct care services to clients.

L. Direct Care Staff Supervisor. The HCBS provider shall designate and assign a direct care staff supervisor to monitor and supervise the direct care staff.

1. The supervisor shall be selected based upon the needs of the client outlined in the ISP.

2. A provider may have more than one direct care staff supervisor.

3. - 4. Repealed.

M. Direct Care Supervision

1. A direct care staff supervisor shall make an in-person supervisory visit of each direct care staff within 60 days of being hired or contracted and at least annually thereafter. Supervisory visits shall occur more frequently:

a. if dictated by the ISP;

b. as needed to address worker performance;

c. to address a client's change in status; or

d. to assure services are provided in accordance with the ISP.

2. The supervisory visit shall be unannounced and utilized to evaluate:

a. the direct care staff person's ability to perform assigned duties;

b. whether services are being provided in accordance with the ISP; and

c. if goals are being met.

3. Documentation of supervision shall include:

a. the worker/client relationship;

b. services provided;

c. observations of the worker performing assigned duties;

d. instructions and comments given to the worker during the onsite visit; and

e. client satisfaction with service delivery.

4. An annual performance evaluation for each direct care staff person shall be documented in his/her personnel record.

5. In addition to the in-person supervisory visits conducted with direct care staff, the provider shall visit the home of each client on a quarterly basis to determine whether the individual:

a. service plan is adequate;

b. continues to need the services; and

c. service plan needs revision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:79 (January 2012), amended LR 40:1007 (May 2014), LR 41:2639 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5057. Client Records

A. Client records shall be accurately documented and maintained in the HCBS provider's office. Current progress notes shall be maintained at the home. The provider shall have a written record for each client which shall include:

1. - 6. ...

7. an accurate financial record of each client's personal funds which includes a written record of all of the financial transactions involving the personal funds of the client deposited with the provider:

a. the client (or his legal representative) shall be afforded access to such record; and

b. the financial records shall be available through quarterly statements;

c. Repealed.

8. - 11.a. ...

b. a description of any serious or life threatening medical condition(s); and

c. a description of any medical treatment or medication necessary for the treatment of any medical condition;

d. Repealed.

12. a copy of any signed and dated advance directive that has been provided to the HCBS provider, or any physician orders, signed and dated, relating to end of life care and services.

B. HCBS providers shall maintain client records for a period of no less than six years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:82 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5059. Client Funds and Assets

A. ...

B. In the case of a representative payee, all social security rules and regulations shall be adhered to. The provider shall obtain written authorization from the client and/or his/her legal or responsible representative if they will be designated as the representative payee of the client's social security payment.

C. If the provider manages a client's personal funds, the provider shall furnish a written statement which includes the client's rights regarding personal funds, a list of the services offered and charges, if any, to the client and/or his/her legal or responsible representative.

D. - E.6. ...

F. A client with a personal fund account managed by the HCBS provider may sign an account agreement acknowledging that any funds deposited into the personal account, by the client or on his/her behalf, are jointly owned by the client and his legal representative or next of kin. These funds do not include Social Security funds that are restricted by Social Security Administration (SSA) guidelines. The account agreement shall state that:

1. - 4. ...

5. the joint owner of a client's account shall not be an employee, either contracted or on staff, of the provider.

G. - H. ...

1. Upon the death of a client, the provider shall act accordingly upon any burial policies of the client.

2. ...

3. If a valid account agreement has been executed by the client, the provider shall transfer the funds in the client's personal fund account to the joint owner within 30 days of the client's death.

H.4. - I. ...

J. Burial Policies. Upon discharge of a client, the provider shall release any and all burial policies to the client or his/her legal or responsible representative.

K. Life Insurance Policies. An HCBS provider and/or its employee(s), either contracted or staff, shall not purchase a life insurance policy on an HCBS client and designate the

provider and/or its employee(s) as the beneficiary of the policy.

L. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:82 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5061. Quality Enhancement Plan

A. An HCBS provider shall develop, implement and maintain a quality enhancement (QE) plan that:

1. ensures that the provider is in compliance with federal, state, and local laws;

2. meets the needs of the provider's clients;

3. is attaining the goals and objectives established by the provider;

4. maintains systems to effectively identify issues that require quality monitoring, remediation and improvement activities;

5. improves individual client outcomes and individual client satisfaction;

6. includes plans of action to correct identified issues that:

a. monitor the effects of implemented changes; and

b. result in revisions to the action plan;

7. is updated on an ongoing basis to reflect changes, corrections and other modifications.

B. The QE plan shall include:

1. a process for identifying on a quarterly basis the risk factors that affect or may affect the health, safety and/or welfare of the clients of the HCBS provider receiving services, that includes, but is not limited to:

a. review and resolution of complaints;

b. review and resolution of incidents; and

c. incidents of abuse, neglect and exploitation;

2. a process to review and resolve individual client issues that are identified;

3. a process to review and develop action plans to resolve all system wide issues identified as a result of the processes above;

4. a process to correct problems that are identified through the program that actually or potentially affect the health and safety of the clients; and

5. a process of evaluation to identify or trigger further opportunities for improvement in identification of individual client care and service components.

C. The QE program shall hold bi-annual committee meetings to:

1. assess and choose which QE plan activities are necessary and set goals for the quarter;

2. evaluate the activities of the previous quarter; and

3. implement any changes that protect the clients from potential harm or injury.

D. The QE plan committee shall:

1. develop and implement the QE plan; and

2. report to the administrator any identified systemic problems.

E. The HCBS provider shall maintain documentation of the most recent 12 months of the QE plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:83 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5063. Emergency Preparedness

A. - A.9. ...

B. Providers shall ensure that each client has a documented individual plan in preparation for, and response to, emergencies and disasters and shall assist clients in identifying the specific resources available through family, friends, the neighborhood and the community.

C. Continuity of Operations. The provider shall have written disaster and emergency preparedness plans which are based on a risk assessment using an all hazards approach for both internal and external occurrences, developed and approved by the governing body and updated annually;

1. to maintain continuity of the provider's operations in preparation for, during and after an emergency or disaster;

2. to manage the consequences of all disasters or emergencies that disrupt the provider's ability to render care and treatment, or threaten the lives or safety of the clients; and

3. that are prepared in coordination with the provider's local and/or parish Office of Homeland Security and Emergency Preparedness (OHSEP) and include provisions for persons with disabilities.

D. The HCBS provider shall develop and implement policies and procedures based on the emergency plan, risk assessment, and communication plan which shall be reviewed and updated at least annually to maintain continuity of the agency's operations in preparation for, during and after an emergency or disaster. The plan shall be designed to manage the consequences of all hazards, declared disasters or other emergencies that disrupt the provider's ability to render care and treatment, or threatens the lives or safety of the clients.

1. At any time that the HCBS provider has an interruption in services or a change in the licensed location due to an emergency situation, the provider shall notify HSS no later than the next business day.

2. - 6.e. Repealed.

E. The provider shall follow and execute its emergency preparedness plan in the event of the occurrence of a declared disaster or other emergency. The plan shall include, at a minimum:

1. provisions for the delivery of essential services to each client as identified in the individualized emergency plan for each client, whether the client is in a shelter or other location;

2. provisions for the management of staff, including provisions for adequate, qualified staff as well as for distribution and assignment of responsibilities and functions;

3. provisions for back-up staff;

4. the method that the provider will utilize in notifying the client's family or caregiver if the client is evacuated to another location either by the provider or with the assistance or knowledge of the provider. This notification shall include:

a. the date and approximate time that the provider or client is evacuating;

b. the place or location to which the client(s) is evacuating which includes the name, address and telephone numbers; and

c. a telephone number that the family or responsible representative may call for information regarding the provider's evacuation;

5. provisions for ensuring that sufficient supplies, medications, clothing and a copy of the individual service plan are sent with the client, if the client is evacuated; and

6. the procedure or methods that will be used to ensure that identification accompanies the individual. The identification shall include the following information:

a. current and active diagnoses;

b. medication(s), including dosages and times administered;

c. allergies;

d. special dietary needs or restrictions; and

e. next of kin, including contact information.

F. - H. ...

I. All agency employees, either contracted or staff, shall be trained in emergency or disaster preparedness. Training shall include orientation, ongoing training and participation in planned drills for all personnel.

J. - J.5. ...

K. - K.7. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:83 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter G. Adult Day Care Module

§5071. General Provisions

A. ...

B. An ADC program shall provide services for 10 or more functionally impaired adults who are not related to the owner or operator of the HCBS provider.

1. For the purposes of this Section, *functionally impaired adult* shall be defined as individuals 17 years of age or older who are physically, mentally or socially impaired to a degree that requires supervision.

C. The following two programs shall be provided under the ADC module:

1. Day Habilitation Services

a. Day habilitation services include assistance with acquisition, retention or improvement in self-help, socialization, and adaptive skills that take place in a non-residential setting separate from the recipient's private residence or other residential living arrangement. Day habilitation services provide activities and environments designed to foster the acquisition of skills, appropriate behavior, greater independence and personal choice.

b. Services are furnished to a client who is 17 years of age or older and has a developmental disability, or who is a functionally impaired adult, on a regularly scheduled basis during normal daytime working hours for one or more days per week, or as specified in the recipient's service plan.

c. Day habilitation services focus on enabling the recipient to attain or maintain his or her maximum functional level, and shall be coordinated with any physical, occupational, or speech therapies in the service plan. These services may also serve to reinforce skills or lessons taught in other settings.

2. Prevocational/Employment-Related Services

a. Prevocational/employment-related services prepare a recipient for paid or unpaid employment. Services include teaching such concepts as compliance, attendance, task completion, problem solving and safety. Services are not job-task oriented, but are aimed at a generalized result. These services are reflected in the recipient's service plan and are directed to habilitative (e.g. attention span, motor skills) rather than explicit employment objectives.

b. Prevocational services are provided to clients who are not expected to join the general work force or participate in a transitional sheltered workshop within one year of service initiation.

c. This service is not available to clients eligible to receive services under a program funded under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (IDEA).

D. When applying for the ADC module under the HCBS provider license, the provider shall indicate whether it is providing day habilitation, prevocational/employment-related services or both.

D.1. - E. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:85 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5073. Operational Requirements for ADC Facilities

A. - D.2. ...

3. Sufficient supervision/training shall be provided where potentially harmful materials such as cleaning solvents and/or detergents are used.

4. - 5. ...

6. Fire drills shall be performed at least once a quarter. Documentation of performance shall be maintained.

E. - E.8. ...

a. The ratio of bathrooms to number of clients shall meet the requirements in accordance with applicable state and/or federal laws, rules and regulations.

b. Individuals shall be ensured privacy when using bathroom facilities.

8.c. - 11. ...

12. The building in which the ADC is located shall meet the requirements of the OSFM in accordance with applicable state and federal laws, rules and regulations.

F. - F.1. ...

a. The provider shall maintain full financial records of clients' earnings if the facility pays the client.

b. ...

c. The provider shall have a U.S. Department of Labor sub-minimum wage certificate if the provider pays sub-minimum wage.

2. ...

3. Clients shall be directly supervised when operating any type of power driven equipment such as lawn mowers or electrical saws, unless:

a. - b. ...

c. sufficient training is given to the recipient and the training is documented.

4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:85 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter H. Family Support Module

§5075. General Provisions

A. ...

B. Services covered by the family support module may include:

1. special equipment;
2. limited adaptive housing;
3. medical expenses and medications;
4. nutritional consultation and regime;
5. related transportation;
6. special clothing;
7. special therapies;
8. respite care;
9. dental care; and
10. family training and therapy.

C. - C.10. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:86 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter I. Personal Care Attendant Module

§5079. General Provisions

A. ...

B. Personal care attendant services may include:

1. - 1.i. ...

j. any non-complex medical task which can be delegated;

2. assistance and/or training in the performance of tasks in accordance with the plan of care and related to:

2.a. - 3. ...

4. support and assistance in developing relationships with neighbors and others in the community; and

5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:87 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter J. Respite Care

§5083. General Provisions

A. ...

B. Respite care may be provided as an in-home or center-based service. The services may be provided in the client's home or in a licensed respite center.

C. Providers of in-home respite care services must comply with:

1. all HCBS providers core licensing requirements;
2. PCA module specific requirements; and
3. the respite care services module in-home requirements.

D. Providers of center-based respite care services shall comply with:

1. ...
2. respite care services module in-home requirements; and
3. the respite care services module center-based requirements.

E. When applying for the respite care service module under the HCBS provider license, the provider shall indicate whether it is providing in-home respite care, center-based respite care or both.

E.1. - F. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:87 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5085. Operational Requirements for In-Home Respite Care

A. - A.2. ...

B. In-home respite care service providers shall have sufficient administrative, support, professional and direct care staff to meet the needs of clients at all times.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:88 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5087. Operational Requirements for Center-Based Respite Care

A. - A.2. ...

a. The provider shall ensure that the client has an adequate supply of clothing, needed personal care supplies, and medications, if needed.

A.3. - B.1.a. ...

2. Arrangements for medical isolation shall be available. The provider shall inform the family to move the client to isolation when medically determined as necessary.

3. Medication shall be prescribed only by a licensed health care practitioner in accordance with the individual's professional licensing laws.

C. ...

1. Planning, preparation and serving of foods shall be in accordance with the nutritional, social, emotional and medical needs of the clients. The menu shall include a minimum of three varied, nutritious and palatable meals a day plus nourishing snacks.

2. All milk and milk products used for drinking shall be Grade A and pasteurized.

3. There shall be no more than 14 hours between the last meal or snack offered on one day and the first meal offered of the following day.

4. - 5. Repealed.

D. - F.1. ....

2. If it has been determined either medically or legally that the best interests of the client necessitate restrictions on communications or visits, these restrictions shall be documented in the service plan.

F.3. - G.1. ...

2. All bedrooms shall be on or above street grade level and be outside rooms. Bedrooms shall accommodate no more than four residents. Bedrooms shall provide at least 60 square feet per person in multiple sleeping rooms and not less than 80 square feet in single rooms.

3. ...

4. There shall be separate and gender segregated sleeping rooms for adults and for adolescents. When possible, there should be individual sleeping rooms for clients whose behavior would be disruptive to other clients.

5. Appropriate furniture shall be provided including but not limited to, a chest of drawers, a table or desk, an individual closet with clothes racks and shelves accessible to the residents.

G.6. - H.7. ...

I. There shall be a designated space for dining. Dining room tables and chairs shall be adjusted in height to suit the ages and physical needs of the clients.

J. - K. …

1. The facility shall comply with all applicable federal, state and local building codes, fire and safety laws, ordinances and regulations.

2. Secure railings shall be provided for flights of more than four steps and for all porches more than four feet from the ground.

3. Where clients under age two are in care, secure safety gates shall be provided at the head and foot of each flight of stairs accessible to these clients.

4. Before swimming pools are made available for client use, written documentation shall be received by LDH-OPH confirming that the pool meets the requirements of the Virginia Graeme Baker Pool and Spa Safety Act of 2007 or, in lieu of, written documentation confirming that the pool meets the requirements of ANSI/APSP-7 (2006 Edition) which is entitled the "American National Standard for Suction Entrapment Avoidance in Swimming Pools, Wading Pools, Spas, Hot Tubs and Catch Basins."

a. ...

b. An individual, 18 years of age or older, shall be on duty when clients are swimming in ponds, lakes or pools where a lifeguard is not on duty. The facility shall have staff sufficient in number certified in water safety by the American Red Cross or other qualified certifying agency to meet the needs of the clients served.

c. The provider shall have written plans and procedures for water safety.

d. The provider shall have available water safety devices sufficient in number for clients served and staff trained in the proper usage of such devices.

5. Storage closets or chests containing medicine or poisons shall be kept securely locked.

6. Garden tools, knives and other potentially dangerous instruments shall be inaccessible to clients without supervision.

K.7. - L.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:88 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter K. Substitute Family Care Module

§5089. General Provisions

A. - A.2. ...

B. Substitute family care services are delivered by a principal caregiver, in the caregiver's home, under the oversight and management of a licensed SFC provider.

1. The SFC caregiver is responsible for providing the client with a supportive family atmosphere in which the availability, quality and continuity of services are appropriate to the age, capabilities, health conditions and special needs of the individual.

2. The licensed SFC provider shall not be allowed to serve as the SFC caregiver.

C. Potential clients of the SFC program shall meet the following criteria:

1. have a developmental disability as defined in R.S. 28:451.1-455.2 of the Louisiana developmental disability law or its successor statute;

2. be at least 18 years of age;

a. Repealed.

3. have an assessment and service plan pursuant to the requirements of the HCBS provider licensing rule.

a. The assessment and service plan shall assure that the individual's health, safety and welfare needs can be met in the SFC setting.

4. - 4.a. Repealed

D. SFC Caregiver Qualifications

1. An SFC caregiver shall be certified by the SFC provider before any clients are served. In order to be certified, the SFC caregiver applicant shall:

a. undergo a professional home study conducted by the provider;

b. participate in all required orientations, trainings, monitoring and corrective actions required by the SFC provider; and

c. meet all of the caregiver specific requirements of this Section.

2. The personal qualifications required for certification include:

a. residency. The caregiver shall reside in the state of Louisiana and shall provide SFC services in the caregiver's home. The caregiver's home shall be located in the state of Louisiana and in the region in which the SFC provider is licensed;

b. criminal record and background clearance. Members of the SFC caregiver's household shall not have any felony convictions. Other persons approved to provide care or supervision of the SFC client for the SFC caregiver shall not have any felony convictions:

i. prior to certification, the SFC caregiver, all members of the SFC caregiver applicant's household and persons approved to provide care or supervision of the SFC client on a regular or intermittent basis, shall undergo a statewide criminal record background check conducted by the Louisiana State Police, or its authorized agent;

ii. annually thereafter, the SFC caregiver, all members of the SFC caregiver applicant's household and persons approved to provide care or supervision of the SFC client on a regular or intermittent basis, shall have criminal record background checks;

c. age. The SFC principal caregiver shall be at least 21 years of age. Maximum age of the SFC principal caregiver shall be relevant only as it affects his/her ability to provide for the SFC client as determined by the SFC provider through the home assessment. The record shall contain proof of age.

3. The SFC caregiver may be either single or married. Evidence of marital status shall be filed in the SFC provider's records and shall include a copy of legal documents adequate to verify marital status.

4. The SFC caregiver is not prohibited from employment outside the home or from conducting a business in the home provided that:

a. the SFC home shall not be licensed as another healthcare provider;

b. such employment or business activities do not interfere with the care of the client;

c. such employment or business activities do not interfere with the responsibilities of the SFC caregiver to the client;

d. a pre-approved, written plan for supervision of the participant which identifies adequate supervision for the participant is in place; and

e. the plan for supervision is signed by both the SFC caregiver and the administrator or designee of the SFC provider.

E. The SFC caregiver shall not be certified as a foster care parent(s) for the Department of Child and Family Services (DCFS) while serving as a caregiver for a licensed SFC provider.

1. The SFC provider, administrator or designee shall request confirmation from DCFS that the SFC caregiver applicant is not presently participating as a foster care parent and document this communication in the SFC provider's case record.

2. - 3.a. Repealed.

F. In addition to the discharge criteria in the core requirements, the client shall be discharged from the SFC program upon the client meeting any of the following criteria:

1. incarceration or placement under the jurisdiction of penal authorities or courts for more than 30 days;

a. - c. Repealed.

2. lives in or changes his/her residence to another region in Louisiana or another state;

a. - c. Repealed.

3. admission to an acute care hospital, rehabilitation hospital, intermediate care facility for persons with intellectual disabilities (ICF/ID) or nursing facility with the intent to stay longer than 90 consecutive days;

4. the client and/or his legally responsible party(s) fails to cooperate in the development or continuation of the service planning process or service delivery;

a. - e. Repealed.

5. a determination is made that the client's health and safety cannot be assured in the SFC setting; or

6. failure to participate in SFC services for 30 consecutive days for any reason other than admission to an acute care hospital, rehabilitation hospital, ICF/ID facility or nursing facility.

G. - H.6. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:89 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5090. Operational Requirements for Substitute Family Care Providers

A. - A.1.a. ...

2. Within the first 90 days following the client's move into the home, the SFC provider shall provide and document training to the SFC caregiver(s) inclusive of the following:

a. - d. ...

3. Annually, the SFC provider shall provide the following training to the SFC caregiver:

a. six hours of training related to the client's needs and interests including the client's specific priorities and preferences; and

b. six hours of training on issues of health and safety such as the identification and reporting of allegations of abuse, neglect or exploitation and misappropriation of client's funds.

A.4. - B. ...

1. The SFC provider shall conduct no less than monthly face to face reviews of each SFC caregiver and/or household in order to:

B.1.a. - C. ...

1. 24-hour care and supervision, including provisions for:

a. a flexible routine that includes client's choices or preferences;

C.1.b. - D. ...

1. SFC providers shall ensure that the SFC caregiver complies with the following standards for client records that are maintained in the SFC's home.

a. - c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:90 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5091. Operational Requirements for Substitute Family Care Caregivers

A. The SFC caregiver(s) shall provide environments that meet the needs of the clients.

B. The SFC caregiver's home shall be located within a 25 mile radius of community facilities, resources and services such as medical care, schools, recreation facilities, churches and other community facilities.

C. The home of the SFC family shall not be used as lodging for any person(s) who is not subject to the prior approval certification process of the SFC family. The SFC family shall notify the administrator, or designee of the SFC provider, of any person(s) allowed to reside in the home following the initial certification.

1. ...

2. All persons residing with the SFC family, including temporary or on a non-permanent basis, shall undergo statewide criminal record background checks conducted by the Louisiana State Police, or its authorized agent.

C.3. - D. ...

E. The SFC caregiver shall have a stable income sufficient to meet routine expenses, independent of the payments for their substitute family care services, as demonstrated by a reasonable comparison between income and expenses conducted by the administrator or designee of

the SFC provider upon initiation of services and as necessary thereafter.

F. The SFC caregiver shall have a plan that outlines in detail the supports to be provided. This plan shall be approved and updated as required and as necessary by the SFC provider. The SFC caregiver shall allow only SFC approved persons to provide care or supervision to the SFC client.

1. ...

a. identification of any person(s) who will supervise the participant on a routine basis which shall be prior approved by the administrator or designee of the SFC agency provider;

F.1.b. - H. ...

1. The home of the SFC caregiver shall be safe and in good repair, comparable to other family homes in the neighborhood. The home and its exterior shall be free from materials and objects which constitute a potential for danger to the individual(s) who reside in the home.

2. SFC homes featuring either a swimming or wading pool shall ensure that safety precautions prevent unsupervised accessibility to clients.

3. - 3.f. ...

g. household first aid supplies to treat minor injuries;

h. plumbing in functional working order and availability of a method to maintain safe water temperatures for bathing; and

3.i. - 5. ...

a. There shall be a bedroom for each client with at least 80 square feet exclusive of closets, vestibules and bathrooms and equipped with a door, that locks from the inside for privacy unless contraindicated by any condition of the client.

H.5.a.i. - I.2.c. ...

d. documentation of a driver's license status inquiry report on each family member who will be transporting the client.

3. If the client(s) are authorized to operate the family vehicle, liability insurance coverage specific to the client(s) use shall be maintained at all times in accordance with state law.

J. - J.1.k. ...

i. Repealed.

1.l. - 3.c. ...

K. - K.2. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:91 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter L. Supervised Independent Living Module

§5093. General Provisions

A. - B. ...

C. Clients receiving SIL services shall be at least 18 years of age. An SIL living situation is created when an SIL client utilizes an apartment, house or other single living unit as his place of residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:93 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5094. Operational Requirements for the Supervised Independent Living Module

A. - A.9. ...

10. equipped with an efficiency bedroom space or a separate private bedroom with a door that locks from the inside for privacy, if not contraindicated by a condition of the client residing in the room:

10.a. - 15.g. ...

16. equipped with functional smoke detectors and a fire extinguisher.

B. - B.3. ...

C. The department shall have the right to inspect the SIL and client's living situation as deemed necessary.

D. - E. ...

1. For purposes of this Section, a supervisor is defined as a person, so designated by the provider agency, due to experience and expertise relating to needs of clients with developmental disabilities.

2. A supervisor shall have a minimum of two documented contacts per week with the client. The weekly contacts may be made by telephone, adaptive communication technology or other alternative means of communication. There shall be documentation of what was discussed with the client and any outcomes.

a. The supervisor shall have a minimum of one face-to-face contact per month with the client in the client's home. The frequency of the face-to-face contacts shall be based on the client's needs. There shall be documentation of what was discussed with the client and any outcomes.

2.b. - 3....

F. In addition to the core licensing requirements, the SIL provider shall:

1. - 2. ...

3. assure that bill payment is completed timely in accordance with the individual service plan, if applicable; and

F.4. - G.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:93 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5095. Supervised Independent Living Shared Living Conversion Process

A. ...

B. Only an existing ICF/ID group or community home with up to eight beds may voluntarily and permanently close its home and its related licensed, Medicaid certified and enrolled ICF/ID beds to convert to new community-based waiver opportunities (slots) for up to six persons in shared living model or in combination with other ROW residential options. These shared living models will be located in the community.

1. ...

C. The LDH Office for Citizens with Developmental Disabilities (OCDD) shall approve all individuals who may be admitted to live in and to receive services in an SIL shared living conversion model.

D. The ICF/ID provider who wishes to convert an ICF/ID to an SIL via the shared living conversion model

shall be approved by OCDD and shall be licensed by HSS prior to providing services in this setting, and prior to accepting any ROW participant or applicant for residential or any other developmental disability service(s).

E. An ICF/ID provider who elects to convert to an SIL via the shared living conversion model may convert to one or more conversion models, provided that the total number of SIL shared living conversion slots; beds shall not exceed the number of Medicaid facility need review bed approvals of the ICFs/ID so converted.

1. The conversion of an ICFs/ID to an SIL via the shared living conversion process may be granted only for the number of beds specified in the applicant's SIL shared living conversion model application to OCDD.

2. ...

3. Any remaining Medicaid facility need review bed approvals associated with an ICF/ID that is being converted cannot be sold or transferred and are automatically considered terminated.

F. An ICF/ID provider who elects to convert to an SIL via the shared living conversion process shall obtain the approval of all of the residents of the home(s) (or the responsible parties for these residents) regarding the conversion of the ICF/ID prior to beginning the process of conversion.

G. Application Process

1. The ICF/ID owner or governing board must sign a conversion agreement with OCDD regarding the specific beds to be converted and submit a plan for the conversion of these beds into ROW shared living or other ROW residential waiver opportunities, along with a copy of the corresponding and current ICF/ID license(s) issued by HSS.

a. This conversion plan shall be approved and signed by OCDD and the owner or signatory of the governing board prior to the submittal of a HCBS provider, SIL module licensing application to LDH-HSS.

2. A licensed and certified ICF/ID provider who elects to convert an ICF/ID to an SIL via the shared living conversion process shall submit a licensing application for a HCBS provider license, SIL module. The ICF/ID applicant seeking to convert shall submit the following information with his licensing application:

a. - b. ...

i. that the license to operate an ICF/ID will be voluntarily surrendered upon successfully completing an initial licensing survey and becoming licensed as an SIL via the shared living conversion process; and

ii. that the ICF/ID Medicaid facility need review bed approvals will be terminated upon the satisfactory review of the conversion as determined by OCDD, pursuant to its 90-day post conversion site visit; and

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:94 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Subchapter M. Supported Employment Module

§5099. General Provisions

A. ...

1. return all telephone calls from clients within one business day, other than during working hours;

2. - 3. ...

4. have licensed nursing services staff and direct care staff;

A.5. - B. ...

C. The assessment of needs shall be done prior to placement of the client on a job site. A Medicaid HCBS comprehensive assessment approved by a LDH program office for a Medicaid recipient shall not substitute for the assessment of needs. A comprehensive plan of care approved by the department for Medicaid or waiver reimbursement shall not substitute for the ISP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:95 (January 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

Chapter 51. Home and Community-Based Services Providers

Subchapter A. Monitored In-Home Caregiving Module

§5101. General Provisions

A. - A.2. ...

B. Providers applying for the monitored in-home caregiving module under the HCBS license shall meet the core licensing requirements (except those set forth in §5005.B.4, §5005.C.2 and §5007.F.1.c) and the module specific requirements of this Section.

C. During any survey or investigation of the HCBS provider with the MIHC module conducted by the LDH-HSS, the survey process begins once the surveyor enters either the client's place of residence or the provider's licensed place of business. When the survey begins at the client's residence, the provider shall transmit any records requested by the HSS surveyor within two hours of such request to the location as designated by the HSS surveyor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:2639 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5103. Staffing Requirements, Qualifications, and Duties

A. - E.3. ...

F. Care Manager Responsibilities. The following responsibilities of the care manager for the MIHC module shall substitute for the requirements in §5055.L and §5055.M. The responsibilities of the MIHC care manager shall include:

F.1. - G.2.a. ...

b. have a statewide criminal background check conducted by the Louisiana State Police, or its authorized agent, in accordance with the applicable state laws;

c. ...

d. be at least 18 years of age;

G.2.e. - H.5. ...

6. providing ongoing supervision of health-related activities, including, but not limited to:

a. reminding the client to take prescribed medications;

b. - h.v. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:2639 (December 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§5105. Operational Requirements for Monitored In-Home Caregiving

A. Training. The following requirements for training and competency for the MIHC module shall substitute for the training and competency requirements in §5055.H, §5055.I, and §5055.J.

A.1. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2120.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:2641 (December 2015), 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 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. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, January 26, 2017 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.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community-Based Services Providers—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 $12,420 (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 amends the provisions governing the licensing standards for home and community-based services (HCBS) providers in order to further clarify these provisions and correct the formatting of these provisions in the *Louisiana Administrative Code*. It is anticipated that the implementation of this proposed rule will have no economic costs, but may be beneficial to HCBS providers in FY 16-17, FY 17-18 and FY 18-19 by relaxing certain licensing requirements for certain specific qualifying events.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello
Health Standards Section Director
1612#057

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
Community Choices Waiver
Electronic Visit Verification
(LAC 50:XXI.9305)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to adopt LAC 50:XXI.9305 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 who are elderly or have a disability through the Community Choices 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 adopted provisions governing the Community Choices Waiver 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 3). This proposed Rule is being promulgated to continue the provisions of the April 1, 2015 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services Waivers
Subpart 7. Community Choices Waiver
Chapter 93. Provider Responsibilities
§9305. Electronic Visit Verification

A. Community Choices 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 Community Choices 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 Community Choices Waiver participants receive needed services 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 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 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. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, January 26, 2017 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.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Home and Community-Based Services Waivers—Community Choices 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 state general fund programmatic savings of approximately $66,118 for FY 16-17 and $66,369 for FY 17-18 and $68,360 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 63.34 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 $109,217 for FY 16-17 and $114,671 for FY 17-18 and $118,111 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 63.34 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 April 1, 2015 Emergency Rule which adopted provisions governing the Community Choices Waiver program which mandated 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. It is anticipated that implementation of this proposed rule will reduce expenditures for the Community Choices Waiver program by approximately $175,767 for FY 16-17 and $181,040 for FY 17-18 and $186,471 for FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition. However, the reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Jen Steele Medicaid Director 1612#058	Evan Brasseaux Staff Director Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Intermediate Care Facilities for Persons
with Developmental Disabilities
Licensing Standards (LAC 48:I.8595 and 8599)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.8595 and §8599 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2180-2180.5. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing repealed the provisions governing the minimum licensing standards for intermediate care facilities I and II, community homes and group homes, and adopted provisions to incorporate these facilities under a single comprehensive Rule for intermediate care facilities for persons with developmental disabilities (ICFs/DD) (*Louisiana Register*, Volume 38, Number 12).

Act 540 of the 2006 Regular Session of the Louisiana Legislature amended R.S. 29:726(F) to provide for rapid communications in times of disaster or emergencies. In compliance with Act 540, the department promulgated an Emergency Rule which amended the provisions governing ICFs/DD to require timely filing of electronic reports related to census information and other needed information during declared disasters or emergencies (*Louisiana Register*, Volume 42, Number 4). This proposed Rule is being promulgated to continue the provisions of the April 7, 2016 Emergency Rule.

Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 85. Intermediate Care Facilities for Persons with Developmental Disabilities
Subchapter G. Emergency Preparedness
§8595. Emergency Preparedness Plan

A. The ICF/DD shall incorporate an all hazards risk assessment into the facility's emergency preparedness plan which is designed to manage the consequences of medical emergencies, power failures, fire, natural disasters, declared disasters or other emergencies that disrupt the facility's ability to provide care and treatment or threatens the lives or safety of the residents. The facility shall follow and execute its emergency preparedness plan in the event or occurrence of a disaster or emergency. This plan shall be reviewed, updated and approved by the governing body at least annually. Upon the department's request, a facility shall present its emergency preparedness plan for review.

B. - B.13. ...

14. The facility's plan shall include how the ICF/DD will notify OHSEP and LDH when the decision is made to shelter in place and whose responsibility it is to provide this notification.

15. - 15.f....

C. An ICF/DD shall electronically enter current facility information into the department's ESF-8 portal or into the current LDH emergency preparedness webpage or electronic database for reporting.

1. The following information shall be entered or updated before the fifteenth of each month:

a. operational status;

b. census;

c. emergency contact and destination location information; and

d. emergency evacuation transportation needs categorized by the following types:

i. *red*—high-risk residents who will need to be transported by advanced life support ambulance due to dependency on mechanical or electrical life sustaining devices or very critical medical condition;

ii. *yellow*—residents who are not dependent on mechanical or electrical life sustaining devices, but cannot be transported using normal means (buses, vans, cars), may need to be transported by an ambulance; however, in the event of inaccessibility of medical transport, buses, vans or cars may be used as a last resort; and

iii. *green*—residents who do not need specialized transportation may be transported by car, van, bus or wheelchair accessible transportation.

2. An ICF/DD shall also enter or update the facility's information upon request, or as described per notification of an emergency declared by the secretary. Emergency events may include, but are not limited to:

a. hurricanes;

b. floods;

c. fires;

d. chemical or biological hazards;

e. power outages;

f. tornados;

g. tropical storms; and

h. severe weather.

3. Effective immediately, upon notification of an emergency declared by the secretary, all ICFs/DD shall file an electronic report with the ESF-8 portal or into the current LDH emergency preparedness webpage or electronic database for reporting.

a. The electronic report shall be filed, as prescribed by department, throughout the duration of the emergency declaration.

b. The electronic report shall include, but is not limited to, the following:

i. status of operation;

ii. availability of beds;

iii. generator status;

iv. evacuation status;
v. shelter in place status;
vi. mobility status of clients;
vii. range of ages of clients;
viii. intellectual levels/needs of clients; and
ix. any other client or facility related information that is requested by the department.

NOTE: The electronic report shall not be used to request resources or to report emergency events.

D. The facility's plan shall include a process for tracking during and after the emergency/disaster for on-duty staff and sheltered clients.

E. The facility's plan shall also include a process to share with the client, family, and representative appropriate information from the facility's emergency plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3207 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§8599. Notification of Evacuation, Relocation, or Temporary Cessation of Operations

A. In the event that an ICF/DD evacuates, temporarily relocates or temporarily ceases operations at its licensed location as a result of an evacuation order issued by the state, local or parish OHSEP, the ICF/DD must immediately give notice to the Health Standards Section as well as the Office for Citizens with Developmental Disabilities (OCDD) and OHSEP as directed by filing an electronic report with the ESF-8 portal or into the current LDH emergency preparedness webpage or electronic database for reporting:

A.1. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3208 (December 2012), 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 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. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, January 26, 2017 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.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Intermediate Care Facilities for Persons with Developmental Disabilities 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 continues the provisions of the April 7, 2016 Emergency Rule which, in compliance with Act 540 of the 2006 Regular Session of the Louisiana Legislature, amended the provisions governing intermediate care facilities for persons with developmental disabilities (ICFs/DD) to require timely filing of electronic reports related to census information and other needed information during declared disasters or emergencies. It is anticipated that the implementation of this proposed will have no additional reporting costs or economic benefits to ICFs/DD for FY 16-17, FY 17-18 and FY 18-19 since providers will send reports electronically.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Cecile Castello	Evan Brasseaux
Health Standards Section Director	Staff Director
1612#059	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health
Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
(LAC 50:II.Chapter 200)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:II.Chapter 200 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 amended the provisions governing the reimbursement methodology for nursing facilities in order to suspend the provisions of LAC 50:II.Chapter 200, and to impose provisions to ensure that the rates in effect would not increase for the SFY 2016 rating period (*Louisiana Register*, Volume 42, Number 9).

The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities in order to revise the method used for nursing facility rate setting (*Louisiana Register,* Volume 42, Number 12). Currently, nursing facility rate setting uses a point-in-time method which determines rates by services utilized at a specific time. The department proposes to adopt provisions which will utilize a time-weighted methodology which determines rates by services used over a longer period of time.

The January 1, 2017 Emergency Rule also amends the provisions governing the reimbursement methodology for nursing facilities in order to make technical changes to align these provisions with the approved State Plan amendment, LA TN 15-0033, governing reimbursement for nursing facility services which was approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services on April, 11, 2016. This proposed Rule is being promulgated to continue the provisions of the January 1, 2017 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part II. Nursing Facilities
Subpart 5. Reimbursement
Chapter 200. Reimbursement Methodology
§20001. General Provisions

A. Definitions

Active Assessment—a resident MDS assessment is considered active when it has been accepted by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS). The assessment will remain active until a subsequent minimum data set (MDS) assessment for the same resident has been accepted by CMS, the maximum number of days (121) for the assessment has been reached, or the resident has been discharged.

* * *

Assessment Reference Date—the date on the minimum data set (MDS) used to determine the due date and delinquency of assessments.

* * *

Case Mix—a measure of the intensity of care and services used by similar residents in a facility.

Case-Mix Documentation Review (CMDR)—a review of original legal medical record documentation and other documentation as designated by the department in the MDS supportive documentation requirements, supplied by a nursing facility provider to support certain reported values that resulted in a specific RUG classification on a randomly selected MDS assessment sample. The review of the documentation provided by the nursing facility will result in the RUG classification being supported or unsupported.

Case-Mix Index (*CMI*)—a numerical value that describes the resident's relative resource use within the groups under the resource utilization group (RUG-III) classification system, or its successor, prescribed by the department based on the resident's MDS assessments. CMIs will be determined for each nursing facility on a quarterly basis using all residents.

* * *

Department—the Louisiana Department of Health (LDH), or its successor, and the associated work product of its designated contractors and agents.

* * *

Facility Cost Report Period Case-Mix Index—Repealed.

Example. Repealed.

Facility-Wide Average Case-Mix Index—Repealed.

Final Case-Mix Index Report (FCIR)—the final report that reflects the acuity of the residents in the nursing facility.

a. Prior to the January 1, 2017 rate setting, resident acuity is measured utilizing the point-in-time acuity measurement system.

b. Effective with the January 1, 2017 rate setting, resident acuity will be measured utilizing the time-weighted acuity measurement system.

Index Factor—based on the *Skilled Nursing Home without Capital Market Basket Index* published by IHS Global Insight (IHS Economics), or a comparable index if this index ceases to be published.

MDS Supportive Documentation Requirements—the department's publication of the minimum documentation and review standard requirements for the MDS items associated with the RUG-III or its successor classification system. These requirements shall be maintained by the department and updated and published as necessary.

Minimum Data Set (MDS)—a core set of screening and assessment data, including common definitions and coding categories that form the foundation of the comprehensive assessment for all residents of long-term care nursing facility providers certified to participate in the Medicaid Program. The items in the MDS standardize communication about resident problems, strengths, and conditions within nursing facility providers, between nursing facility providers, and between nursing facility providers and outside agencies. The Louisiana system will employ the current required MDS assessment as approved by the Centers for Medicare and Medicaid Services (CMS).

Nursing Facility Cost Report Period Case Mix Index—the average of quarterly nursing facility-wide average case mix indices, carried to four decimal places. The quarters used in this average will be the quarters that most closely

coincide with the nursing facility provider's cost reporting period that is used to determine the medians. This average includes any revisions made due to an on-site CMDR.

a. For the cost reporting periods utilized in the next rebase of rates on or after July 1, 2017, the calendar quarter case mix index averages will be calculated using the time-weighted acuity measurement system, and be inclusive of MDS assessments available as of the date of the applicable quarterly FCIRs. This average includes any revisions made due to an on-site CMDR.

Example: A January 1, 2015-December 31, 2015 cost report period would use the time-weighted facility-wide average case mix indices calculated for the four quarters ending March 31, 2015, June 30, 2015, September 30, 2015 and December 31, 2015.

Nursing Facility-Wide Average Case Mix Index—the simple average, carried to four decimal places, of all resident case mix indices.

a. Prior to the January 1, 2017, rate setting resident case mix indices will be calculated utilizing the point-in-time acuity measurement system. If a nursing facility provider does not have any residents as of the last day of a calendar quarter or the average resident case mix indices appear invalid due to temporary closure or other circumstances, as determined by the department, a statewide average case mix index using occupied and valid statewide nursing facility case mix indices may be used.

i. Effective as of the January 1, 2017 rate setting, resident case mix indices will be calculated utilizing the time-weighted acuity measurement. If a nursing facility provider does not have any residents during the course of a calendar quarter, or the average resident case mix indices appear invalid due to temporary closure or other circumstances, as determined by the department, a statewide average case mix index using occupied and valid statewide nursing facility provider case mix indices may be used.

* * *

Point-In-Time Acuity Measurement System (PIT)—the case mix index calculation methodology that is compiled utilizing the active resident MDS assessments as of the last day of the calendar quarter, referred to as the point-in-time.

Preliminary Case-Mix Index Report (PCIR)—the preliminary report that reflects the acuity of the residents in the nursing facility.

a. Prior to the January 1, 2017 rate setting, resident acuity is measured utilizing the point-in-time acuity measurement system.

b. Effective as of the January 1, 2017 rate setting, resident acuity will be measured utilizing the time-weighted acuity measurement system.

* * *

RUG-III Resident Classification System—the resource utilization group used to classify residents. When a resident classifies into more than one RUG-III, or its successor's group, the RUG-III or its successor's group with the greatest CMI will be utilized to calculate the nursing facility provider's total residents average CMI and Medicaid residents average CMI.

Summary Review Results Letter—a letter sent to the nursing facility that reports the final results of the case-mix documentation review and concludes the review.

a. The summary review results letter will be sent to the nursing facility provider within 10 business days after the final exit conference date.

* * *

Time-Weighted Acuity Measurement System (TW)—the case mix index calculation methodology that is compiled from the collection of all resident MDS assessments transmitted and accepted by CMS that are considered active within a given calendar quarter. The resident MDS assessments will be weighted based on the number of calendar days that the assessment is considered an active assessment within a given calendar quarter.

* * *

Unsupported MDS Resident Assessment—an assessment where one or more data items that are used to classify a resident pursuant to the RUG-III, 34-group, or its successor's resident classification system is not supported according to the MDS supportive documentation requirements and a different RUG-III, or its successor, classification would result; therefore, the MDS assessment would be considered "unsupported."

B. - B.7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:825 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1522 (September 2016), LR 43:

§20003. Cost Reports

[Formerly LAC 50:VII.1303]

A. - B.1. ...

2. There shall be no automatic extension of the due date for the filing of cost reports. If a provider experiences unavoidable difficulties in preparing its cost report by the prescribed due date, one 30-day extension may be permitted, upon written request submitted to the department prior to the due date. The request must explain in detail why the extension is necessary. Extensions beyond 30 days may be approved for situations beyond the facility's control. An extension will not be granted when the provider agreement is terminated or a change in ownership occurs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1473 (June 2002), repromulgated LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2263 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:541 (March 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§20005. Rate Determination

[Formerly LAC 50:VII.1305]

A. - B. ...

1. Effective July 3, 2009, and at a minimum, every second year thereafter, the base resident-day-weighted median costs and prices shall be rebased using the most

recent four month or greater unqualified audited or desk reviewed cost reports that are available as of the April 1, prior to the July 1, rate setting or the department may apply a historic audit adjustment factor to the most recently filed cost reports. The department, at its discretion, may rebase at an earlier time.

B.1.a. - D.1.g. ...

i. Effective for rate periods January 1, 2017 through June 30, 2017 each nursing facility providers direct care and care related floor will be calculated as follows.

(a). For each nursing facility, the statewide direct care and care related floor shall be apportioned between the per diem direct care component and the per diem care related component using the facility-specific percentages determined in Subparagraph c of this Paragraph. On a quarterly basis, each facility's specific direct care component of the statewide floor shall be multiplied by each nursing facility provider's most advantageous average case mix index for the prior quarter. The most advantageous case mix index will be determined by utilizing the nursing facility providers' calculated point-in-time or time-weighted measurement system case mix index value that results in the lowest direct care and care related floor amount for the associated rate quarter. The direct care component of the statewide floor will be adjusted quarterly to account for changes in the nursing facility-wide average case mix index. Each facility's specific direct care and care related floor is the sum of each facility's case mix adjusted direct care component of the statewide floor plus each facility's specific care related component of the statewide floor.

1.h. - 4.b. ...

c. Reserved.

d. Effective for rate periods beginning January 1, 2017 through June 30, 2017, each applicable nursing facility provider will receive an additional pass-through rate adjustment to allow for a phase-in of the time-weighted acuity measurement system. The nursing facility provider pass-through rate adjustment will be calculated and applied as follows.

i. The nursing facility provider's rate period reimbursement rate will be calculated in accordance with §20005.B using the point-in-time acuity measurement system for determining the nursing facility-wide average case mix index values. The reimbursement rate will be determined after considering all other rate period changes to the reimbursement rates.

ii. The nursing facility provider's rate period reimbursement rate will be calculated in accordance with §20005.B using the time-weighted acuity measurement system for determining the nursing facility-wide average case mix index values. The reimbursement rate will be determined after considering all other rate period changes to the reimbursement rate.

iii. The reimbursement rate differential will be determined by subtracting the reimbursement rate calculated using the point-in-time acuity measurement system from the reimbursement rate calculated using the time-weighted acuity measurement system.

iv. If the calculated reimbursement rate differential exceeds a positive or negative $2, then a pass-through rate adjustment will be applied to the nursing facility provider's reimbursement rate in an amount equal to the difference between the rate differential total and the $2 threshold, in order to ensure the nursing facility provider's reimbursement rate is not increased or decreased more than $2 as a result of the change of the time-weighted acuity measurement system.

(a). Should the nursing facility provider, for the aforementioned rate periods, receive an adjusted nursing facility-wide average case mix index value due to a CMDR change or other factors, the facility will have their rate differential recalculated using the revised case mix index values. The $2 reimbursement rate change threshold will apply to the recalculated differential and associated case mix index values, not the original differential calculation.

v. If a nursing facility provider's calculated rate differential does not exceed the $2 rate change threshold, then no pass-through rate adjustment will be applied for the applicable rate period.

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:

§20007. Case-Mix Index Calculation
[Formerly LAC 50:VII.1307]

A. ...

B. Each resident in the nursing facility, with a completed and submitted assessment, shall be assigned a RUG-III, 34-group, or its successor based on the following criteria.

1. Prior to the January 1, 2017 rate setting, the RUG-III group, or its successor, is calculated based on the resident's most current assessment, available on the last day of each calendar quarter, and shall be translated to the appropriate case mix index. From the individual resident case mix indices, two average case mix indices for each Medicaid nursing facility provider shall be determined four times per year based on the last day of each calendar quarter.

2. Effective as of the January 1, 2017 rate setting, the RUG-III group, or its successor, will be calculated using each resident MDS assessment transmitted and accepted by CMS that is considered active within a given calendar quarter. These assessments are then translated to the appropriate case mix index. The individual resident case mix indices are then weighted based on the number of calendar days each assessment is active within a given calendar quarter. Using the individual resident case mix indices, the calendar day weighted average nursing facility-wide case mix index is calculated using all residents regardless of payer type. The calendar day weighted nursing facility-wide average case mix index for each Medicaid nursing facility shall be determined four times per year.

C. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1475 (June 2002), repromulgated LR 28:1792 (August 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:826 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§20012. Fair Rental Value, Property Tax and Property Insurance Incentive Payments to Buyers of Nursing Facilities [Formerly LAC 50:VII.1312]

A. - C.3. ...

4. Base Capital Amount Updates. On July 1 of each year, the base capital amounts (as defined in Paragraph 1 of this Subsection) will be trended forward annually to the midpoint of the rate year using the change in the per diem unit cost listed in the three-fourths column of the R.S. Means Building Construction Data Publication, or its successor, adjusted by the weighted average total city cost index for New Orleans, LA. The cost index for the midpoint of the rate year shall be estimated using a two-year moving average of the two most recent indices as provided in this Paragraph. Adjustments to the base capital amount will only be applied to purchase and closure transactions occurring after the adjustment date.

D. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1349 (July 2007), amended LR 34:1033 (June 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§20013. Case-Mix Documentation Reviews and Case-Mix Index Reports [Formerly LAC 50:VII.1313]

A. The department shall provide each nursing facility provider with the preliminary case-mix index report (PCIR) by approximately the fifteenth day of the second month following the beginning of a calendar quarter. The PCIR will serve as notice of the MDS assessments transmitted and provide an opportunity for the nursing facility provider to correct and transmit any missing MDS assessments or tracking records or apply the CMS correction request process where applicable. The department shall provide each nursing facility provider with a final case-mix index report (FCIR) utilizing MDS assessments after allowing the nursing facility providers a reasonable amount of time to process their corrections (approximately two weeks).

1. If the department determines that a nursing facility provider has delinquent MDS resident assessments, for purposes of determining both average CMIs, such assessments shall be assigned the case-mix index associated with the RUG-III group "BC1-delinquent" or its successor. A delinquent MDS shall be assigned a CMI value equal to the lowest CMI in the RUG-III, or its successor, classification system.

B. The department shall periodically review the MDS supporting documentation maintained by nursing facility providers for all residents, regardless of payer type. Such reviews shall be conducted as frequently as deemed necessary by the department. The department shall notify nursing facility providers of the scheduled case-mix documentation reviews (CMDR) not less than two business days prior to the start of the review date and a fax, electronic mail or other form of communication will be provided to the administrator or other nursing facility provider designee on the same date identifying possible documentation that will be required to be available at the start of the on-site CMDR.

1. The department shall review a sample of MDS resident assessments equal to the greater of 20 percent of the occupied bed size of the nursing facility or 10 assessments and shall include those transmitted assessments posted on the most current FCIR. The CMDR will determine the percentage of assessments in the sample that are unsupported MDS resident assessments. The department may review additional or alternative MDS assessments, if it is deemed necessary.

2. When conducting the CMDR, the department shall consider all MDS supporting documentation that is provided by the nursing facility provider and is available to the RN reviewers prior to the start of the exit conference. MDS supporting documentation that is provided by the nursing facility provider after the start of the exit conference shall not be considered for the CMDR.

3. Upon request by the department, the nursing facility provider shall be required to produce a computer-generated copy of the MDS assessment which shall be the basis for the CMDR.

4. After the close of the CMDR, the department will submit its findings in a summary review results (SRR) letter to the nursing facility within 10 business days following the final exit conference date.

5. The following corrective action will apply to those nursing facility providers with unsupported MDS resident assessments identified during an on-site CMDR.

a. - b. ...

c. If the percentage of unsupported MDS assessments in the total sample is greater than the threshold percentage as shown in column (B) of the table in Subparagraph e below, the RUG-III, or its successor, classification shall be recalculated for the unsupported MDS assessments based upon the available documentation obtained during the CMDR process. The nursing facility provider's CMI and resulting Medicaid rate shall be recalculated for the quarter in which the FCIR was used to determine the Medicaid rate. A follow-up CMDR process described in Subparagraphs d and e may be utilized at the discretion of the department.

d. Those nursing facility providers exceeding the thresholds (see column (B) of the table in Subparagraph e) during the initial on-site CMDR will be given 90 days to correct their assessing and documentation processes. A follow-up CMDR may be performed at the discretion of the department at least 30 days after the nursing facility provider's 90-day correction period. The department or its contractor shall notify the nursing facility provider not less than two business days prior to the start of the CMDR date. A fax, electronic mail, or other form of communication will be provided to the administrator or other nursing facility provider designee on the same date identifying documentation that must be available at the start of the on-site CMDR.

e. After the follow-up CMDR, if the percentage of unsupported MDS assessments in the total sample is greater than the threshold percentage as shown in column (B) of the following table, the RUG-III, or its successor, classification shall be recalculated for the unsupported MDS assessments based upon the available documentation obtained during the CMDR process. The nursing facility provider's CMI and resulting Medicaid rate shall be recalculated for the quarter in which the FCIR was used to determine the Medicaid rate. In addition, facilities found to have unsupported MDS resident assessments in excess of the threshold in column (B) of the table below may be required to enter into a documentation improvement plan with the department. Additional follow-up CMDR may be conducted at the discretion of the department.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2537 (December 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:826 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§20015. Appeal Process

[Formerly LAC 50:VII.1315]

A. If the facility disagrees with the CMDR findings, a written request for an informal reconsideration must be submitted to the department within 15 business days of the facility's receipt of the CMDR findings in the SRR letter. Otherwise, the results of the CMDR findings are considered final and not subject to appeal. The department will review the facility's informal reconsideration request within 10 business days of receipt of the request and will send written notification of the final results of the reconsideration to the facility. No appeal of findings will be accepted until after communication of final results of the informal reconsideration process.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2538 (December 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:827 (March 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 43:

§20029. Supplemental Payments

A. - A.2. ...

3. Payment Calculations. The Medicaid supplemental payment for each state fiscal year (SFY) shall be calculated immediately following the July quarterly Medicaid rate setting process. The total Medicaid supplemental payment for each individual NSGO will be established as the individual nursing facility differential between the estimated Medicare payments for Medicaid nursing facility residents, and the adjusted Medicaid payments for those same nursing facility residents. A more detailed description of the Medicaid supplemental payment process is described below.

a. The calculation of the total annual Medicaid supplemental payment for nursing facilities involves the following four components:

i. calculate Medicare payments for Louisiana Medicaid nursing facility residents using Medicare payment principles;

ii. determining Medicaid payments for Louisiana Medicaid nursing facility residents;

iii. adjust payments for coverage difference between Medicare payment principles and Louisiana Medicaid payment principles; and

iv. calculating the differential between the calculated Medicare payments for Medicaid nursing facility residents, and Medicaid payments for those same residents.

b. Calculating Medicaid Rates Using Medicare Payment Principles. With Medicare moving to the prospective payment system (PPS), Medicare rates will be calculated based on Medicaid acuity data. The following is a summary of the steps involved.

i. Using each resident's minimum data set assessment, the applicable RUG-III grouper code for Medicaid residents was identified. A frequency distribution of Medicaid residents in each of the Medicare RUG classification categories is then generated.

(a). The resident minimum data set assessments will be from the most recently available minimum data set assessments utilized in Medicaid rate setting processes as of the development of the Medicaid supplemental payment calculation demonstration.

ii. After the Medicaid resident frequency distribution was developed, rural and urban rate differentials and wage index adjustments will be used to adjust the Medicare rate tables. Medicare rate tables will be applicable to SFY periods.

(a). Medicare rate tables will be established using information published in 42 CFR part 483 where available. Should the finalized Medicare rate tables for any portion of the applicable SFY period be unavailable, the most recent preliminary Medicare rate adjustment percentage published in the federal register available as of the development of the Medicaid supplemental payment calculation demonstration will be utilized as the basis of the Medicare rate for that portion of the SFY period.

(b). The resulting Medicare rates are multiplied by the number of Medicaid residents in each RUG category, summed and then averaged. The Medicare rate tables applicable to each period of the SFY will be multiplied by an estimate of Medicaid paid claims days for the specified period. Medicaid paid claims days will be compiled from the state's Medicaid Management Information System's (MMIS) most recent 12 months, as of the development of the Medicaid supplemental payment calculation demonstration.

c. Determining Medicaid Payments for Louisiana Medicaid Nursing Facility Residents. The most current Medicaid nursing facility reimbursement rates as of the development of Medicaid supplemental payment calculation demonstration will be utilized. These reimbursement rates will be multiplied by Medicaid paid claims compiled from the state's MMIS system from the most recent 12 months, as of the development of the Medicaid supplemental payment calculation demonstration, to establish total Medicaid per diem payments. Total calculated Medicaid payments made outside of the standard nursing facility per diem are summed

with total Medicaid reimbursement from the per diem payments to establish total Medicaid payments. Payments made outside of the standard nursing facility per diem are reimbursement for the following services.

i. Specialized Care Services Payments. Specialized care services reimbursement is paid outside of the standard per diem rate as an add-on payment to the current facility per diem rate. The established specialized care add-on per diems will be multiplied by Medicaid paid claims for specialized care days compiled from the state's MMIS system from the most recent 12 months, as of the development of the Medicaid supplemental payment calculation demonstration, to establish projected specialized care services payments for the applicable SFY.

ii. Home/Hospital Leave Day (Bed Hold) Payments. Allowable Medicaid Leave days were established using Medicaid paid claims days compiled from the state's MMIS system from the most recent 12 months, as of the development of the Medicaid supplemental payment calculation demonstration. Allowable Medicaid Leave days will be multiplied by the most recent Medicaid leave day quarterly reimbursement rates as of the of the Medicaid supplemental payment calculation demonstration to established projected Medicaid Leave day payments for the SFY.

iii. Private Room Conversion Payments. Private room conversion (PRC) Medicaid days will be established utilizing the most recently reviewed or audited Medicaid supplemental cost reports as of the development of the Medicaid supplemental payment calculation demonstration. The applicable cost reporting period information will be annualized to account for short year cost reporting periods. Allowable PRC Medicaid days will be multiplied by the PRC incentive payment amount of $5 per allowable day to establish the total projected Medicaid PRC payments for the SFY.

d. Adjusting for Differences between Medicare Principles and Louisiana Medicaid Nursing Facility Residents. An adjustment to the calculation of the Medicaid supplemental payment limit will be performed to account for the differences in coverage between the Medicare PPS rate and what Louisiana Medicaid covers within the daily rate provided above. To accomplish this, an estimate will be calculated for pharmacy, laboratory, and radiology claims that were paid on behalf of nursing facility residents for other than their routine daily care. These estimates will then be added to the total calculated Medicaid payments.

e. Calculating the Differential Between the Calculated Medicare Payments for Medicaid Nursing Facility Residents, and Medicaid Payments for Those Same Residents. The total annual Medicaid supplemental payment will be equal to the individual NSGO nursing facility's differential between their calculated Medicare payments and the calculated adjusted Medicaid payments for the applicable SFY, as detailed in the sections above.

4. Frequency of Payments and Calculations. The Medicaid supplemental payments will be reimbursed through a calendar quarter based lump sum payment. The amount of the calendar quarter lump sum payment will be equal to the SFY total annual Medicaid supplemental payment divided by four. The total annual Medicaid supplemental payment calculation will be performed for each SFY immediately following the July quarterly Medicaid rate setting process.

a. Repealed.

5. No payment under this section is dependent on any agreement or arrangement for provider or related entities to donate money or services to a governmental entity.

5.a. - 6. Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 42:63 (January 2016), 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 or autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to 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. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, January 26, 2017 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.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nursing Facilities
Reimbursement Methodology

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in estimated state general fund programmatic savings by an indeterminable amount for FY 16-17, FY 17-18 and FY 18-19. The data is not available to determine the amount of the savings. It is anticipated that $3,348 ($1,674 SGF and $1,674 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 reduce federal revenue collections by an indeterminable amount in FY 16-17, FY 17-18 and FY 18-19. It is anticipated that $1,674 will be collected in FY 16-17 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule, which continues the provisions of the January 1, 2017 emergency rule, amends the provisions governing the reimbursement methodology for nursing facilities to change the method for nursing facility rate setting from a point-in-time method to a time-weighted method, and to make technical changes to these provisions to incorporate language from the currently approved Medicaid State Plan. It is anticipated that implementation of this proposed rule will reduce expenditures in the Medicaid Program by an indeterminable amount in 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.

Jen Steele	Evan Brasseaux
Medicaid Director	Staff Director
1612#060	Legislative Fiscal Office

NOTICE OF INTENT

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

Personal Care Services—Long-Term
Standards for Participation
Electronic Visit Verification
(LAC 50:XV.12909)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:XV.12909 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 personal care services and supports to individuals with functional impairments.

The department promulgated an Emergency Rule which adopted provisions governing long-term personal care services (LT-PCS) which mandated that LT-PCS providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for long-term personal care services (*Louisiana Register*, Volume 41, Number 3). This proposed Rule is being promulgated to continue the provisions of the April 1, 2015 Emergency Rule.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XV. Services for Special Populations
Subpart 9. Personal Care Services
Chapter 129. Long Term Care
§12909. Standards for Participation

A. - D.2. ...

E. Electronic Visit Verification. Providers of long-term personal care services 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.

1. Reimbursement shall only be made to providers with documented use of the EVV system.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:912 (June 2003), amended LR 30:2832 (December 2004), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:2579 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2451 (November 2009), LR 39:2508 (September 2013), amended 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 Medicaid recipients receive needed long-term personal care services 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 personal care 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 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. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Public Hearing

A public hearing on this proposed Rule is scheduled for Thursday, January 26, 2017 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.

Rebekah E. Gee MD, MPH
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Personal Care Services
Long-Term Standards for Participation
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 state general fund programmatic savings of approximately $156,752 for FY 16-17 and $157,051 for FY 17-18 and $161,761 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 63.34 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 $258,735 for FY 16-17 and $271,346 for FY 17-18 and $279,487 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 63.34 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 April 1, 2015 Emergency Rule which adopted provisions governing long-term personal care services (LT-PCS) which mandated that providers must utilize the electronic visit verification (EVV) system designated by the department for automated scheduling, time and attendance tracking, and billing for LT-PCS. It is anticipated that implementation of this proposed rule will reduce expenditures in the Medicaid Program by approximately $415,919 for FY 16-17 and $428,397 for FY 17-18 and $441,248 for FY 18-19.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition. However, the reduction in payments may adversely impact the financial standing of providers and could possibly cause a reduction in employment opportunities.

Jen Steele	Evan Brasseaux
Medicaid Director	Staff Director
1612#061	Legislative Fiscal Office

NOTICE OF INTENT

Department of Natural Resources
Office of Conservation

Offsite E and P Waste Transfer Pipeline Systems
(LAC 43:XIX.501 and 507)

The Department of Natural Resources, Office of Conservation proposes to amend LAC 43:XIX, Subpart 1 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana. The proposed amendment and adoption are made to implement requirements for E and P waste transfer pipeline systems.

Title 43
NATURAL RESOURCES
Part XIX. Office of Conservation—General Operations
Subpart 1. Statewide Order No. 29-B
Chapter 5. Off-Site Storage, Treatment and/or Disposal of Exploration and Production Waste Generated from Drilling and Production of Oil and Gas Wells

NOTE: Onsite disposal requirements are listed in LAC 43:XIX, Chapter 3.

EDITOR'S NOTE: Statewide Order 29-B was originally codified in LAC 43:XIX as §129. In December 2000, §129 was restructured into Chapters 3, 4 and 5. Chapter 3 contains the oilfield pit regulations. Chapter 4 contains the injection/disposal well regulations. Chapter 5 contains the commercial facility regulations. A cross-reference chart in the December 2000 *Louisiana Register*, page 2798, indicates the locations for the rules in each existing Section.

EDITOR'S NOTE: Chapter 5 was amended in November 2001. A chart showing the restructuring of Chapter 5 is found on page 1898 of the *Louisiana Register*, November 2001.

§501. Definitions

* * *

Transfer Pipeline System—an offsite pipeline system by which only E and P waste is transferred to a permitted in-state or out-of-state transfer station or disposal facility.

* * *

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 26:2811 (December 2000), amended LR 27:1898 (November 2001), LR 29:937 (June 2003), LR 34:1421 (July 2008), LR 36:2570 (November 2010), LR 43:

§571. Requirements for E and P Waste Transfer Pipeline Systems

A. Notification

1. The Office of Conservation shall be notified in writing at least 30 days prior to installation of an offsite E and P waste transfer pipeline system. Written notification shall include the following items:

a. the pipeline system operator/company name, address and principal officer contact information including emergency contacts;

b. estimated time frame construction will begin;

c. a list of all E and P waste types to be transported via the pipeline system;

d. a list of all E and P waste operators/generators that will utilize the pipeline system;

e. a narrative description, map(s) and schematic diagram(s) as necessary to accurately describe the geographic location of the entire pipeline system to be operated in Louisiana, the pipeline system starting and ending point and all points of entry in between, and the final in-state or out-of-state disposition of E and P waste transmitted through the pipeline system;

f. detailed plans for generator, transporter and commercial facility or transfer station operator compliance with manifesting requirements of Subsection C of this Section and LAC 43:XIX.545.

2. The Office of Conservation shall be notified in writing no later than five calendar days following completion of construction of the E and P waste transfer pipeline system. Such notification shall include the date, or anticipated date, when E and P waste transmission operations are scheduled to begin.

3. The Office of Conservation shall be notified in writing of any change in the principal officers, management, or ownership of an E and P waste transfer pipeline system within 10 calendar days of the change.

4. The Office of Conservation shall be notified in writing within five calendar days of the effective date of any change in the operational status of a pipeline system including but not limited to any changes to the items listed in Paragraph 1 of this Subsection, if and when a pipeline system, or section of the pipeline system is shut-in or removed from service, brought back into service, permanently removed from service and/or decommissioned.

B. Design, Operations and Maintenance Criteria

1. E and P waste transfer pipeline systems shall be designed, constructed, operated and maintained in a manner which is protective of public health, safety and welfare and the environment, surface water, groundwater aquifers and underground sources of drinking water.

C. Manifesting Requirements

1. All E and P waste transported via an E and P waste transfer pipeline system shall be properly manifested in accordance with LAC 43:XIX.545. E and P waste manifesting plans submitted for compliance with the notification requirements of Subparagraph A.1.f of this Section shall be approved by the Office of Conservation prior to implementation.

D. Reporting Requirements

1. Any spills which occur during the offsite transportation of E and P waste where any quantity of E and P waste is released directly to the environmental, i.e., the spilled E and P waste is not completely confined within a non-earthen metal, plastic, fiberglass, concrete or other impervious containment system, shall be reported by phone to the Office of Conservation within 24 hours of the spill and other appropriate state and federal agencies in accordance with each agencies' applicable reporting requirements. A written report of the incident must be submitted within five calendar days detailing the incident and methods of corrective action. The report shall also include the identification of all operators/generators utilizing the E and P waste transfer pipeline system at the time of discharge.

2. Initiation of pipeline repair and E and P waste removal/containment system clean-up activities for any E and P waste spill remaining within a containment system not required to be reported for compliance with Paragraph 1 of this Subsection shall commence as soon as is practicable within 24 hours of detection.

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 43:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested parties will be afforded the opportunity to submit data, views, or arguments, in writing. Written comments will be accepted by hand delivery or USPS only, until 4 p.m., January 12, 2016, at Office of Conservation, Environmental Division, P.O. Box 94275, Baton Rouge, LA 70804-9275; or Office of Conservation, Environmental Division, 617 North Third Street, Room 830, Baton Rouge, LA 70802. Reference Docket No. R A 2016-03. All inquiries should be directed to Gary Snellgrove at the above addresses or by phone to (225) 342-7222. No preamble was prepared.

Richard P. Ieyoub
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Offsite E and P Waste Transfer Pipeline Systems

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs to state or local governmental units as a result of the proposed rule change. As a result of natural gas shale production activities in North Louisiana, the first and only off-site exploration and production (E and P) waste fluids pipeline system for waste transportation to a permitted out-of-state disposal facility was installed in Louisiana. There was previously no state regulation or governing policy for notification, design, operation, maintenance, waste manifesting and reporting. Requirements for E and P Waste transfer pipeline systems (waste pipeline) currently exist by order of the Commissioner of Conservation. The proposed rule seeks to codify the existing agency policy into rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There has been and currently remains only one directly affected company operating an E and P waste transfer pipeline system in the state. The department believes that the company affected by these regulations has already incorporated these standards and is currently in compliance. To that end, there are no anticipated increased costs to the E and P waste transfer pipeline system operating company or other non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Richard P. Ieyoub	Evan Brasseaux
Commissioner	Staff Director
1612#013	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Correction
Office of State Police

Concealed Handgun Permit (LAC 55:I.Chapter 13)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., R.S. 40:1379.1, R.S. 40:1379.3, R.S. 40:1381, and R.S. 40:1382, gives notice of its intent to update its rules regulating the issuance of concealed handgun permits.

Title 55
PUBLIC SAFETY
Part I. State Police
Chapter 13. Issuance of Concealed Handgun Permits

§1301. Applications and Permits

A. The rules contained herein are promulgated by the Concealed Handgun Permit Unit of the Department of Public Safety and Corrections, Office of State Police, in order to set forth the policies and procedures applicable to the issuance of concealed handgun permits to Louisiana citizens who qualify for such permits pursuant to R.S. 40:1379.1 and 40:1379.3; to provide statewide uniform standards for issuing permits to carry concealed handguns; and to maintain the health, welfare, and safety of the public. These considerations shall control the application and interpretation of these rules. Any subsequent restatement, repeal, or amendment of these rules shall be in accordance with the aforementioned considerations.

B. Applicability. The policies and procedures provided herein shall be applicable to all Louisiana citizens who are eligible for a statewide concealed handgun permit.

C. Duties and Responsibilities. Persons issued concealed handgun permits have the authority only to carry a concealed weapon and are regarded as private citizens in all matters of law with no special powers or authority accruing by virtue of the concealed handgun permit.

D. Application. Eligible persons shall be entitled to receive the concealed handgun permit, as set forth above; provided that all requirements of the superintendent of state police relating to application shall be satisfied. Applications shall be submitted in the manner prescribed by the superintendent of state police and will include the submission of such documents and materials establishing eligibility as the superintendent may deem necessary.

E. Suspension/Revocation. The superintendent of state police or his designee may suspend or revoke concealed handgun permits when conditions and/or circumstances are such that the holder of such permit can no longer show need or when the holder commits acts contrary to law or uses the permit for self aggrandizement or in an unreasonable and imprudent manner.

F. Arrest Record. If the applicant has an arrest record, he shall present a notarized statement from the clerk of court or district attorney of the parish or county in which the arrests were made which specifies the disposition on all charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1. 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 1:495 (November 1975), amended by the Department of Public Safety and Corrections, Office of State Police, LR 22:845 (September 1996), LR 38:1279 (May 2012), repromulgated LR 38:1415 (June 2012), amended LR 43:

§1303. Issuance of Special Officer's Commission

A. Purpose. The purpose of this regulation is to set forth the policies and procedures applicable to the issuance of special officer's commission to persons showing need for such commissions as required in accordance with the provisions of Title 40, section 1379.1 of the *Louisiana Revised Statutes*.

B. Applicability. The policies and procedures provided herein shall be applicable to all officers, agents, and employees of agencies, boards and commissions of the state of Louisiana; of local government subdivisions; of private institutions or others who display a need for statewide police power and power to arrest, are bonded and meet other restrictions as required.

C. Duties and Responsibilities. Authorized persons commissioned as special officers shall have the direct authority to perform those activities specified on the special officer's commission card. However, when the holder of a special officer's commission is not performing those tasks specified on the commission card, he shall be regarded as a private citizen and his commission shall not be in effect.

D. Application. The superintendent of state police shall be authorized to issue, at his discretion, a special officer's commission from the Office of State Police. All requirements of the superintendent of state police relating to application shall be satisfied. Applications shall be submitted in the manner prescribed by the superintendent of state police and will include the submission of such documents and materials establishing eligibility as the superintendent may deem necessary.

E. Suspension/Revocation. The superintendent of state police may revoke or suspend special officer's commission when conditions and/or circumstances are such that the holder of a special commission can no longer show need or when the holder commits acts contrary to law or to the jurisdictional stipulations of the commission or through his action(s) or lack of action(s) brings discredit upon the state of Louisiana, its departments, agencies or commissions or its political subdivisions. Persons holding special officer's commissions are subject to the same statutory responsibilities and liabilities as are all other local and state law enforcement officers.

F. Termination. Special officer commissions will automatically expire one year from the date of issue or as otherwise provided by law.

G. Qualifications and Requirements. The following requirements shall be met before a special officer's commission will be issued. All applicants:

1. shall submit a letter which details the need for statewide police power and the power to arrest. If the applicant is employed and the nature of the employment is the basis for need of a special officer's commission, then, in addition to his letter, a detailed letter from the employer stating the need is necessary;

2. shall complete a detailed application and submit application along with the following documents:

a. complete fingerprint file which has been prepared by a law enforcement agency;

b. copy of birth certificate;

3. shall have completed the minimum hours of basic law enforcement training in accordance with the Council on Peace Officer Standards and Training, or possess related experience or ability equal to such training;

4. submit to and pass a comprehensive background investigation, said investigation to be conducted by the Louisiana State Police;

5. show proof of faithful service bond in the minimum amount of $10,000; and

6. if the applicant has an arrest record, he shall present a notarized statement from the clerk of court or the district attorney of the parish in which the arrests were made which specifies the disposition on all charges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 1:496 (November 1975), amended by the Department of Public Safety and Corrections, Office of State Police, LR 22:845 (September 1996), LR 38:1280 (May 2012), LR 43:

§1305. Definitions

A. For the purposes of these rules, the following words and phrases shall be defined as:

Addiction—the habitual use of alcoholic beverages or any controlled dangerous substance as defined in R.S. 40:961 and 40:964.

Applicant—a person who has completed and submitted an application to the department seeking a concealed handgun permit.

Application—the forms and schedules prescribed by the department upon which an applicant seeks a permit or the renewal thereof. Application also includes information, disclosure statements, releases, certificates or any other form required by the department in the application process.

Citizen—any person legally residing in Louisiana immediately preceding the filing of an application for a concealed handgun permit.

Concealed Handgun—any handgun as defined in R.S. 40:1379.3(J)(1), which is carried on a person in such a manner as to hide or obscure the handgun from plain view.

Department—Louisiana Department of Public Safety and Corrections, Office of State Police.

Deputy Secretary—the deputy secretary of the Louisiana Department of Public Safety and Corrections who serves as the superintendent of the Office of State Police.

Fixed-Case Marking Projectile—any non-lethal simulated ammunition commonly referred to as 'simunition.'

Fugitive from Justice—a person who flees, evades, or escapes from any jurisdiction to avoid arrest, prosecution, or imprisonment for any criminal offense, which shall include outstanding traffic attachments or warrants, or to avoid giving testimony in any criminal proceeding.

Illegal Alien—any person without legal authority to enter or remain in the United States and who is not legally residing within the United States or any territory or possession of the United States.

Law Enforcement Officer—any individual who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and has statutory powers of arrest. For the purposes of this Section, this definition shall apply to the term "peace officer" and "police officer."

Machine Gun—any firearm which shoots or is designed to shoot more than one round without reloading and by a single function of the trigger.

N.R.A.—National Rifle Association.

Permit—the authorization issued by the deputy secretary of the Louisiana Department of Public Safety and Corrections pursuant to R.S. 40:1379.3 and these rules, which shall be valid for five years from the date of issuance for a five-year permittee, or for the lifetime of a permit holder for a lifetime permittee, unless revoked, suspended, or otherwise invalidated, and shall contain a permit number, date of expiration, and the name, address, date of birth, physical description, and photograph of the permittee.

Permittee—an individual who meets the qualifications as described in R.S. 40:1379.3 and these rules and to whom a concealed handgun permit has been issued.

Pistol—a handgun that has a short barrel and can be held, aimed, and fired with one hand and is capable of only firing a single round each time the trigger is pulled, which includes semi-automatic handguns.

P.O.S.T—Council on Peace Officer Standards and Training.

Resident—a person who is legally domiciled in Louisiana.

Revolver—a pistol that has a rotating cylinder containing a number of firing chambers. The action of the trigger or hammer will line up a chamber with the barrel and firing pin.

Veteran—any honorably discharged veteran of the armed forces of the United States including reserved components of the armed forces, the Army National Guard, the U.S. Public Health Service Commissioned Corps, and any other category of persons designated by the president in time of war or emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996), amended LR 28:1483 (June 2002), LR 38:1280 (May 2012), LR 43:

§1307. Applications and Permits

A. Application materials may be obtained by accessing the Louisiana State Police website at www.lsp.org.

B. Initial Applications

1. All applications for a permit shall be submitted online or on forms provided by the department and mailed to:

Louisiana State Police
Concealed Handgun Permit Unit
P. O. Box 66375
Baton Rouge, LA 70896

2. Applicants shall provide all additional information requested by the department within 10 business days of receipt of the request, unless an extension is granted by the department. If any applicant fails to provide all additional information requested by the department, the application shall be considered incomplete and shall be denied.

3. All applicants shall submit with their application two complete, legible, and classifiable FBI applicant fingerprint cards taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints.

4.a. For purpose of proof that the applicant is a resident of the state of Louisiana prior to his application for a permit, the applicant shall submit with his application a photocopy of his valid Louisiana driver's license or valid Louisiana identification card.

i. An applicant shall have a Louisiana driver's license or identification card.

ii. In the event the applicant's Louisiana driver's license or Louisiana identification card has been issued within six months of application, proof of residency shall be established by any one of the following documents:

(a). United States passport;

(b). Louisiana voter registration card;

(c). any other documentation, which may adequately satisfy proof of compliance with the qualifications for residency.

b. For purposes of proof of residency, a business address or post office box shall not suffice.

c. Applicants who claim Louisiana as their domiciliary state and are on U.S. military duty in another state shall submit a copy of their orders detailing them to such duty station, along with a copy of their military identification card. Applicants who do not claim Louisiana as their domiciliary state and are on U.S. military duty in this state shall submit a copy of their orders detailing them on permanent status to a duty station within this state. In addition, those applicants shall possess either a valid Louisiana driver's license or valid Louisiana identification card.

d. An applicant who is attending school in another state shall submit a copy of his school registration form and fee bill for each semester during the permit period that is applicable.

5. For purposes of proof that the applicant is at least 21 years of age, a photocopy of his valid Louisiana driver's license or valid Louisiana identification card which contains the applicant's date of birth shall suffice.

6. All application forms are to contain a properly notarized oath wherein the applicant swears that:

a. the information contained therein is true and correct;

b. the applicant has read the applicable law and these rules, and any other informational materials supplied by the department that pertain to concealed handgun permits;

c. the applicant agrees to comply with these rules and the law; and

d. the applicant understands that any omission or falsification of any information required in the application may subject the applicant to criminal penalties.

7. All applications shall contain the permittee's home and daytime telephone number and a permanent mailing address for receipt of correspondence and service of documents by the department.

8. All applications submitted to the department shall contain proof of competency with a handgun in accordance with §1311.

9. All applications shall include a properly executed affidavit, provided by the department, whereby the applicant agrees in writing to hold harmless and indemnify the department, the state or any peace officer for any and all liability arising out of the issuance or use of the concealed handgun permit.

10. Incomplete applications, including failure to pay fees, shall result in the rejection or denial of a permit application.

11. The applicant or permittee shall notify the department, in writing, of any change of address, name, phone number, or other information required in the application, including the effective date of the change, within 30 days of the effective date of the change. All notifications shall be submitted to the Concealed Handgun Permit Unit via certified mail, return receipt requested or via the unit's public website.

12. Any false statement or improper notarization contained in any report, disclosure, application, permit form, or any other document required by the department shall be a violation of these rules and may be cause for denial, suspension, or revocation of the permit.

13. All paper applications shall be submitted with a certified check, money order or any other means of payment as approved by the department for the application or renewal fee as provided in §1307.B.14. An application is not complete unless it is submitted with the appropriate fee, is

signed by the applicant, and contains all information required by the department.

14. All applicants shall submit with the application a non-refundable fee in the form of a certified check, money order or any other means of payment as approved by the department. The applicable fees are as follows:

a. for a five-year concealed handgun permit, the fee shall be $125;

b. for a lifetime concealed handgun permit, the fee shall be $500;

c. the above fees shall be reduced by one-half if the applicant is 65 years of age or older or if the applicant qualifies for the military discount as set forth in R.S. 40:1379.3(W)(1) on the date the application is received by the department;

d. an applicant who is a veteran shall be exempt from all fees associated with the five-year concealed handgun permit or the lifetime concealed handgun permit;

e. any applicant who has not continuously resided within the state of Louisiana for the 15 years preceding the submission of the initial application shall enclose an additional non-refundable $50 fee. This additional fee shall not be reduced for applicants 65 years of age or older, or if the applicant qualifies for the military discount as set forth in R.S. 40:1379.3(W)(1).

C. Qualifications to Receive a Permit. To qualify for a concealed handgun permit, a citizen shall:

1. not be ineligible to possess a firearm under 18 U.S.C. 922(g); and

2. meet the requirements set forth in R.S. 40:1379.3 et seq.

D. Renewal of Permits

1. To renew a concealed handgun permit, a permittee shall file a renewal application no more than 120 days prior to the expiration of the permit and no later than the 60th day after expiration. Renewal applications submitted after the 60th day from expiration will not be accepted and the permittee shall complete a new original application with all documentation required for an original application.

2.a. A renewal application shall be considered filed with the department when the department receives the application and the fees are processed. The applicable renewal fees are as follows:

i. for a five-year concealed handgun permit, the fee shall be $125;

ii. the above fees shall be reduced by one-half if the applicant is 65 years of age or older, or qualifies for the military discount on the date the application is received by the department.

3. An incomplete renewal application shall be denied or rejected by the department for failure to provide requested documents or appropriate fees. Proof of residency shall conform to B.4.a-B.4.a.ii.(c) of this Section.

4. Each permittee applying for a renewal of his permit shall complete additional educational training pursuant to requirements of §1311 within one year prior to submitting a renewal application and submit proof of training with the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:846 (September 1996), amended LR 28:1483 (June 2002), LR 38:1281 (May 2012), repromulgated LR 38:1415 (June 2012), amended LR 43:

§1313. Code of Conduct of Permittees

A. General Provisions

1. All permittees shall comply with all applicable federal and state laws and regulations.

2. Any violation of R.S. 40:1379.3 or 40:1382 shall also constitute a violation of these rules.

3. Each permittee shall meet and maintain all qualifications necessary to possess a concealed handgun permit.

B. Duties and Responsibilities of the Permittee

1. A permittee armed with a handgun shall notify any police officer who approaches the permittee in an official manner or with an identified official purpose that he has a handgun on his person, submit to a pat down, and allow the officer to temporarily disarm him. Failure to comply with this provision shall result in a six-month automatic suspension of the permit.

2. A permittee is prohibited from carrying a concealed handgun on his person while under the influence of alcoholic beverages or a controlled dangerous substance as defined in R.S. 40:961 and R.S. 40:964. For purposes of these rules, a permittee shall be considered under the influence as evidenced by a blood alcohol reading of 0.05 grams percent or greater by weight of alcohol in the blood, or when a blood test or urine test shows any confirmed presence of a controlled dangerous substance as defined in R.S. 40:961 and 40:964. When a law enforcement officer is made aware that a permittee is carrying a concealed handgun and the officer has reasonable grounds to believe that the permittee is under the influence of either alcoholic beverages or a controlled dangerous substance as defined in R.S. 40:961 and 40:964, the law enforcement officer may take temporary possession of the handgun and require the permittee to submit to a department certified chemical test. The law enforcement agency by which such officer is employed shall designate which of the aforesaid tests shall be administered. Failure of the permittee to comply with the provisions of this Section shall result in a six-month automatic suspension of the concealed handgun permit.

3. Each permittee shall notify the department in writing of any change of address, name, phone number, or other information required in any application, including the effective date of the change, within 30 days of the effective date of the change. All notifications shall be submitted to the Concealed Handgun Permit Unit via certified mail, return receipt requested or via the unit's public website. Failure to comply with this provision may result in suspension or revocation of the permit.

4. A permittee shall notify the department of any misdemeanor or felony arrest or issuance of any summons other than a minor traffic violation, but including all arrests for operating a vehicle as defined in R.S. 14:98(A)(1) while under the influence of alcohol or other substances, in this state or any other jurisdiction, within 15 days of the arrest or issuance of the summons. Notice shall be sent via certified mail, return receipt requested to the department's designee responsible for the issuance of concealed handgun permits and shall include the date of arrest or summons, the arresting or issuing agency, jurisdiction in which the arrest occurred, the specific offense charged, whether the offense is classified

as a felony or misdemeanor, the results of any chemical test which may have been administered in conjunction with the arrest or summons, a copy of any citation or summons issued, and any other pertinent information regarding the arrest or summons. Failure to notify the department in accordance with this Section shall result in a 90-day suspension of the permit.

5. When a permittee ceases to reside within this state, the permit automatically becomes invalid and the permittee shall return the concealed handgun permit to the department within five business days from the date he ceases to reside within this state. Upon receipt of the permit, the permit status shall be changed to "canceled." A new application shall be completed if the permittee resumes his resident status.

6. A permittee shall immediately return the concealed handgun permit to the department upon automatic suspension or revocation of the permit. If the permit is under suspension, failure to immediately return the permit to the department may be grounds for revocation.

7. A permittee shall immediately inform the department in writing of any handgun related accident, discharge, incident, injury, or death involving any permittee. Failure to do so shall be grounds for suspension or revocation of an existing permit or denial of a renewal application.

8. Upon death of any permittee, the permittee's estate representative shall notify the department and return the concealed handgun permit to the department.

9. Any permittee or applicant who is subject to any preliminary or permanent injunction in any family or domestic dispute, or any other protective order issued pursuant to law, shall notify the department of the caption of the suit including the suit or proceeding number, the date of the issuance of the injunction or court order, and provide a signed copy of the court's order within three days of the issuance of any such order. Upon the issuance of the injunction or court order, the permit shall be automatically suspended and the department may revoke or deny the permit in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379.1, 40:1379.3, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:850 (September 1996), amended LR 28:1484 (June 2002), LR 38:1284 (May 2012), LR 43:

§1315. Appeal and Hearing Procedures

A. Notice of Permit Denial and Appeal

1. An applicant who is denied a concealed handgun permit shall be notified in writing by the department. Such notice shall comply with R.S. 49:955(B). Upon receipt of such notice, the applicant shall have two options.

a. Option 1—Informal Review. The applicant shall have 10 business days to request an informal review of documentation and evidence provided by the applicant setting out reasons the denial should be considered improper. Should the applicant remain dissatisfied with the department's decision following this review process, the applicant may appeal this decision within 20 business days of receipt of the department's decision by requesting an administrative hearing. Any such hearing requested by an applicant shall be scheduled and conducted in accordance with the Administrative Procedure Act pursuant to R.S. 49:950 et seq.

b. Option 2—Formal Appeal. The applicant may appeal the denial by the department in writing within 30 days of receipt of the department's decision by requesting an administrative hearing. Any such hearing requested by an applicant shall be scheduled and conducted in accordance with the Administrative Procedure Act pursuant to R.S. 49:950 et seq.

2. A request for an administrative hearing shall be made in writing and sent to the department. If no request for a hearing is timely made, the denial shall become final.

B. Notice of Suspension, Revocation or Fine

1. A permittee whose permit is revoked, suspended, or who is issued a fine shall be notified in writing by the department. Such notice shall be in compliance with R.S. 49:955(B), and the action shall be considered to be immediately in effect.

2. Upon receipt of such notice, the permittee shall have 10 business days to request, in writing, a review of the department's action. The permittee should provide the department with relevant information which might have some bearing on the department's action. The permittee should include any documents or other evidence he wishes the department to consider.

3. If the permittee is not satisfied with the outcome of the department's review, he may request judicial review pursuant to the Administrative Procedure Act, R.S. 49:964.

C. General Provisions

1. Upon receipt of a request for any review, the deputy secretary or his designee shall review the department's action considering the information submitted, and affirm, modify, or reverse the department's action. Written notice of the department's decision to affirm, modify or reverse the department's action shall be provided to the permittee.

2. Except as otherwise provided by these rules, any notice shall be served by certified mail, registered mail, or certificate of mailing to the permanent address that is provided in the application, or latest amendment thereto, on file with the department. If any incorrect or incomplete address has been supplied to the department by the applicant or permittee, such that service cannot be successfully completed, or the applicant or permittee fails to accept properly addressed mail, notice shall be presumed to have been given.

3. No applicant or permittee shall be allowed to carry a concealed handgun while any such appeals or considerations are pending.

4. Any fine levied by the department which is adjudicated to a final judgment shall be paid within 15 calendar days of said judgment. Failure to pay such a fine shall result in suspension or revocation of the permit.

5. In cases of serious violations of the law or these rules, or in situations in which the law calls for automatic suspension or revocation, or violations which present a danger to the public health, safety or welfare, the department may provide notice by telephone or hand delivery. Such notice shall be promptly documented and confirmation in writing shall be provided to the permittee.

6. Any request for an administrative hearing shall be made in writing and sent to the department within the delays

allowed by these rules. If no request for a hearing is timely made, the action and/or penalty shall become final.

7. Any pre-hearing discovery for the administrative hearing shall be conducted pursuant to R.S. 49:956.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1379, 40:1381, and 40:1382.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 22:851 (September 1996), amended LR 38:1285 (May 2012), LR 43:

Family Impact Statement

1. The effect of these rules on the stability of the family. These rules should not have any effect on the stability of the family.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. These rules should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these rules on the functioning of the family. These rules should not have any effect on the functioning of the family.

4. The effect of these rules on family earnings and family budget. These rules should not have any effect on family earnings and family budget.

5. The effect of these rules on the behavior and personal responsibility of children. These rules should not have any effect on the behavior and personal responsibility of children.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules. These rules should not have any effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Poverty Impact Statement

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business Analysis

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Justin Bello, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through January 15, 2017.

Jason Starnes
Chief Administrative Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Concealed Handgun Permit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The Dept. of Public Safety (DPS) will realize an indeterminable savings associated with the proposed rules as a result of changing the department's required method of mailing notices for administrative actions. DPS will be allowed to send mailing notices of administrative actions as certified mail without a return receipt under the proposed rule changes. Previously DPS mailed notices by certified mail with a return receipt. DPS mailed approximately 2,500 notices via certified mail with a return receipt in FY 16 at a per-mailing cost of $6.45 for a total of $16,125 ($6.45 * 2,500 mailings). Certified mail without a return receipt costs $3.30 per mailing, which would carry a total cost of $8,250 ($3.30 * 2,500) based upon the same data. As a result, DPS would realize an annual savings of approximately $7,875 ($16,125 - $8,250). However, because the number of mailings that will occur in a given year is unknown, the extent of the savings is indeterminable.

The proposed rule changes update the concealed handgun permit rules by removing references to photographs that are no longer required to be provided along with an application for a concealed handgun permit; adding definitions of the terms "Fixed-case marking projectile" and "Veteran;" updating the definition of "Permit" by adding a reference to lifetime concealed handgun permittees; removing references to form DPSSP 4644, the concealed handgun permit application form no longer in use by the Department of Public Safety; adding references to submitting concealed handgun permit applications online, a service the department currently performs; adding references to the cost of obtaining a lifetime concealed handgun permit as outlined in present law; adding references to the military discount for receiving a concealed handgun permit as outlined in present law; amending regulatory provisions associated with revocation of a permit upon failure of the permittee to return the permit to the department when suspended, and making technical changes.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF

The proposed rule changes will not affect revenue collections for state or local governmental units. References in the proposed rule changes regarding fees for lifetime concealed handgun permits and discounted permits for current and former military members are outlined in present law and will have no effect on revenue collections of state or local governmental units. The $500 fee for receiving a lifetime concealed handgun permit was added to R.S. 40:1379.3 by Act 84 of 2013. The 50% military discount on lifetime and 5-year permits was added to R.S. 40:1379.3 by Act 614 of 2014.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups as a

result of the proposed rule change. The proposed rule changes updating fees for concealed handgun permits aligns the rules with existing statute as enacted by Act 84 of 2013 and Act 614 of 2014.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment.

Jason Starnes	Evan Brasseaux
Chief Administrative Officer	Staff Director
1612#037	Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Correction
Office of State Police

Criminal Record Search (LAC 55:I.101 and 207)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., R.S. 15:587, R.S. 15:575, and R.S. 40:1203.2, gives notice of its intent to update its rules regulating the charging and collecting of fees for the processing of finger print cards and the processing of requests for criminal history information.

Title 55
PUBLIC SAFETY
Part I. State Police

Chapter 1. Criminal Records Unit

§101. Charging and Collecting of Fee for Processing of Finger Print Cards

A. Pursuant to the provisions of R.S. 15:587, as amended, the Bureau of Criminal Identification and Information (Criminal Records Unit), announces it will begin collecting a $26 processing fee to offset the costs of conducting a criminal record search for the purpose of screening applicants for employment or license.

B. This fee will not be charged to law enforcement agencies conducting criminal investigations, applicants for full-time employment with a bona fide criminal justice agency, or to applicants for employment at race tracks.

C. Payments of the processing fee shall be made in the form of a cashier's check or money order payable to the Louisiana Bureau of Criminal Identification and Information Fund and payment shall accompany the request for such information.

D. Collection of the processing fee shall begin on February 20, 1986 and shall be applied to all requests received on and after that date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:116 (February 1986), amended LR 43:

Chapter 2. Criminal History Background Checks on Licensed Ambulance Personnel and Nonlicensed Persons

§207. Request for Criminal History Information

A. A request for the bureau to conduct a criminal history check authorized by R.S. 40:1203.2 shall be made on a form provided by the bureau and submitted to it by an employer or authorized agency.

B. Each request for a criminal history check authorized by R.S. 40:1203.2 submitted to the bureau shall be accompanied by the fee of $26 as established by R.S. 40:1203.2(B)(2) and LAC 55:I.101.A.

C. Each request for a criminal history check submitted to the bureau by an authorized agency shall be accompanied by a letter of engagement or contract with the employer as proof that the authorized agency may request and receive criminal history information on behalf of the employer. The results of each criminal history check submitted by an authorized agency on behalf of an employer will be reported to the authorized agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:575 et seq., and R.S. 40:1203.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 25:877 (May 1999), amended LR 43:

Family Impact Statement

1. The effect of these rules on the stability of the family. These rules should not have any effect on the stability of the family.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. These rules should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these rules on the functioning of the family. These rules should not have any effect on the functioning of the family.

4. The effect of these rules on family earnings and family budget. These rules should not have any effect on family earnings and family budget.

5. The effect of these rules on the behavior and personal responsibility of children. These rules should not have any effect on the behavior and personal responsibility of children.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules. These rules should not have any effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Poverty Impact Statement

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business Analysis

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of

applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Justin Bello, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through January 15, 2017.

Jason Starnes
Chief Administrative Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Criminal Record Search

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule changes, as they codify existing statute and practice. The purpose of the proposed rule change is to update the rules regarding processing fees for criminal background checks by the Bureau of Criminal Identification to reflect the increase in the fee as outlined in present law.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF

The proposed rule change will have no effect on revenue collections of state or local governmental units. Act 118 of the 1st Extraordinary Session of 2002 increased the processing fee required to offset the costs incurred by the Bureau of Criminal Identification and Information for conducting a criminal record search by $16, from $10 to $26. The proposed rule change will update the applicable rules to reflect the increase in the processing fee as outlined in present law.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule change. The proposed rule updates the processing fee to conduct a criminal record search to reflect the existing $26 fee as provided for in LA R.S. 15:587 and LA R.S. 40:1203.2.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment.

Jason Starnes
Chief Administrative Officer
1612#038

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section

Motor Carrier Safety and Hazardous Materials
(LAC 33:V.10303 and 10309)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., and R.S. 32:1501 et seq., gives notice of its intent to amend its rules regulating motor carrier safety and hazardous materials by updating the revision date of the adopted federal motor carrier regulations to November 1, 2016.

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 2. Department of Public Safety and Corrections—Hazardous Materials
Chapter 103. Motor Carrier Safety and Hazardous Materials
§10303. Federal Motor Carrier Safety and Hazardous Materials

A. The following federal motor carrier safety regulations and hazardous materials regulations promulgated by the United States Department of Transportation, revised as of November 1, 2016, and contained in the following parts of 49 CFR as now in effect or as hereafter amended, are made a part of this Chapter.

Hazardous Material Regulations	
Part 107	Hazardous Materials Program Procedures
Part 171	General Information, Regulations, and Definitions
Part 172	Hazardous Materials Table, Special Provisions, and Hazardous Materials Communications, Emergency Response Information, and Training Requirements
Part 173	Shippers—General Requirements for Shipments and Packagings
Part 177	Carriage by Public Highways
Part 178	Specifications for Packagings
Part 180	Continuing Qualification and Maintenance of Packagings

Motor Carrier Safety Regulations	
Part 355	Compatibility of State Laws and Regulations Affecting Interstate Motor Carrier Operations
Part 360	Fees for Motor Carrier Registration and Insurance
Part 365	Rules Governing Applications for Operating Authority
Part 367	Standards for Registration with States
Part 373	Receipts and Bills
Part 374	Passenger Carrier Regulations
Part 375	Transportation of Household Goods in Interstate Commerce: Consumer Protection Regulations
Part 376	Lease and Interchange of Vehicles
Part 379	Preservation of Records
Part 382	Controlled Substances and Alcohol Use and Testing
Part 383	Commercial Driver's License Standards; Requirements and Penalties
Part 384	State Compliance with Commercial Driver's License Program
Part 385	Safety Fitness Procedures
Part 386	Rules of Practice for Motor Carrier, Broker, Freight Forwarder and Hazardous Materials Proceedings

Motor Carrier Safety Regulations	
Part 387	Minimum Levels of Financial Responsibility for Motor Carriers
Part 388	Cooperative Agreements with States
Part 389	Rulemaking Procedures-Federal Motor Carrier Safety
Part 390	Federal Motor Carrier Safety Regulations; General
Part 391	Qualifications of Drivers
Part 392	Driving of Commercial Motor Vehicles
Part 393	Parts and Accessories Necessary for Safe Operation
Part 395	Hours of Service of Drivers
Part 396	Inspection, Repair, and Maintenance
Part 397	Transportation of Hazardous Materials; Driving and Parking Rules

AUTHORITY NOTE: Promulgated in accordance with R.S. 32: 1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991), LR 19:351 (March 1993), LR 20:58 (January 1994), LR 24:956 (May 1998), LR 24:2321 (December 1998), LR 29:711 (May 2003), LR 30:447 (March 2004), LR 32:641 (April 2006), LR 34:882 (May 2008), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 37:1613 (June 2011), LR 38:1417 (June 2012), amended by the Department of Public Safety and Corrections, Office of State Police, LR 40:371 (February 2014), LR 42:280 (February 2016), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 43:

Family Impact Statement

1. The effect of these rules on the stability of the family. These rules should not have any effect on the stability of the family.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. These rules should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these rules on the functioning of the family. These rules should not have any effect on the functioning of the family.

4. The effect of these rules on family earnings and family budget. These rules should not have any effect on family earnings and family budget.

5. The effect of these rules on the behavior and personal responsibility of children. These rules should not have any effect on the behavior and personal responsibility of children.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules. These rules should not have any effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Poverty Impact Statement

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business Analysis

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Paul Schexnayder, P.O. Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through January 15, 2017.

Jason Starnes
Chief Administrative Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Motor Carrier Safety and Hazardous Materials

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not impact state or local government expenditures. The proposed rule changes update the revision date of adopted federal motor carrier regulations to November 1, 2016 from the previous revision date of August 10, 2015.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will not result in any costs or economic benefits to affected persons or non-governmental units.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment

Jason Starnes
Chief Administrative Officer
1612#039

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section

Motor Vehicle Inspections (LAC 55:III.807 and 819)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., Act 138 of the 2009 Regular Session, and R.S. 32:1304 et seq., gives notice of its intent to promulgate amended rules which require a checklist for school bus inspections, and require vehicle fleets that operate in the five parish non-attainment areas (regardless of where the vehicles are registered) to have emissions testing.

Title 55
PUBLIC SAFETY
Part III. Office of Motor Vehicles
Chapter 8. Motor Vehicle Inspection
Subchapter A. General
§807. Operation as an Official Motor Vehicle Inspection Station

A. - H. …

I. Motor Vehicle Inspection Log Report

1. All entries must be legible and made in ink only. The audit number of the inspection or rejection certificates issued must be listed in numerical order and must be shown on the report. All other required information must be provided for the vehicle inspected. Vehicle information will be obtained from the registration. The operator's license number must be taken from the driver's license of the person presenting the vehicle for inspection and not from the registration.

a. Stations that are required to maintain log sheets shall maintain the log sheets for 36 months.

i. General MVI Stations. A separate log shall be kept for the one- and two-year certificates.

Exception: Log sheets are not required to be utilized if a station is required to enter the inspection information on the DEQ computer system.

ii. Commercial MVI Stations. The station must maintain a copy of each commercial log sheet.

iii. School Bus MVI Stations. The station must complete and maintain a copy of each school bus inspection checklist.

2. - 7. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2424 (December 1999), amended 27:2260 (December 2001), repromulgated LR 28:345 (February 2002), amended LR 30:2859 (December 2004), amended by the Department of Public Safety and Corrections, Office of State Police, LR 38:2552 (October 2012), LR 42:433 (March 2016), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 43:

Subchapter C. Vehicle Emission Inspection and Maintenance Program
§819. Anti-Tampering and Inspection and Maintenance Parameters

A. - C. …

D. Subsections A, B, and C of this Section shall apply to those vehicles (belonging to the covered model years and vehicle classes) that are routinely operated in the five parish non-attainment area as part of a fleet, though the individual vehicles are not registered in any one of those five parishes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304-1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2434 (December 1999), amended LR 27:2260 (December 2001), LR 28:345 (February 2002), LR 30:2493 (November 2004), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 43:

Family Impact Statement

1. The effect of this Rule on the stability of the family. This Rule should not have any effect on the stability of the family.

2. The effect of this Rule on the authority and rights of parents regarding the education and supervision of their children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of this Rule on the functioning of the family. This Rule should not have any effect on the functioning of the family.

4. The effect of this Rule on family earnings and family budget. This Rule should not have any effect on family earnings and family budget.

5. The effect of this Rule on the behavior and personal responsibility of children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The effect of this Rule on the ability of the family or local government to perform the function as contained in the proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Small Business Analysis

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Poverty Statement

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant

adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Paul Schexnayder, Post Office Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through January 15, 2017.

Jason Starns
Chief Administrative Officer

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Motor Vehicle Inspections

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will have no anticipated impact on state or local government expenditures.

The proposed rule updates the revision date of adopted federal motor carrier regulations.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no effect on revenue collections of state or local governmental units as a result of this rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There should be no costs or economic benefits to any person or group, as a result of this rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Jason Starns
Chief Administrative Officer
1611#040

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Office of Alcohol and Tobacco Control

Direct Shipment of Sparkling Wine or Still Wine
(LAC 55:VII.335)

Under the authority of R.S. 26:359 and in accordance with the provisions of the Administrative Procedure Act, R.S 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to adopt LAC 55:VII.335 relative to the direct shipment of sparkling and still wine by manufacturers, wine producers, or retailers to consumers in Louisiana and relative to registration by transporters of sparkling and still wine to consumers in Louisiana.

The proposed adoption of the above-referenced Rule is offered under the authority delegated by R.S. 26:359 to provide for reporting requirements of all manufacturers, wine producers, or retailers who ship wine directly to consumers in Louisiana and for reporting requirements of transporters of sparkling and still wine to consumers in Louisiana.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 1. Beer and Liquor
Chapter 3. Liquor Credit Regulations
§335. Direct Shipment of Sparkling Wine or Still Wine to Consumers in Louisiana

A. Any manufacturer, wine producer or retailer of sparkling wine or still wine domiciled outside of Louisiana must obtain a permit from the commissioner as required by R.S. 26:359 prior to engaging in the direct shipment of sparkling wine or still wine to any consumer in Louisiana.

B. Access to Records. In order to determine compliance with R.S. 26:359, all manufacturers, wine producers, and retailers that direct ship sparkling wine or still wine to consumers shall make available to the commissioner all books, invoices, and records concerning the direct shipment of wine to consumers in Louisiana immediately upon request. This includes but is not limited to the following:

1. all invoices contained on the packages of wine required by R.S. 26:359(B)(1)(g);
2. all oral or written agreements with wholesalers licensed by the state of Louisiana;
3. all invoices and other records revealing the labels and brands sold to wholesalers licensed by the state of Louisiana;
4. a copy of any and all original applications and renewal applications submitted to the Louisiana Department of Revenue by manufacturers, wine producers and retailers domiciled outside of Louisiana seeking authority to ship sparkling wine or still wine directly to consumers in

Louisiana, including any supporting documentation submitted in connection with such applications;

5. a copy of the monthly statements submitted to the Louisiana Department of Revenue by manufacturers, wine producers and retailers domiciled outside of Louisiana pursuant to R.S. 26:359(D), including any supporting documentation submitted in connection with such monthly statements; and

6. a copy of all records with the transporters of such sparkling wine or still wine pertaining to such shipments to Louisiana consumers.

C. Inspection of Premises. The commissioner may inspect any premise where such sparkling wine or still wine that is sold or shipped directly to consumers in Louisiana are stored, sold or handled. No manufacturer, wine producer, or retailer who ships wine directly to Louisiana consumers may refuse to allow such inspection.

D. Payment of Taxes. Any manufacturer, wine producer, or retailer must timely report and remit all applicable excise and sales and use taxes due to the state of Louisiana. Failure to do so shall subject their permit to penalties as set forth in R.S. 26:96 and R.S. 26:292, including but not limited to suspension or revocation of the permit.

E. Monthly Reports to LDOR. Approved manufacturers, wine producers, or retailers domiciled outside of Louisiana must concurrently provide the commissioner with a copy of the monthly statements submitted to the Louisiana Department of Revenue pursuant to R.S. 26:359(D), including all supporting documentation.

F. Authorized Recipients/Quantities. Sparkling wine or still wine may only be shipped directly to a consumer 21 years of age or older for their personal consumption. It may not be sold or shipped to a retailer, solicitor, broker, or any other agent of the manufacturer, wine producer, or retailer in the state for resale or distribution. The total amount of sparkling wine or still wine shipped in 750 milliliter bottles shall not exceed 144 per adult person per household address per calendar year.

G. Identification of Shipments. All shipments made by an authorized manufacturer or retailer of sparkling wine or still wines that are shipped directly to any consumer in Louisiana shall be identified as follows.

1. The words "Alcoholic Beverage—Direct Shipment" shall be marked and clearly visible on both the front and back of the package in lettering measuring at least 1/4 inch in height.

2. The words “Unlawful to Sell or Deliver to Anyone under 21 Years of Age” must be clearly visible on the front of the package, in lettering measuring at least 1/4 inch in height.

3. The manufacturer's, wine producer’s or retailer's Louisiana ATC permit number and the manufacturer’s, wine producer’s or retailer’s out-of-state license number, if domiciled outside of Louisiana, shall be clearly displayed on the front of the package.

4. All shipments shall have affixed to the exterior packaging a notification to the person making the delivery that a signature of the recipient is required prior to delivery. The notice should be at least 3-inch by 3-inch and contain words similar to the following.

ATTENTION Courier
(Signature Required) Deliver to RECIPIENT address only. No indirect delivery. Disregard any Signature Release. Recipient MUST be at least 21 years old, and not show signs of intoxication.

H. Direct Ship Permit Renewals, Penalty. Permits for the direct shipment of wine as required by R.S. 26:359(B)(3) and (4) shall expire every year on December 31. Failure to timely file a renewal permit shall result in the imposition of penalties as provided for by R.S. 26:88 and R.S. 26:285.

I. Use of Approved Transporters Only. Approved manufacturers, wine producers, or retailers domiciled outside of Louisiana and manufacturers, wine producers or retailers domiciled inside of Louisiana may only sell or ship wine through transporters who are registered with the commissioner pursuant to R.S. 26:359(D)(3). Approved manufacturers, wine producers, or retailers domiciled outside of Louisiana and manufacturers, wine producers or retailers domiciled inside of Louisiana must notify the commissioner within 30 days of any change of transporters utilized.

J. Transporters Reporting Obligations. Every transporter of sparkling or still wine for direct shipment into or out of the state shall make and file a monthly report to the commissioner at its office in Baton Rouge, LA on or before the fifteenth day of the month following the calendar month for which the report is made. The report shall give an accurate account of all sparkling and still wine transported by the transporter during the month for which the report is made. Each report shall contain, at a minimum, the following for every shipment:

1. date of shipment;
2. name of shipper;
3. address of shipper;
4. name of recipient;
5. address of recipient;
6. tracking identification number;
7. date of delivery;
8. total package weight;
9. quantity of each shipment; and
10. volume of sparkling or still wine shipped (in milliliters or liters).

K. If no shipments were made by a transporter for a month, the transporter must submit a report to the commissioner stating that no such shipments were made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:541.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 43:

Family Impact Statement

The proposed rulemaking has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed rulemaking will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed rulemaking has no known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments until 4 p.m. Friday, January 13, 2017 to Commissioner Juana Marine-Lombard, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896 or at legal.department@atc.la.gov.

Juana Marine-Lombard
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Direct Shipment of Sparkling Wine or Still Wine

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will not result in any additional costs or savings to state or local governmental units. While the proposed rules allow the Office of Alcohol and Tobacco Control (ATC) to inspect facilities of retailers and manufacturers who ship still and sparkling wine directly to consumers, ATC personnel indicate that any inspections would be conducted by existing personnel and funded within the office's existing appropriation

The proposed rules codify provisions of Act 637 of the 2016 Regular Session regarding direct shipment of still and sparkling wine by retailers and manufacturers to consumers. Specifically, the proposed rules clarify requirements associated with permitting, access to records, inspections, remittance of applicable taxes, reporting requirements of manufacturers and retailers, authorized shipping recipients, authorized shipping quantities, identification of shipments, permit renewals, use of approved transporters, and reporting requirements of transporters.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will increase revenue collections for the Office of Alcohol and Tobacco Control by an indeterminable amount. The proposed rules require all retailers and manufacturers who wish to ship still or sparkling wine directly to consumers in Louisiana to comply with all permit requirements. Act 637 of the 2016 Regular Session altered permitting fees for out-of-state (OOS) retailers and manufacturers of still and sparkling wine. OOS retailers who wish to engage in direct shipping must pay a $1,000 permit fee and $1,000 application fee annually. This total of $2,000 is an increase of $500 annually from the previous total of $1,500. Furthermore, OOS manufacturers who wish to engage in direct shipping must pay a $250 permit fee and a $150 application fee annually. The $400 total for direct shipping permit fees represents an increase of $250 from the previous total of $150. The entirety of revenues from the $250 permit fee accrues to ATC. Furthermore, in-state producers are no longer required to pay a permit fee to ship directly to consumers.

The proposed rules outline financial penalties for retailers and manufacturers who do not remit applicable taxes due to the State of Louisiana and do not renew their permits in a timely manner. Penalties are outlined in LA R.S. 26:86, 96, 285, and 292.

For reference, ATC currently has 600 OOS manufacturers registered to ship wine directly to consumers in Louisiana. OOS manufacturers conduct a majority of direct shipping in Louisiana, with the activity of OOS retailers and in-state manufacturers engaging in direct shipping being negligible. To the extent ATC's permits manufacturers registering to ship wine directly to consumers in accordance with historical levels, a revenue increase of $150,000 may occur as a result of the $250 increase in permit fees. The revenue projections may decrease to the degree that some OOS producers may discontinue direct sales to Louisiana resident consumers. Revenues may also be impacted if entities fail to remit applicable taxes or to renew permits and incur penalties. The number of entities that will apply for permits and incur penalties in any given year cannot be estimated and the impact on the overall revenue estimate is indeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules affect retailers and manufacturers wishing to ship still and sparkling wine directly to consumers in Louisiana. Retailers and manufacturers must meet all permit requirements, including the payment of all applicable fees. Furthermore, retailers and manufacturers must allow ATC access to their facilities and records upon request, as well as submit monthly reports of wine shipments to customers residing in Louisiana. The proposed rules also set requirements for the identification of direct shipments that entities shipping wine to consumers must follow.

The proposed rules outline the authorized recipients of direct wine shipments, and places limitations on the amount of wine shipped annually to 144 bottles per person over the age of 21 per household, which limits the amount of gross revenues a retailer or manufacturer may obtain through direct shipment of wine.

The proposed rules outline financial penalties for retailers and manufacturers who do not remit applicable taxes due to the State of Louisiana and do not renew their permits in a timely manner. Penalties are outlined in LA R.S. 26:86, 96, 285, and 292. In addition, manufacturers and retailers may lose their permit to ship directly to Louisiana if they do not remit applicable taxes or renew their permit in a timely manner. As a result, entities may suffer financial losses and lose the ability to ship wine directly to consumers in Louisiana if they do not comply with the proposed rules.

Lastly, the proposed rules require entities transporting still and sparkling wine to register with ATC. Manufacturers and retailers shipping directly to customers in Louisiana will only be allowed to ship wine using transportation entities registered with the ATC. Registering as a transportation entity does not have any associated costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules may affect competition and employment as a result of retailers and manufacturers paying marginally higher permitting fees and meeting the other requirements for shipping still and sparkling wine directly to consumers in Louisiana. Additionally, the proposed rules affect transporting entities that must now register with ATC to transport wine directly to consumers. However, the proposed rules are not likely to significantly affect aggregate business activity statewide.

Juana Marine-Lombard
Commissioner
1612#044

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Office of Alcohol and Tobacco Control

Online Grocery Pickup (LAC 55:VII.333)

Under the authority of R.S. 26:359 and in accordance with the provisions of the Administrative Procedure Act, R.S 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, proposes to adopt LAC 55:VII.333 relative to online grocery pickup (OGP) which is a service offered by retail dealers to consumers to place online orders of product(s) for pick-up at a designated assigned OGP holding area. If OGP orders contain any alcoholic beverage products, then certain procedures shall be required prior to pick-up.

The proposed adoption of the above-referenced Rule is offered under the authority delegated by R.S. 26:359 to provide for reporting requirements of all retailers who provide alcohol products to consumers in Louisiana.

Title 55
PUBLIC SAFETY
Part VII. Alcohol and Tobacco Control
Subpart 1. Beer and Liquor
Chapter 3. Liquor Credit Regulations
§333. Online Grocery Pickup

A. Retail dealers shall not operate an online grocery pickup of alcoholic beverage products except where expressly authorized in writing by the commissioner.

B. A retail dealer shall designate a special area for online grocery pickup whereby orders placed online that includes any alcoholic beverage products shall be placed in a bin located within the designated OGP holding area.

C. All online orders containing alcoholic beverage and non-alcoholic beverage items must be segregated whereby all alcoholic beverage products are to be placed in separate bags distinctly labeled "ALCOHOL."

D. A server who is solely responsible for completing online grocery pick-up shall be 21 years of age or older and shall be required to attend an approved server training course prior to employment. Server shall be designated as a curbside associate.

E. A retail dealer shall provide proper training to any and all curbside associate(s). Such training shall require a curbside associate to verify online orders, retrieve purchased products from the bin located in the OGP designated area, and verify proper identification prior to completion of OGP transaction.

F. Server or curbside associate shall make direct contact with customer and verify the customer's age with the customer's identification card which shall on its face establish the age of the person as 21 years old or older and that there is no reason to doubt the authenticity or correctness of the identification.

G. Retail dealer shall maintain an ATC approved handheld identification device that shall by utilized by the server or curbside associate to assist in identifying the customer's proper age prior to completion of all OGP orders.

H. The OGP hours shall be limited only during retail dealer's regular hours of operation. Online ordering and pickup shall only be available between 8 a.m. to 10 p.m.

I. OGP orders with alcoholic beverage products shall have a minimum total OGP purchase price of $30 and shall not be comprised solely of alcoholic beverage products.

J. Holder of a class A or class C permit is prohibited from providing OGP services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:541.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 43:

Family Impact Statement

The proposed rulemaking has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed rulemaking will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq.

Provider Impact Statement

The proposed rulemaking has no known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may submit written comments until 4 p.m. on Friday, January 13, 2017 to Commissioner Juana Marine-Lombard, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896 or at juana.lombard@atc.la.gov.

Juana Marine-Lombard
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Online Grocery Pickup

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules will not result in significant costs or savings to state or local governmental units. The proposed rules outline standards and requirements for entities to engage in online grocery pickup (OGP) of alcoholic beverage products. Any costs associated with implementation of the proposed rules will be marginal and funded utilizing existing resources and budget authority.

The proposed rule will not result in costs or savings to local governmental entities.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not affect revenue collections for state or local entities. Engaging in OGP activities requires written consent by the ATC Commissioner, but this consent does not have an associated fee outlined in the proposed rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules will affect firms choosing to participate in online grocery pickup (OGP) to the extent they must alter storefronts, make equipment purchases, and conduct training for employees to be in compliance with the new regulations. Included in the proposed rules are guidelines for OGP areas in stores and required equipment, such as a separate storage bin for alcohol purchases and a handheld identification-verifying device. Furthermore, firms engaging in OGP activities will

have to develop and present training courses for employees. The number of firms offering OGP, as well as the upgrades they will need to make to be compliant under the proposed rules is unknown; therefore the total cost to these entities is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The ability to provide alcohol sales through OGP may result in a competition and employment benefit to retailers choosing to offer the service. The scope of the benefit is unknown and dependent upon consumer behavior.

Juana Marine-Lombard
Commissioner
1612#029

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Revenue
Policy Services Division

Inventory Tax Credits (LAC 61:I.1902)

Under the authority of R.S. 47:6006 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.1902.

The primary purpose of this proposed amendment is to implement Acts 4 and 5 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 19. Miscellaneous Tax Exemptions, Credits and Deductions
§1902. Inventory Tax Credits

A. - D.3. …

E. Affiliated or Related Business Entities

1. For purposes of the application of the limitations on refundability of excess credit as provided in R.S. 47:6006, taxpayers shall be treated as a single taxpayer when any of the following are applicable:

a. the taxpayer is included in a consolidated federal income tax return. In such instance, all taxpayers included in a consolidated federal income tax return shall be treated as a single taxpayer; or

b. the taxpayer is a member of a parent-subsidiary relationship, as defined below:

i. the taxpayer is a corporation and another business entity owns, directly or indirectly, more than 50 percent of the ownership interest of the taxpayer. In such instance, the taxpayer and the other business entity shall be treated as a single taxpayer; or

ii. the taxpayer is a limited liability company, partnership, estate, or trust, and another business entity owns, directly or indirectly, more than 50 percent of the ownership interest of the taxpayer. In such instance, the taxpayer and the other business entity shall be treated as a single taxpayer; or

iii. the taxpayer is a corporation and an individual stockholder and the members of the individual stockholder's family, as defined in section 318 of the IRC, own, directly or indirectly, in the aggregate, more than 50 percent of the value of both the taxpayer's and another business entity's ownership interest. In such instance, the taxpayer and the other business entity shall be treated as a single taxpayer;

c. the taxpayer is a member of brother-sister relationship, as defined below:

i. the taxpayer is a corporation and is a member of an affiliated group. For purposes of this Subsection, *affiliated group* means a group of two or more business entities in which a common owner or owners own, in the aggregate, greater than 50 percent of the ownership interest of each member of the group. In such instance, the taxpayer and the other members of the affiliated group and the common owner or owners shall be treated as a single taxpayer; or

ii. the taxpayer is a limited liability company, partnership, sole proprietorship, estate, or trust, and is a member of an affiliated group. Affiliated group means a group of two or more business entities in which a common owner or owners own, in the aggregate, greater than 50 percent of the ownership interest of each member of the group. In such instance, the taxpayer and the other members of the affiliated group and the common owner or owners shall be treated as a single taxpayer; or

iii. the taxpayer is a limited liability company, partnership, estate, or trust, and an individual owner and the members of the individual owner's family, own, directly or indirectly, in the aggregate, more than 50 percent of the value of both the taxpayer's and another business entity's ownership interest. For purposes of this Subsection, *family* shall have the same meaning as that provided in I.R.C. §267(c)(4) In such instance, the taxpayer and the other business entity shall be treated as a single taxpayer.

2. When one or more of the provisions of Paragraph E.1 are applicable to one or more taxpayers, all affected taxpayers shall be treated as a single taxpayer and the aggregate total of the ad valorem taxes paid pursuant to R.S. 47:6006 by all affected taxpayers shall be used for purposes of the application of the limitations on refundability of excess credit as provided in R.S. 47:6006(B). However, inventory which is related to the business held by a manufacturer or affiliated or related business entities or inventory held by a business entity formed or registered to do business in Louisiana after April 15, 2016 shall be calculated separately. Further, in any event, only taxpayers which have paid and are claiming ad valorem taxes paid pursuant to R.S. 47:6006 are subject to aggregation.

3. Industrial Tax Exemption Program (ITEP)

a. For a taxpayer claiming ITEP pursuant to article VII, section 21(F) of the Constitution of Louisiana during the taxable year in which the local inventory taxes were levied, inventory which is utilized by a business which operates as a single economic enterprise that is made up of either separate parts of a single business entity or of a commonly controlled group of business entities that are sufficiently interdependent, integrated and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts shall be deemed to constitute inventory which is "related to the business" and thus subject to be aggregated for purposes of the limitations on refundability provided for in R.S. 47:6006(B)(3).

b. When a taxpayer qualifies as a manufacturer as provided in R.S. 47:6006(C)(3)(b), the provisions of R.S. 47:6006(B)(3) shall apply. Further, inventory which meets the definition of related to the business, as provided in Subparagraph E.3.a, between affiliated or related business entities, as defined in Paragraph E.1, shall be aggregated and subject to the provisions of R.S. 47:6006(B)(3).

4. When one or more taxpayers are subject to the above provisions and treated as a single taxpayer for purposes of the application of the limitations on refundability of excess credit, the common parent or entity exercising ownership, directly or indirectly, of more than 50 percent of the ownership interest of the taxpayer shall be designated by all affiliated or related business entities as its agent for purposes of calculating the credit when the common parent is a Louisiana taxpayer. Otherwise, the affiliated or related business entities shall designate a single taxpayer to serve as its agent for purposes of calculating the credit.

5. Examples. Unless otherwise provided, all entities are presumed to have been formed or first registered to do business in Louisiana before April 15, 2016.

a. Entity A is a Louisiana corporation which is more than 50 percent owned by a non-Louisiana entity and included in a consolidated federal income tax return. As such, entity A along with all other entities contained in the consolidated federal tax return will be treated as a single taxpayer for purposes of calculating the application of the limitations on refundability of excess credit as provided in R.S. 47:6006. In addition, any other entities which are not included in the federal consolidated return but which would otherwise qualify under the provisions of Paragraph E.1 would also be aggregated and treated as a single taxpayer along with entity A and the entities included in the consolidated federal tax return. Because entity A is not the common parent, the members of the affiliated group must designate a member to serve as agent for purposes of aggregating the total ad valorem taxes paid pursuant to R.S. 47:6006 and calculating the resulting credit on a form prescribed by the secretary.

b. Entity A is a Louisiana LLC owning more than 50 percent of the ownership interest of entity B, an LLC, and entity C, a partnership formed after April 15, 2016. As such, taxpayer A is the common parent of entity B and entity C. In addition, entity B and entity C maintain a brother-sister relationship as they are part of an affiliated group. However, because entity C was formed after April 15, 2016, its inventory will be calculated separately from the inventory of entity A and entity B, which are treated as a single taxpayer for purposes of calculating the application of the limitations on refundability of excess credit as provided in R.S. 47:6006. Entity A, as a Louisiana taxpayer serving as the common parent of entity B and entity C, must be designated by entity B and C to serve as its agent for purposes of calculating the aggregate ad valorem taxes paid pursuant to R.S. 47:6006 and calculating the resulting credit on a form prescribed by the secretary.

c. Entity A is a Louisiana LLC which is a manufacturer as defined in R.S. 47:6006(3)(b) owning more than 50 percent of the ownership interest of entity B, an LLC, and entity C, a partnership. As such, taxpayer A is the common parent of entity B and entity C. In addition, entity B and entity C maintain a brother-sister relationship as they are part of an affiliated group. However, while entity A and entity B have inventory that is related to the business of such manufacturing, as defined in Subparagraph E.2.a, entity C has inventory which is unrelated to business of such manufacturing of entity A. Accordingly, the unrelated inventory of entity C will be calculated separately from the related business inventory of entity A and entity B. Entity A, as a Louisiana taxpayer serving as the common parent of entity B and entity C, must be designated by entity B and C to serve as its agent for purposes of calculating the aggregate ad valorem taxes paid pursuant to R.S. 47:6006 and calculating the resulting credit on a form prescribed by the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6006.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 27:1705 (October 2001), amended LR 43:

Family Impact Statement

The proposed amendment of LAC 61:I.1902, regarding inventory tax credits, 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

This proposed regulation will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

It is anticipated that this proposed amendment 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 this proposed amendment to accomplish the objectives of applicable statutes while minimizing any anticipated adverse impact on small businesses.

Provider Impact Statement

The proposed amendment 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., January 25, 2017.

Public Hearing

A public hearing will be held on January 26, 2017, 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: Inventory Tax Credits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The purpose of the proposed rules is to implement the provisions of Acts 4 and 5 of the 2016 Second Extraordinary Session of the Louisiana Legislature. The two Acts amended R.S. 47:6006, which provides tax credits for ad valorem taxes paid on inventories and on natural gas held, used, or consumed in providing or operating natural gas storage facilities.

Act 4 of the 2016 Second Extraordinary Session changed the limitation on the amount of the excess credit over income and corporation franchise tax liability that is refunded, and required that groups of affiliated companies be treated as one taxpayer for the purposes of limiting refundability. The terms set forth in Act 4 apply for credits claimed on returns filed on or after July 1, 2016.

Act 5 of the 2016 Second Extraordinary Session changed the inventory tax credit to a nonrefundable credit for taxes paid on inventory by any manufacturer who claimed the property tax exemption under the Industrial Tax Exemption Program (ITEP) during the same year the inventory taxes were paid, and taxes paid by any company related to such manufacturer for taxes paid on inventory that is related to the business of such manufacturer.

Implementation costs of the Department of Revenue (LDR) are for computer system modification and testing, tax form redesign, and taxpayer inquires. These costs will be absorbed in LDR's current appropriation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that this amendment may increase revenue collections by approximately $74.3 million annually for FYs 17-19. The revenue estimates are based upon historical data. However, this credit has been substantially altered prior to the proposed rules, and base information reflecting the effects of those prior changes is not yet available. As a result, revenue estimates may differ as a result of adjusted base information.

Except for new business entities formed or first registered to do business in Louisiana after April 15, 2016, Act 4 deemed that if the total amount eligible for the credit is less than or equal to $500,000, 100% of any excess credit is refundable, and for total eligible amounts above $500,000, 75% of any excess credit is refundable up to a maximum refund of $750,000. For new business entities formed or first registered to do business in Louisiana after April 15, 2016, Act 4 deemed that if the total amount eligible for the credit is less than $10,000, 100% of any excess credit is refundable, and for total eligible amounts $10,000 or more, 75% of any excess credit is refundable up to a maximum refund of $750,000. Using data from corporate tax returns received in FY 14, the impact of Act 4 was estimated to be $17.3 million annually.

The annual impact of Act 5 is anticipated to total $57 M annually. Using data from corporate tax returns received in FY 14, and a list of companies participating in the ITEP provided by the Department of Economic Development, the impact of Act 5 was estimated to be $57 million annually after adjustment for projected effects of Act 133 of 2015. Since this amendment is applicable to all tax returns filed on or after July 1, 2016, regardless of the taxable year to which the returns relate, and the LDR analyses are based on a fiscal year of credits, the revenue effects are assumed to be immediate.

However, this credit has been substantially altered prior to the proposed rules, and base information reflecting the effects of those prior changes is not yet available. As a result, the effects of the proposed rules should be viewed with considerable caution.

Furthermore, it is unknown whether it would be more beneficial to some ITEP taxpayers to not participate in the ITEP, in order to get more of their excess tax credits refunded. If so, to the extent these taxpayers would opt out of the ITEP, local government revenues would be increased by an indeterminable amount. It is also unknown whether taxpayers will keep lower inventory levels because of the tighter constraints on refundability. Lower inventory levels would result in lower local government taxes on inventory.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules will affect taxpayers approximately $74.3 M annually in excess credits that would have otherwise been refunded However, because of prior adjustments to the credit, the base information reflecting the effects of those changes may alter the costs for affected taxpayers. It is reasonable to assume that any costs to affected taxpayers via fewer refunded credits will be equal to the increase in state revenue collections.

Furthermore, taxpayers will also incur the costs of completing more complicated tax forms. These costs have not been estimated but are expected to be relatively minor.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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
1612#036

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development
Office of Engineering—Traffic Engineering Division

Design Guidelines for Freeways, Arterial, Collector, and Local Highways under the Jurisdiction of Political Subdivisions and Not in the State-Maintained System
(LAC 70:I.Chapter 13)

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. 48:35(C), that the Department of Transportation and Development, Office of Engineering, Traffic Engineering Division proposes to repeal and replace existing regulations pertaining to design guidelines for freeways, arterial, collector, and local highways under the jurisdiction of political subdivisions and not in the state-maintained system. The new design guidelines will ensure that Louisiana highways continue to meet nationally accepted design practices and FHWA requirements by including updated values and information as set forth in the most current and presently used AASHTO *Green Book*.

Title 70
TRANSPORTATION
Part I. Highway Construction
Chapter 13. Design Guidelines for Freeways, Arterial, Collector, and Local Highways under the Jurisdiction of Political Subdivisions and Not in the State-Maintained System

§1301. Legend

Legend	
AASHTO	2011 AASHTO Green Book
T %	Truck traffic percentage
Bridge Width	Defined as gutter line – gutter line
DS	Design Speed
ADT	Average Daily Traffic (vpd)
TDDHV	Truck Directional Design Hourly Volume

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 43:

§1303. Design Speed

Element			Urban	Rural
Design Speed (mph)	Freeway	Acceptable	60 - 70	70 - 80
	Arterial/ Collector	Acceptable	30 - 60	45 - 65
	Local	Acceptable	20 – 30	30 - 60
	Ramp	Acceptable	See AASHTO	

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 43:

§1305. Lane Width

Element	Urban						Rural						
Lane Width (ft.)	Freeway	Acceptable	12				Freeway	12					
	Arterial and Collector	Preferred	Auxiliary and Through Lanes	12			Arterial, Collector, & Local	Preferred Through and Auxiliary Lanes	12				
							Auxiliary and Through Lanes						
							Arterial	Acceptable	ADT (vpd)	Design Speed (mph)			
										45	50	55	60-65
									0-400	11			12
									400-1500				
									1500-2000	11	12		
									2000+	12			
		Acceptable		DS < 35 mph & T% ≤ 10	All other Cases		Collector	Acceptable		45	50	55	60-65
									0-400	10		11	
									400-1500	11			
			Through Lanes	10	11				1500-2000	11		12	
			Auxiliary Lanes	10					2000+	12			
	Local	Through Lane		T% > 15	Residential	All Others	Local	Acceptable		30-40	45-50	55-60	
			Preferred	12	11	11			0-400	9	10	11	
			Acceptable	11	9	10			400-1500	10	11		
		Auxiliary Lane		T% < 10	10 < T% < 15	T% > 15							
			Preferred	10	11	12			1500-2000	11		12	
			Acceptable	9					2000+	12			
	Ramp	Acceptable	Non Interstate	See AASHTO									
			Interstate	Use Case C from AASHTO									

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 43:

§1307. Shoulder Width and Type

Element	Urban & Rural														
Shoulder Width (ft.)	Freeway			4 – Lane	6 – Lane		Auxiliary Lane								
					T DDHV > 250 veh/hr	T DDHV < 250 veh/hr									
		Preferred	Inside	6	12	10	N/A								
			Outside	10			Freeway shoulder width								
		Acceptable	Inside	4	10		N/A								
			Outside	10			Ramp shoulder width								
	Urban				Rural										
	Arterial, Collector, & Local		Curb	No Curb	Through Lanes (Inside/Outside)						Auxiliary Lanes				
								# of lanes							
						ADT (vpd)		2	4	6					
		Preferred	4 ft. outside and 1 ft. inside	Refer to rural	Arterial	Acceptable	< 400	4	4/8	4/8 [1]	Acceptable	Design Speed > 45 mph	6		
							400 – 1500	6							
							1500 – 2000	6							
							2000 +	8							
		Acceptable	1 ft. inside and outside	2 ft. inside and outside	Collector	Acceptable	< 400	2	4/8	4/8 [1]		Design Speed ≤ 45 mph	See through lane		
							400 – 1500	5							
							1500 – 2000	6							
							2000 +	8							
					Local	Acceptable	< 400	2	4/8	4/8 [1]					
							400 – 1500	5							
							1500 – 2000	6							
							2000 +	8							
					[1] 8/8 Preferred										
		Inside dimensions are for multilane only													
	Ramp	See AASHTO													
Shoulder Type			Urban			Rural									
			Inside		Outside	Inside		Outside							
	Freeway	Preferred	paved		Paved	paved		paved							
		Acceptable	4 ft. min paved on 4 lane facilities			4 ft. min paved on 4 lane facilities									
	Arterial & Collector	Preferred	Paved			Aggregate (2 ft. minimum paved)		Aggregate (4 ft. minimum paved)							
		Acceptable				Aggregate (2 ft. minimum paved)									
	Local	Preferred	Paved			Aggregate (2 ft. minimum paved)									
		Acceptable				Aggregate									

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 43:

§1309. Bridge Width and Structural Capacity

Element	Urban & Rural			
Bridge Width		Non Freeway		Freeway
		Curb	Shoulder	
	Preferable	Travel Lanes +4 ft (each side)	Approach Travel Lanes + Shoulder Width	Travel Lanes + Shoulder Width
	Acceptable	Approach Travel Lanes + Shoulder Width	Travel Lanes + 4 ft.(each side)	
		A positive median is preferred for single structure multi-lane bridges.		
Structural Capacity	All Classifications	See the *LADOTD Bridge Design and Evaluation Manual* for guidance		

AUTHORITY NOTE:Promulgated in accordance with R.S. 48:35(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 43:

§1311. Vertical Clearance

Element	Urban & Rural	
Vertical Clearance (ft.)		Minimum Required Roadway Vertical Clearance
	Type of Roadway	**Acceptable**
	Freeway, Arterials, and all other Roads and Streets (Underpass and Overpass)	16.5
	Truss Portals/Sign Truss	18 bottom of sign, 20 to the bottom of truss
	Pedestrian Bridges	20
	Other Structures	20
	Trails/Bikeways (Underpass)	12

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 43:

§1313. Lateral Offset and Clear Zone

Element	Urban & Rural				
Lateral Offset (Structures Excluded)	**Lateral Offset Based on Road Classification and Curbed (Measured From Face of Curb) or Uncurbed Shoulder**				
	Road Classification	**Preferred**		**Acceptable**	
		Curb	**Shoulder**	**Curb**	**Shoulder**
	Freeway	Equal to Shoulder width			
	Arterial/Collector/Local Urban Non-Tangent Sections	6 ft. (8 ft. for DS>40 mph)	12 ft.	1.5 ft. (3 ft. at intersections and drives)	Shoulder width (4 ft. minimum)
	Arterial/Collector/Local Urban Tangent Sections	4 ft.	8 ft.		
	Rural All Classifications	1.5 ft			
	Ramp	Right side = 10 ft.		Right side = 6 ft. Left side = 4 ft.	
Clear Zone	See Table 3-1 "Suggested Clear-Zone Distance from Edge of Through Traveled Lane" in the *Roadside Design Guide*. Required for rural roadways and all freeways				

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 43:

§1315. Superelevation and Cross Slope

Element	Urban & Rural														
Super-elevation	Minimum Radius (ft.) Based on e_{max} and Design Speed														
	Design Speed (mph)		20	25	30	35	40	45	50	55	60	65	70	75	80
	E_{max} = 4% (All Urban non Freeway)	Normal Crown	109	204	343	527	791	1080	7246	8768	10435				
		Reverse Crown	91	164	267	399	577	772	3474	4253	5728				
		Full Super	86	154	250	371	533	711	926	1190	1500				
	E_{max}=8% (Rural Roads, Ramp Proper, Freeway)	Normal Crown	1640	2370	3240	4260	5410	6710	8150	9720	11500	12900	14500	16305	18550
		Reverse Crown	944	1369	1876	2463	3133	3885	4770	5653	6678	7553	8495	9508	10596
		Full Super	76	134	214	314	444	587	758	960	1200	1480	1810	2210	2670
Cross slope	Rate														
	Rate (Tangent Sections)	Travel Lane	Paved	2.5%											
			Unpaved	3.0%											
		Shoulder	5.0%												
	Roundabout		1.5%												
	Max Cross-over Crown	Travel Lanes	5.0%												
		Shoulder	7.0%												
		Intersections	Signalized	2.5%											
			Unsignalized	5.0%											

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 43:

§1317. Longitudinal Grade

A. Logitudinal Grade

Element	Urban & Rural			
Longitudinal Grade	**Freeway**	Acceptable	Max 3%	
	Arterial	Urban		Rural
		Acceptable	Max 5 %	Max 3%
	Collector & Local	Urban & Rural		
		Acceptable	Max 5%	
	Ramp	Upgrades & Downgrades	Acceptable	Max 5%

B. It is preferable that grade be limited so that a speed reduction of no more than 10 miles per hour (mph) is obtained for a heavy truck.

C. It is preferable that no more than a 3 percent grade is obtained through the functional area of an intersection. A maximum grade of 3 percent is acceptable for roundabouts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 43:

§1319. Slopes

Element	Urban & Rural			
Slopes			**Fore Slope**	**Back Slope**
	Freeway	**Preferred**	6:1	4:1
		Acceptable	4:1	3:1
	Non Freeway	**Acceptable**	4:1	3:1

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 43:

§1321. At-Grade Median Width

Element	Urban & Rural			
At Grade Median Width (ft.)			**Urban**	**Rural**
	Freeway	**Acceptable**	64[1]	
	Non-Interstate	**Preferred**	50	64[1]
		Acceptable	6	
	[1] Design speed ≥ 60 mph and median < 64 feet require a barrier.			
	Medians less than 20 ft. require a raised, paved median or maintenance agreement (non-interstate)			

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 43:

§1323. Stopping Sight Distance

Element	Urban & Rural	
Stopping Sight Distance	**Acceptable**	See AASHTO

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 43:

§1325. Complete Streets Design Guide

A. Complete Streets Design Guide

		Requirements Accommodations Meet (x)		Notes
		Bike	Pedestrian	
Accommodations	**Sidewalk**		x	
	Shoulder (4ft min paved)	x	x	
	Bike Lane	x		Raised objects shall not be used to separate bicycle lanes from adjacent travel lanes Shall be placed in both directions. Required paved shoulder width can be reduced by width of bike lane
	Cycle Track	x		Required paved shoulder width can be reduced by width of cycle track
	Sidepath		x	One way bike facility and 2 way pedestrian, and must be on both sides of the road. Two way bike facility is acceptable if all of the following is true; • most suitable on side path analysis chart • path is < ½ mile • path connects two other good, high quality trail sections that would otherwise could not be connected.
	Wider Outside Travel Lane (15 ft.)	x		

Element	Urban									Rural					
Complete Streets Widths and Offsets (ft.)	**Freeway/ Expressway**	**Preferred** **Acceptable**	N/A							N/A					
	All Other Classifications	**Sidewalk**			**Sidepath**		**Cycle Track Width**		**Bicycle Lane Width**	**Sidewalk**		**Sidepath**	**Cycle Track (One Way Only)**		**Bicycle Lane Width**
		Offset of Sidewalk From Travel Lane	Usable Width	Width Adjacent to Curb	Usable Width	Offset of Sidepath From Travel Lane	Usable Width	Offset (From Through Lane)		Usable Width of Sidewalk	Offset of Sidewalk From Travel Lane		Usable Width	Offset of Cycle Track From Travel Lane	
	Preferred	≥ 8	5	7	10	5 ft. Landscaped buffer	5	5 ft. striped buffer	5	5	Clear zone	N/A	5	5 ft. striped buffer	5
	Acceptable	2									8				

B. Louisiana DOTD Complete Streets Policy requires both bicycle and pedestrian accommodations that are appropriate for the context of the roadway. Limited exceptions for not accommodating bicyclists, pedestrians, and transit users in accordance with this policy will require the approval of the DOTD Chief Engineer.

C. Roadways with an ADT (average daily traffic) of less than one thousand (1,000) vehicles per day are considered to have met minimum Complete Streets policy requirements.

AUTHORITY NOTE: Promulgated in accordance with La. R.S. 48:35(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 43:

Family Impact Statement

Implementation of this proposed Rule 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:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.
2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.
3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.
4. The implementation of this proposed Rule will have no known or foreseeable effect on the family earnings and family budget.
5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.
6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The implementation of this proposed Rule should not have any known or foreseeable impact on child, individual, or family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically,

1. The implementation of this proposed Rule will have no known or foreseeable effect on household income, assets, and financial security.
2. The implementation of this proposed Rule will have no known or foreseeable effect on early childhood development and preschool through postsecondary education development.
3. The implementation of this proposed Rule will have no known or foreseeable effect on employment and workforce development.
4. The implementation of this proposed Rule will have no known or foreseeable effect on taxes and tax credits.
5. The implementation of this proposed Rule will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The implementation of this proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. The proposed Rule is not expected to have a significant adverse impact on small businesses. The department, consistent with health, safety, environmental, and economic welfare factors, has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of the proposed statutes while minimizing the adverse impact of the Rule on small businesses.

Provider Impact Statement

The implementation of this proposed rule change does not have any known or foreseeable impact on a provider as defined by House Concurrent Resolution No. 170 of the 2014 Regular Session of the Louisiana State Legislature. Specifically:

1. The implementation of this proposed Rule change does not have any known or foreseeable impact on the staffing level requirements or qualifications required to provide the same level of service.
2. The implementation of this proposed Rule change does not have any known or foreseeable impact on the total direct and indirect effect on the cost to a provider to provide the same levels of service.
3. The implementation of this proposed Rule change does not have any known or foreseeable impact on the overall effect on the ability of a provider to provide the same level of service.

Public Comments

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this notice of intent to Jody Colvin, Traffic Engineering Division Administrator, Department of Transportation and Development, P.O. Box 94245, Baton Rouge, LA 70804-9245. Telephone (225)242-4635.

Shawn Wilson, Ph.D.
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Design Guidelines for Freeways, Arterial Collector, and Local

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will update existing minimum safety guidelines with respect to highway and bridge design, construction, and maintenance for freeways, arterial, collector, and local highways under the jurisdiction of political subdivisions and not in the state-maintained system in accordance with La. R.S. 48:35(C). The new design guidelines will ensure that Louisiana highways continue to meet nationally accepted design practices and Federal Highway Administration (FHWA) requirements by including updated values and information as set forth in the most current and presently used American Association of State Highway and Traffic Official (AASHTO) *Green Book*.

There is no anticipated cost to implement the proposed rule changes. This rule change only serves to update existing design guidelines to reflect those set forth by AASHTO to ensure that Louisiana highways continue to meet current nationally accepted design practices.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections as a result of this proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

As these proposed rule changes set forth design guidelines with respect to highway and bridge design, construction, and maintenance for freeways, arterial, collector, and local highways under the jurisdiction of political subdivisions and not in the state-maintained system, there are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule changes.

Shawn Wilson, Ph. D.	Evan Brasseaux
Secretary	Staff Director
1611#034	Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development
Professional Engineering and Land Surveying Board

Military-Trained Individuals/Military Spouses and Use of Seals (LAC 46:LXI.903, 909, and 2701)

Under the authority of the Louisiana professional engineering and land surveying licensure law, R.S. 37:681 et seq., and in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana Professional Engineering and Land Surveying Board has initiated procedures to amend its rules contained in LAC 46:LXI.903, 909, and 2701.

This is a technical revision of existing rules under which LAPELS operates. The revision: (a). incorporates changes made to R.S. 37:3651 during the 2016 Regular Session relating to the licensure of military-trained individuals and military spouses; and (b). clarifies and expands the exceptions to the sealing requirements for professional engineers.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXI. Professional Engineers and Land Surveyors
Chapter 9. Requirements for Certification and Licensure of Individuals and Temporary Permit to Practice Engineering or Land Surveying

§903. Professional Engineer Licensure

A. - A.6. …

B. The requirements for licensure as a professional engineer under the alternatives provided in R.S. 37:3651(A), (B) and (C) are as follows:

1. the applicant for licensure as a professional engineer shall be a military-trained individual who has completed a military program of training in engineering at a level that is substantially equivalent to or exceeds the requirements for licensure under R.S. 37:693(B)(2) and Subsection A herein, who has been awarded a military occupational specialty in engineering, who has performed in that military occupational specialty at a level that is substantially equivalent to or exceeds the requirements for licensure under R.S. 37:693(B)(2) and Subsection A herein, who has engaged in the active practice of engineering, who has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice engineering in Louisiana at the time the act was committed, who is an engineer intern, or an individual who meets the qualifications to be an engineer intern, who has a verifiable record of four years or more of progressive experience obtained subsequent to meeting the educational and applicable experience qualifications to be an engineer intern on engineering projects of a level and scope satisfactory to the board, who is of good character and reputation, who has passed the examination required by the board in the principles and practice of engineering in the discipline of engineering in which licensure is sought, who was recommended for licensure by five personal references, three of whom are professional engineers who have personal knowledge of the applicant's engineering experience and character and ability, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board; or

2. the applicant for licensure as a professional engineer shall be a military-trained individual who holds a current, valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that are substantially equivalent to or exceed the requirements for licensure under R.S. 37:693(B)(2) and Subsection A herein, who is of good character and reputation, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board; or

3. the applicant for licensure as a professional engineer shall be a military spouse who holds a current, valid license to engage in the practice of engineering issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that are substantially equivalent to or exceed the requirements for licensure under R.S. 37:693(B)(2) and Subsection A herein, who can demonstrate competency in the practice of engineering through an oral interview by the board, who has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice engineering in Louisiana at the time the act was committed, who is in good standing with and has not been disciplined by the agency that issued the license in the other jurisdiction, who is of good character and reputation, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional engineer by the board.

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688 and 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:352 (November 1976), amended LR 5:114 (May 1979), LR 5:365 (November 1979), LR 6:735 (December 1980), LR 7:644 (December 1981), LR 10:804 (October 1984), LR 11:362 (April 1985), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1028 (July 2001), LR 30:1712 (August 2004), LR 32:1619 (September 2006), LR 37:2412 (August 2011), LR

38:2564 (October 2012), LR 39:1060 (April 2013), LR 39:2801 (October 2013), LR 43:

§909. Professional Land Surveyor Licensure

A. - A.2. …

B. The requirements for licensure as a professional land surveyor under the alternatives provided in R.S. 37:3651(A), (B) and (C) are as follows:

1. the applicant for licensure as a professional land surveyor shall be a military-trained individual who has completed a military program of training in land surveying at a level that is substantially equivalent to or exceeds the requirements for licensure under R.S. 37:693(B)(4) and Subsection A herein, who has been awarded a military occupational specialty in land surveying, who has performed in that military occupational specialty at a level that is substantially equivalent to or exceeds the requirements for licensure under R.S. 37:693(B)(4) and Subsection A herein, who has engaged in the active practice of land surveying, who has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice land surveying in Louisiana at the time the act was committed, who is a land surveyor intern, or an individual who meets the qualifications to be a land surveyor intern, who is of good character and reputation, who has a verifiable record of four years or more of combined office and field experience in land surveying including two years or more of progressive experience on land surveying projects under the supervision of a professional land surveyor, who has passed the oral examination required by the board, who has passed the examinations required by the board in the principles and practice of land surveying and Louisiana laws of land surveying, who was recommended for licensure by five personal references (at least three of whom must be professional land surveyors who have personal knowledge of the applicant), who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional land surveyor by the board; or

2. the applicant for licensure as a professional land surveyor shall be a military-trained individual who holds a current, valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that are substantially equivalent to or exceed the requirements for licensure under R.S. 37:693(B)(4) and Subsection A herein, who is of good character and reputation, who has passed the examinations required by the board in the fundamentals of land surveying, principles and practice of land surveying and Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional land surveyor by the board; or

3. the applicant for licensure as a professional land surveyor shall be a military spouse who holds a current, valid license to engage in the practice of land surveying issued to him/her by proper authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements that are substantially equivalent to or exceed the requirements for licensure under R.S. 37:693(B)(4) and Subsection A herein, who can demonstrate competency in the practice of land surveying through an oral interview by the board, who has not been disciplined in any jurisdiction for an act that would have constituted grounds for refusal, suspension, or revocation of a license to practice land surveying in Louisiana at the time the act was committed, who is in good standing with and has not been disciplined by the agency that issued the license in the other jurisdiction, who is of good character and reputation, who has passed the examinations required by the board in the fundamentals of land surveying, principles and practice of land surveying and Louisiana laws of land surveying, who has submitted an application for licensure in accordance with the requirements of R.S. 37:694, and who was duly licensed as a professional land surveyor by the board.

C. - E. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688 and 37:3651.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 2:244 (August 1976), amended LR 2:352 (November 1976), LR 5:114 (May 1979), LR 6:735 (December 1980), LR 7:645 (December 1981), LR 11:362 (April 1985), LR 16:773 (September 1990), LR 19:56 (January 1993), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1029 (July 2001), LR 30:1713 (August 2004), LR 32:1619 (September 2006), LR 35:1909 (September 2009), LR 37:2413 (August 2011), LR 38:2564 (October 2012), LR 39:2802 (October 2013), LR 43:

Chapter 27. Use of Seals

§2701. Seal and Signature

A. The following rules for the use of seals to identify work performed by a professional engineer or professional land surveyor shall be binding on every licensee.

1. - 2.f. …

* * *

3. Seal Responsibility

a. …

b. Responsible Charge

i. - i.(d).(ii). …

ii. No licensee shall affix his/her seal or signature to reports, plats, sketches, working drawings, specifications, design calculations, or other engineering and land surveying documents developed by others not under his/her responsible charge, except:

(a). in the case of an individual Louisiana professional engineer checking and taking the professional responsibility for the work of an engineer who is not licensed in this state but is properly licensed in the jurisdiction of origin of such work, the Louisiana professional engineer shall completely check and have responsible charge of the work. Such responsible charge shall include possession of the sealed, signed and dated reproducible drawings, with complete sealed, signed and dated calculations indicating all changes;

(b). certification of standard plans which were initially prepared, sealed and signed by an engineer who is not licensed in this state but is properly licensed in the jurisdiction of origin of such plans. Such plans may then be reviewed by a Louisiana professional engineer for code conformance, design adequacy, and site adaption for the specific application within Louisiana. The Louisiana professional engineer assumes responsibility for such plans.

The plans, which already bear the seal and signature of the engineer who is not licensed in this state but is properly licensed in the jurisdiction of origin of such plans, shall also be sealed, signed and dated by the Louisiana professional engineer who is assuming responsibility. In addition to the Louisiana professional engineer's seal, signature and date, a statement shall be included on the plans as follows;

> "These standard plans have been properly examined by me, the undersigned Louisiana professional engineer. I have determined that these plans comply with all applicable Louisiana codes and have been properly site adapted to use in this area."

(c). certification of standard plans, including special details, which were initially prepared by the Department of Transportation and Development and signed and dated by such agency's chief engineer, but which are not for use on such agency's projects. Such plans may then be reviewed by another professional engineer for code conformance, design adequacy, and site adaption for the specific application. The other professional engineer assumes responsibility for such plans. The plans, which already bear the signature of the agency's chief engineer, shall be sealed, signed and dated by the other professional engineer who is assuming responsibility. In addition to the other professional engineer's seal, signature and date, a statement shall be included on the plans as follows;

> "These standard plans have been properly examined by me, the undersigned professional engineer. I have determined that these plans comply with all applicable codes and have been properly adapted to use on this project."

(d). certification of single family residential design plans for conformance with applicable state and local building codes. Such plans shall be sealed, signed and dated by the professional engineer who is making such certification. In addition to the professional engineer's seal, signature and date, a statement shall be included on the plans as follows.

> "These single family residential design plans have been properly examined by me, the undersigned professional engineer. I have determined that these plans comply with the following applicable codes for the jurisdiction in which the residence is to be located (*check all that apply*): ☐ structural; ☐ mechanical; ☐ electrical; ☐ plumbing."

iii. - iii.(c). …

4. Seal Use

a. - b.i. …

c. Exempt Work

i. - i.(e). …

ii. No seal shall be required on standard plans, including special details, which are prepared by the Department of Transportation and Development and signed and dated by such agency's chief engineer for use on such agency's projects.

5. - 5.b. …

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:696.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 8:192 (April 1982), amended LR 12:692 (October 1986), LR 16:774 (September 1990), LR 17:273 (March 1991), LR 19:58 (January 1993), LR 22:287 (April 1996), LR 23:869 (July 1997), amended by the Louisiana Legislature, House Concurrent Resolution Number 2 of the 1998 First Extraordinary Session, LR 24:1207 (June 1998), repromulgated by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 25:1525 (August 1999), amended LR 27:1039 (July 2001), LR 30:1723 (August 2004), LR 33:2789 (December 2007), LR 34:2415 (November 2008), LR 35:1910 (September 2009), LR 38:1418 (June 2012), LR 39:1481 (June 2013), LR 42:443 (March 2016), LR 43:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*. The proposed Rule has no known impact on family formation, stability or autonomy.

Poverty Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(ix) and 973, the following Poverty Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*. The proposed Rule has no known impact on child, individual or family poverty in relation to individual or community asset development.

Provider Impact Statement

In accordance with HCR No. 170 of the 2014 Regular Session, the following Provider Impact Statement is submitted with the Notice of Intent for publication in the *Louisiana Register*. The proposed Rule has no known effect on the staffing level requirements or qualifications required to provide the same level of service, the cost to the provider to provide the same level of service or the ability of the provider to provide the same level of service.

Public Comments

Interested parties are invited to submit written comments on the proposed Rule through January 10, 2017 at 4:30 p.m., to Donna D. Sentell, Executive Director, Louisiana Professional Engineering and Land Surveying Board, 9643 Brookline Avenue, Suite 121, Baton Rouge, LA 70809-1433.

Donna D. Sentell
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Military-Trained Individuals/Military Spouses and Use of Seals

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated implementation costs or savings to state or local governmental units resulting from this proposed rule change. The proposed rule change codifies the provisions of Act 616 of the 2016 Regular Session of the Legislature, which amended R.S. 37:3651 relating to the licensure of military-trained individuals and military spouses. The proposed rule change also clarifies and expands the exceptions to the seal and signature requirements for professional engineers.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as a result of this proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no impact on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition and employment in the public and private sectors as a result of the proposed rule change.

Donna D. Sentell
Executive Director
1612#021

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Workforce Commission
Plumbing Board

Plumbers—Introductory Information; Licenses; Revocation and Related Administration Proceedings; Continuing Professional Education Programs (LAC 46:LV.101, 301, 303, 307, 308, 309, 310, 311, 312, 313, 314, 315, 901, and 1002)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953, the Louisiana State Plumbing Board (board), hereby determines that implementation of amendments to LAC 46:LV.101, 301, 303, 307, 308, 309, 310, 311, 312, 313, 314, 315, 901, and 1002 is necessary to be incompliance with recent legislative changes designated as Act No. 297 of 2016. The proposed Rule change establishes the designation of gas fitter and master gas fitter and will also provide licensing requirements and procedures relative to gas fitter and master gas fitter classifications, effective January 1, 2017. The addition of this classification resulted in the number change for rules formerly numbered as §§307-313. These adjustments will be effective upon final publication in the *Louisiana Register*.

Please refer to the corresponding Emergency Rule printed in this edition of the *Louisiana Register* to view these amendments.

Family Impact Statement

1. Estimated effect on the stability of the family? There is no estimated effect on the stability of the family.

2. Estimated effect on the authority and rights of parents regarding the education and supervision of their children? There is no estimated effect on the authority and rights of parents regarding the education and supervision of their children.

3. Estimated effect on the functioning of the family? There is no estimated effect on the functioning of the family.

4. Estimated effect on family earnings and family budget? There is no estimated effect on family earnings and family budget.

5. Estimated effect on the behavior and personal responsibility of children? There is no estimated effect on the behavior and personal responsibility of children.

6. Estimated effect on the ability of the family or a local government to perform the function as contained in the proposed Rule? There is no estimated effect on the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed amended Rule will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed amended Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed amended rule is not anticipated to have any impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

Any interested person may submit written comments regarding the content of this proposed Rule change to James Finley, Chairman of the Board, 11304 Cloverdale Avenue, Baton Rouge, LA no later than 5 p.m., February 20, 2017.

James Finley
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Plumbers—Introductory Information; Licenses; Revocation and Related Administration Proceedings; Continuing Professional Education Programs

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to enact and amend Sections 101, 301, 303, 307, 308, 309, 310, 311, 312, 313, 314, 315, 901, and 1002 of the Louisiana Administrative Code (LAC) Title 46, Part LV – Plumbers. In accordance with Act 297 of 2016, the LA State Plumbing Board is adjusting the plumbing code to incorporate examination, licensing and continuing education requirements of Gas Fitter and Master Gas Fitter.

Section 101 adds definitions related to gas fitters. Sections 301, 303, 307 and 308 enact new licensing requirements of gas fitters including the application and examination process. Sections 309-315 are technical changes related to numbering. Section 311 enacts fees and charges of the Plumbing Board reltive to gas fitters. Section 901 adds gas fitters to the current revocation, suspension and probation procedures of plumbers. Finally, Section 1002 enacts continuing education requirements and course provider standards for gas fitters.

In FY 17, the Plumbing Board anticipates implementation costs of $49,312 associated with licensing of Gas Fitters and Master Gas Fitters. In subsequent fiscal years, the board anticipates costs of $20,360. Licensing feels will cover these costs.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Plumbing Board anticipates revenue collection of $492,000 in licensing fees authorized by Act 297 of 2016. Approximately 3,600 journeyman plumbers are estimated to seek licenses as a gas fitter ($144,000 = 3,600 x $40). Approximately 1,800 master plumbers are estimated to seek licenses as master gas fitters ($324,000 = 1,800 x $180). In addition, approximately 600 persons, primarily heater, air conditioning and ventilation (HVAC) contractors, are estimated to seek licensing as regulated gas fitters ($24,000 = 600 x $40).

The board expects revenue collections to remain constant in future fiscal years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Licensing fees will impact an estimated 6,000 individuals and/or their employing entities engaged in the business of gas fitting.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The Plumbing Board anticipates the implementation of new licensing requirements for gas fitters will enhance competition as a result of issuing licenses as well as provide statewide regulation of an important aspect of the plumbing industry. To the extent that 100% of plumbers referenced in this rule do not seek a gas fitter license, this rule may result in a decrease in competition. Also the board anticipates this rule will promote development of quality private sector training and certification program.

Louis L. Robein
Board Attorney
1612#042

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Potpourri

POTPOURRI

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Public Hearing—Substantive Changes to
Proposed Rule—Honey Bees and Apiaries
(LAC 7:XV.507)

The department published a Notice of Intent to update its regulations on honey bees, apriaries and fireants, specifically LAC 7:XXIX.501-519 and 701-725, in the June 20, 2016 edition of the *Louisiana Register* (LR 42:911-916). As a result of public comments received on proposed Rule 507, the department proposes to amend §507.D.1. Specificially, the substantive change to the proposed rule would permit a class B beekeeper who owns immovable property in Louisiana to locate his or her own apiary anywhere on that property, even if it would be within two miles of an existing apiary. No fiscal or economic impact will result from the amendments proposed in this notice.

Title 7
AGRICULTURE AND ANIMALS
Part XV. Plant Protection and Quarantines
Chapter 5. Honey Bees and Apiaries
(Formerly LAC 7:XXI.Chapter 25)
§507. Annual Registration and Designation of Class A and B Permits
(Formerly LAC 7:XXI.2503)

A. - C.3. …

D. The holder of a class B permit shall do the following:

1. maintain his yard or apiary a minimum of two miles from any other bee yard or apiary for three consecutive violation-free years. However, any registered beekeeper who owns property may locate his or her own apiary anywhere on that property. The holder of a class B permit must be able to demonstrate that he made reasonable efforts to ascertain and ensure that his bee yard or apiary would not be set up within a two mile radius of an existing bee yard or apiary. The holder of a class B permit may move his yard or apiary within two miles of an existing yard or apiary if the owner of the existing apiary gives written permission.

D.2. - F. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2305 and R.S. 2:2303.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:517 (May 1985), repromulgated by the Department of Agriculture and Forestry, Office of Animal Health and Food Safety and the Board of Animal Health, LR 40:930 (May 2014), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 43:

Public Comments

Interested persons may submit written comments to Ansel Rankins, Director of Horticulture and Quarantine Programs, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3002, Baton Rouge, LA 70806. He is responsible for responding to inquiries regarding these substantive amendments to the proposed Rule. The deadline for receipt of all written comments is 10 a.m. on Friday, January 20, 2017.

Public Hearing

In accordance with the provisions of the Administrative Procedure Act, specifically at R.S. 49:968(H)(2), the department gives notice of a public hearing to receive additional comments and testimony on these substantive amendments to the proposed Rule. The hearing will be held at 10 a.m. on Friday, January 20, 2017 in the Veterans' Auditorium at the Louisiana Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing.

Mike Strain, DVM
Commissioner

1612#032

POTPOURRI

Board of Elementary and Secondary Education

Notice of Public Hearing—Bulletin 1922
Compliance Monitoring Procedures
(LAC 28:XCI.Chapters 1-3)

On June 22, 2016, the State Board of Elementary and Secondary Education (BESE) approved, as a Notice of Intent, revisions to *Bulletin 1922—Compliance Monitoring Procedures*: §101, Monitoring; §105, Local Educational Agencies (LEAs); §107, Corrective Action and Sanctions; §109, Components of the Continuous Improvement Monitoring Process; §301, Categories of Monitoring; §303. Timelines; §305, On-Site Visits; §307, Regulatory Issues Reviewed On-Site; §311, Activities Conducted During the On-Site Visit; and §313, Activities/Procedures at the Completion of the On-Site Visit. This Notice of Intent was published on pages 1328-1331 of the August 20, 2016 issue of the *Louisiana Register*. On October 12, 2016, BESE approved, as a Notice of Intent, revisions to §311, Activities Conducted during the On-Site Visit. A second Notice of Intent was published on pages 2050-2053 of the November 20, 2016 issue of the *Louisiana Register*, inclusive of all Sections approved in June 2016 as well as one revised Section approved in October 2016. A request for a public hearing regarding the November 20, 2016 Notice of Intent was received. In accordance with R.S. 49:953.A(2)(a) and R.S. 49:953.A(2)(b)(i), BESE will hold a public hearing on December 29, 2016, at 3 p.m., in Room 1-100, the Louisiana Purchase Room, located in the Claiborne Building, 1201 North Third Street, Baton Rouge, LA.

Shan N. Davis
Executive Director

1612#064

POTPOURRI

Office of the Governor
Coastal Protection and Restoration Authority

Draft Master Plan 2017 and State Fiscal Year 2018
Draft Annual Plan—Public Hearings

The Louisiana Coastal Protection and Restoration Authority (CPRA), will hold the following public hearings to receive comments and recommendations from the public and from elected officials on Louisiana's 2017 draft "Louisiana's Comprehensive Master Plan for a Sustainable Coast" and Louisiana's draft "Fiscal Year 2018 Annual Plan: Integrated Ecosystem Restoration and Hurricane Protection in Coastal Louisiana".

A formal presentation and an opportunity for public comment on the annual plan draft will immediately follow the master plan public hearing.

Jan. 17	3:30 p.m. Open House 6:00 p.m. Public Meeting	Lake Charles Civic Center Jean Lafitte Room 900 Lakeshore Drive Lake Charles, LA 70601
Jan. 18	3:30 p.m. Open House 6:00 p.m. Public Meeting	Port of New Orleans Auditorium 1350 Port of New Orleans Place New Orleans, LA 70130
Jan. 24	3:30 p.m. Open House 6:00 p.m. Public Meeting	Houma Terrebonne Civic Center Pelican Room 346 Civic Center Boulevard Houma, LA 70360
Jan. 25	3:30 p.m. Open House 6:00 p.m. Public Meeting	David C. Treen Instructional Technology Center - Conference Center 2024 Livingston Mandeville, LA 70448

The CPRA will receive written comments and recommendations on the draft annual plan until March 26, 2017. Written comments should be mailed (to arrive no later than March 26, 2017) to the following address:

Coastal Protection and Restoration Authority
c/o Chuck Perrodin
P.O. Box 44027
Baton Rouge, LA 70804-4027

If, because of a disability, you require special assistance to participate, please contact the CPRA Administrative Assistant, at P.O. Box 44027, Baton Rouge, LA 70804-4027 or by telephone at (225) 342-7308, at least five working days prior to the hearing.

Please visit http://coastal.la.gov/ for more detailed information and copies of the draft annual plan which will be posted prior to the public meetings.

For questions regarding the meetings, please contact Chuck Perrodin at (225) 342-7615.

Michael Ellis
Executive Director

1612#035

POTPOURRI

Office of the Governor
Office of Financial Institutions

Judicial Interest Rate for 2017

Pursuant to authority granted by R.S. 13:4202(B)(1), as amended, the Louisiana Commissioner of Financial Institutions has determined that the judicial rate of interest for calendar year 2017 will be 4.25 percent per annum.

John P. Ducrest, CPA
Commissioner

1612#065

POTPOURRI

Department of Health
Bureau of Health Services Financing

2017 First Quarter Hospital Stabilization Assessment

House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature enacted an annual hospital stabilization formula and directed the Department of Health to calculate, levy and collect an assessment for each assessed hospital. In compliance with HCR 51, the Department of Health, Bureau of Health Services Financing amended the provisions governing provider fees to establish hospital assessment fees and related matters (*Louisiana Register*, Volume 42, Number 11).

The Department of Health shall calculate, levy and collect a hospital stabilization assessment in accordance with HCR 51. For the quarter beginning January 1, 2017 through March 31, 2017, the quarterly assessment amount to all hospitals will be $14,730,148. This amounts to 0.13 percent of total inpatient and outpatient hospital net patient revenue of the assessed hospitals.

Rebekah E. Gee MD, MPH
Secretary

1612#062

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. H. Tuttle Oil Company	Red River-Bull Bayou	S	Fee	004	31304
Dynamic Exploration, Inc.	Raceland	L	South Coast	001	153296(30)

Operator	Field	District	Well Name	Well Number	Serial Number
Four Star Development Corp.	Olla	M	WX G2 Ra Su 410; Tremont LBR Co	004	199282
Witt Oil Production, Inc.	Wildcat-No LA Monroe Dist	M	Olinkraft	002	142942
Drum Energy, L.L.C.	Monroe	M	Pennzoil No 9460	001	140037
Drum Energy, L.L.C.	Monroe	M	Pennzoil No 9460	002	140371
Drum Energy, L.L.C.	Monroe	M	Pennzoil No 9460	003	140390
Drum Energy, L.L.C.	Monroe	M	Pennzoil No 9460	004	140431
Drum Energy, L.L.C.	Monroe	M	Pennzoil No 9460	005	141228
Drum Energy, L.L.C.	Monroe	M	Exxon 23	001	146127
Drum Energy, L.L.C.	Monroe	M	Exxon 23	002	146128
Drum Energy, L.L.C.	Monroe	M	Exxon 23	003	146129
Drum Energy, L.L.C.	Monroe	M	Maggie Smith B	001	146602
Drum Energy, L.L.C.	Monroe	M	George D Roan	001	146603
Drum Energy, L.L.C.	Monroe	M	Clarence Ouchley	001	146750
Drum Energy, L.L.C.	Monroe	M	M Ouchley	002	146751
Drum Energy, L.L.C.	Monroe	M	M Ouchley	001	146752
Drum Energy, L.L.C.	Monroe	M	Exxon 23	004	146785
Drum Energy, L.L.C.	Monroe	M	Exxon 23	005	146786
Drum Energy, L.L.C.	Monroe	M	Maggie Smith E	001	146989
Drum Energy, L.L.C.	Monroe	M	Maggie Smith E	002	146990
Drum Energy, L.L.C.	Monroe	M	Maggie Smith B	002	146991
Drum Energy, L.L.C.	Monroe	M	Clarence Ouchley	002	146992
Drum Energy, L.L.C.	Monroe	M	Mineral Lands A	001	147079
Drum Energy, L.L.C.	Monroe	M	Mineral Lands A	002	147080
Drum Energy, L.L.C.	Monroe	M	Mineral Lands A	003	147081
Drum Energy, L.L.C.	Monroe	M	Maggie Smith C	001	147359
Drum Energy, L.L.C.	Monroe	M	Rabun Heirs	002	147360
Drum Energy, L.L.C.	Monroe	M	H G Hodge A	001	147372
Drum Energy, L.L.C.	Monroe	M	H G Hodge A	002	147373
Drum Energy, L.L.C.	Monroe	M	H G Hodge A	003	147374
Drum Energy, L.L.C.	Monroe	M	Maggie Smith C	002	147525
Drum Energy, L.L.C.	Monroe	M	Maggie Smith C	003	147534
Drum Energy, L.L.C.	Monroe	M	Rabun Heirs	005	147535
Drum Energy, L.L.C.	Monroe	M	Rabun Heirs	006	147536
Drum Energy, L.L.C.	Monroe	M	Exxon 14	001	147817
Drum Energy, L.L.C.	Monroe	M	Exxon 14	002	147818
Drum Energy, L.L.C.	Monroe	M	Maggie Smith H	001	147905
Drum Energy, L.L.C.	Monroe	M	Maggie Smith G	001	147906

Operator	Field	District	Well Name	Well Number	Serial Number
Drum Energy, L.L.C.	Monroe	M	Exxon 14	003	147914
Drum Energy, L.L.C.	Monroe	M	Exxon 14	004	147915
Drum Energy, L.L.C.	Monroe	M	L and M Smith	001	147916
Drum Energy, L.L.C.	Monroe	M	Maggie Smith H	002	147917
Drum Energy, L.L.C.	Monroe	M	Maggie Smith H	003	148095
Drum Energy, L.L.C.	Monroe	M	Exxon Arco 14-A	001	148295
Drum Energy, L.L.C.	Monroe	M	Exxon Arco 14-A	002	148296
Drum Energy, L.L.C.	Monroe	M	Exxon Arco 14-A	003	148297
Drum Energy, L.L.C.	Monroe	M	Exxon Arco 14-A	004	148298
Drum Energy, L.L.C.	Monroe	M	Exxon 23-A	001	148332
Drum Energy, L.L.C.	Monroe	M	Exxon 23-A	002	148333
Drum Energy, L.L.C.	Monroe	M	Exxon 23-A	003	148334
Drum Energy, L.L.C.	Monroe	M	Exxon 23-A	004	148335
Drum Energy, L.L.C.	Monroe	M	Exxon 23-A	005	148336
Drum Energy, L.L.C.	Monroe	M	Exxon 23-A	006	148409
Drum Energy, L.L.C.	Monroe	M	Exxon 23-A	007	148410
Drum Energy, L.L.C.	Monroe	M	Exxon 23-A	008	148411
Drum Energy, L.L.C.	Monroe	M	Exxon 23-A	009	148412
Drum Energy, L.L.C.	Monroe	M	Exxon 23-A	010	148413
Drum Energy, L.L.C.	Monroe	M	Exxon 23-A	011	148414
Drum Energy, L.L.C.	Monroe	M	Exxon 23-A	012	148415
Drum Energy, L.L.C.	Monroe	M	Exxon Arco 14-A	005	148778
Drum Energy, L.L.C.	Monroe	M	Rabun Heirs A	001	150087
Drum Energy, L.L.C.	Monroe	M	Kelton Howard	001	150153
Drum Energy, L.L.C.	Monroe	M	Kelton Howard	002	150154
Drum Energy, L.L.C.	Monroe	M	Kelton Howard	003	150155
Drum Energy, L.L.C.	Monroe	M	Kelton Howard	004	150156
Drum Energy, L.L.C.	Monroe	M	Kelton Howard	005	150173
Drum Energy, L.L.C.	Monroe	M	Kelton Howard	006	150174
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco 11-A	001	150396
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco 11-A	002	150397
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco 11-A	003	150398
Drum Energy, L.L.C.	Monroe	M	Howard Heirs	001	150447
Drum Energy, L.L.C.	Monroe	M	Howard Heirs	002	150448
Drum Energy, L.L.C.	Monroe	M	Howard Heirs	003	150449
Drum Energy, L.L.C.	Monroe	M	Exxon Arco 11-A	004	150468
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco 11-A	005	150665
Drum Energy, L.L.C.	Monroe	M	Maggie Smith J	001	150679
Drum Energy, L.L.C.	Monroe	M	Maggie Smith J	002	150680

Operator	Field	District	Well Name	Well Number	Serial Number
Drum Energy, L.L.C.	Monroe	M	Mary P Smith	001	150722
Drum Energy, L.L.C.	Monroe	M	W A Love	001	150776
Drum Energy, L.L.C.	Monroe	M	J O McKinney	001	151246
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco 11-A	006	151269
Drum Energy, L.L.C.	Monroe	M	Ruth P Baker	001	151419
Drum Energy, L.L.C.	Monroe	M	W H Turner	001	151420
Drum Energy, L.L.C.	Monroe	M	Haile Heirs	002	151453
Drum Energy, L.L.C.	Monroe	M	Haile Heirs	001	151454
Drum Energy, L.L.C.	Monroe	M	Haile Heirs A	001	151455
Drum Energy, L.L.C.	Monroe	M	W H Turner 31	001	151456
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco-6	001	151683
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco-6	002	151684
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco-6	003	151685
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco-6	004	151686
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco-6	005	151692
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco-6	006	151693
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco-6	007	151694
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco-6	008	151695
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco-6	009	151768
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco-6	010	151769
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco 17	001	152185
Drum Energy, L.L.C.	Monroe	M	W A Love A	001	152270
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco 7	001	152625
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco 20	001	152626
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Drum Energy, L.L.C.	Monroe	M	Exxon-Arco 20	003	154285
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Drum Energy, L.L.C.	Monroe	M	Katie Crow Smith B	002	154326
Drum Energy, L.L.C.	Monroe	M	Exxon 32	001	154564
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Drum Energy, L.L.C.	Monroe	M	Exxon 32	003	154566
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Operator	Field	District	Well Name	Well Number	Serial Number
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco-6	011	154588
Drum Energy, L.L.C.	Monroe	M	Katie Crow Smith A	001	155486
Drum Energy, L.L.C.	Monroe	M	Katie Crow Smith A	002	155487
Drum Energy, L.L.C.	Monroe	M	Emma Wilson	001	155488
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco 7	003	155489
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco 7	004	155490
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco 7a	002	155539
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 8	001	156121
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 8	002	156122
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 9	001	156123
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 19	001	156124
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 19	002	156125
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 19	004	156127
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 19	005	156128
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 46	001	156130
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 46	002	156131
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 57	001	156132
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 8	003	156376
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 8	004	156377
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 8	005	156412
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 8	008	156413
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 9	002	156414
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 9	003	156415
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 9	005	156416
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 43	003	156417
Drum Energy, L.L.C.	Monroe	M	H Su458; Georgia Pacific 43	004	156418
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 43	005	156419
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco 7a	003	156432
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Drum Energy, L.L.C.	Monroe	M	Exxon-Arco 7a	004	156826
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 57	002	157002
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 57	003	157003
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 57	004	157004
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 8	009	157217
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 8	010	157218

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Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 43	006	157219
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 43	007	157220
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Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 46	004	157222
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 57	005	157223
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 46	005	157372
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 43	008	157374
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 8	011	157377
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 17	001	157378
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 57	006	157379
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 46	006	171045
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 43	001	171047
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 43	010	171048
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 19	003	171203
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 43	009	171204
Drum Energy, L.L.C.	Monroe	M	Georgia Pacific 57	007	171205
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	001	195868
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	003	195870
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	004	195871
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	006	195872
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	007	196043
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	008	196044
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	009	196045
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	018	196047
Drum Energy, L.L.C.	Monroe	M	Exxon Arco B	020	196048
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	031	196050
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	017	196161
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	019	196396
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	002	200682
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Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	010	200684
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	011	200685
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	012	200781
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	013	200782
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	014	200783
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	015	200784
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	024	200785
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	025	200786
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Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	028	201409
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	029	201410
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	021	201430
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	050	201447
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	051	201448
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	052	201449
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	016	201453
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	030	201454
Drum Energy, L.L.C.	Monroe	M	Exxon-Arco B	022	201542
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Richard P. Ieyoub
Commissioner

1612#018

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